

Reprint
as at 1 March 2017



Auditor Regulation Act 2011

Public Act 2011 No 21
Date of assent 19 May 2011
Commencement see section 2

Contents

		Page
1	Title	5
2	Commencement	5

Part 1

Preliminary and key provisions

Preliminary provisions

3	Purpose	5
4	Overview	6
5	FMA's functions under this Act	6
6	Interpretation	7
7	Act binds the Crown	11

Key provisions

8	Auditors in respect of FMC audits must be licensed	11
9	Audit firms engaged or appointed to act as auditor in respect of FMC audits must be registered	11
10	Partners or directors who are responsible if FMC audit not carried out in accordance with requirements	13

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Business, Innovation, and Employment.

10A	Licence and registration requirements do not apply if FMA exemption applies	14
Part 2		
Licences, registration, accreditation, and role of FMA		
Subpart 1—Licences		
<i>Issue of licences by accredited bodies</i>		
11	Licences issued by accredited bodies	14
<i>Issue of licences by FMA to overseas auditors</i>		
12	Licences issued by FMA to overseas auditors	14
13	Person that holds licence under section 12 must notify FMA of relevant changes	16
<i>Licence details to be sent to Registrar</i>		
14	Accredited body or FMA must send licence details to Registrar	16
<i>Conditions</i>		
15	Licence subject to conditions	16
16	FMA must have regard to limits on overseas auditors	17
<i>Duration of licence</i>		
17	Duration of licence	17
<i>Ongoing competence requirements</i>		
18	Ongoing competence requirements	18
19	Unsatisfactory results of competence programme	18
<i>Cancellation and suspension of licences</i>		
20	Cancellation of licences	18
21	Suspension of licences	19
22	Procedure relating to exercise of cancellation or suspension powers	20
23	FMA may authorise person to continue to act in respect of FMC audit despite cancellation or suspension of licence	21
<i>Appeals in respect of licensing and related matters</i>		
24	Appeals in respect of licensing and related matters	22
Subpart 2—Registration of audit firms		
25	Accredited body may authorise registration of audit firms	22
26	FMA may authorise registration of overseas audit firms	23
27	Registration of audit firm	24
28	Registration subject to conditions	24
29	Cancellation or suspension of registration	24
30	Relevant body must give notice before exercising power	26
31	Appeals in respect of registration matters	26

	Subpart 3—FMA may prescribe licensing, registration, and other matters	
32	FMA may prescribe licensing, registration, and other matters	26
33	Minimum standards for licence	27
34	Minimum standards for registration of audit firm	28
35	Principles guiding prescribing of licensing, registration, and other matters	28
36	FMA must consult before publishing notices	29
37	Other provisions relating to notices under section 32	29
	Subpart 4—Register of licensed auditors and registered audit firms	
38	Register of licensed auditors and registered audit firms	29
39	Operation of and access to register	30
40	Purpose of register	30
41	Contents of register	30
42	Obligation to notify Registrar of prescribed changes	31
43	Annual confirmation by accredited bodies and FMA	32
44	Registrar must amend register in certain circumstances	32
45	Registrar may refuse to accept document	33
46	Search of register	33
47	Power of Registrar to delegate	33
	Subpart 5—Accreditation	
48	FMA may grant accreditation	34
49	Accreditation subject to conditions	34
50	New Zealand Institute of Chartered Accountants treated as having been granted accreditation	35
51	Accredited bodies must supply annual report to FMA	35
52	FMA must publish plan relating to auditor regulation and oversight	36
53	Publication of policies	36
54	FMA must monitor audit regulatory systems	36
55	FMA must report on audit regulatory systems of each accredited body	37
56	FMA may issue directions	37
57	Miscellaneous matters relating to directions	37
58	Offence to contravene directions	38
59	FMA may suspend or cancel accreditation or censure accredited body in certain circumstances	38
60	Miscellaneous matters relating to orders	39
61	Effect of cancellation or suspension on licences issued and registrations authorised by accredited body or former accredited body	39
62	FMA must give opportunity to make submissions	40
63	Appeals	40

64	Certain provisions of New Zealand Institute of Chartered Accountants Act 1996 apply to other accredited bodies	41
	Subpart 6—Quality review	
65	FMA must ensure that regular quality reviews are carried out	41
66	FMA may make arrangements for quality review to be carried out on its behalf	42
67	Restrictions on application of section 65	42
68	Quality review must include certain matters	42
69	Offence to hinder, obstruct, or delay FMA	43
70	FMA may issue directions	44
71	Consequences of failing to comply with directions	45
72	Miscellaneous matters relating to directions and orders	46
73	FMA must prepare annual report	47
74	FMA may prepare reports about particular quality reviews	47
	Subpart 7—Investigations by FMA	
75	FMA may start or take over investigation or investigate in conjunction with accredited body	47
76	Relationship between FMA’s investigation and other investigations or proceedings	48
77	Accredited body must give reasonable assistance	48
78	Disciplinary powers of FMA	49
79	Miscellaneous matters relating to orders	50
	Subpart 8—FMA may take over and perform regulatory functions	
80	FMA may take over and perform regulatory functions	50
81	Powers of FMA when acting under this subpart	51
	Part 3	
	Amendments to other enactments, regulations, transitional provisions, and other miscellaneous matters	
	Subpart 1—Amendments to other enactments	
82	Amendments to other Acts	51
83	Amendment to Securities Regulations 2009	51
	Subpart 2—Regulations	
84	Regulations	51
	Subpart 3—Transitional provisions	
85	Certain auditors treated as holding licence	54
86	Certain overseas auditors treated as holding licence	54
87	Certain audit firms treated as registered	55
88	Transitional provisions do not prevent exercise of powers	56
89	Requirements do not apply to accounting periods that have ended	56

	Subpart 4—Miscellaneous provisions	
90	Application of Act in respect of Auditor-General	56
91	FMA may act as accredited body	57
92	Power to amend or revoke	57
93	Protection from liability for accredited bodies and others	57
94	Sharing of information and documents with FMA	57
95	Notice and service of documents	58
96	False declarations and representations	58
	Schedule	60
	Amendments to other Acts relating to auditor regulation	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Auditor Regulation Act 2011.

2 Commencement

- (1) Sections 1 to 7 and 84 come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more orders may be made bringing different provisions into force on different dates.
- (3) To the extent that it is not previously brought into force under subsection (2), the rest of this Act comes into force on 1 July 2012.

Section 2(2): subpart 3 of Part 2 and section 92 brought into force, on 1 February 2012, by clause 2(1) of the Auditor Regulation Act Commencement Order 2011 (SR 2011/380).

Section 2(2): subpart 5 of Part 2 (except sections 51, 52, and 55), subpart 8 of Part 2, section 91, and sections 93–96 brought into force, on 1 April 2012, by clause 2(2) of the Auditor Regulation Act Commencement Order 2011 (SR 2011/380).

Section 2(2): subpart 4 of Part 2 and sections 85–88 brought into force, on 1 May 2012, by clause 2(3) of the Auditor Regulation Act Commencement Order 2011 (SR 2011/380).

Part 1

Preliminary and key provisions

Preliminary provisions

3 Purpose

The purpose of this Act is to regulate auditors who carry out audits in respect of FMC reporting entities and to establish an independent oversight system in order to—

- (a) promote, in respect of FMC audits, quality, expertise, and integrity in the profession of auditors; and
- (b) promote the recognition of the professional status of New Zealand auditors in overseas jurisdictions.

Section 3: amended, on 1 April 2014, by section 128(1) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 3(a): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

4 Overview

(1) In this Act,—

- (a) this Part—
 - (i) requires auditors who carry out audits of financial statements and group financial statements of FMC reporting entities, or otherwise in respect of FMC reporting entities, to hold a licence; and
 - (ii) requires audit firms appointed or engaged in respect of those audits to be registered; and
 - (iii) provides for other preliminary provisions, including purposes and interpretation; and
- (b) Part 2 provides for—
 - (i) the issue of licences; and
 - (ii) other matters relating to licences, including conditions, duration, cancellation, suspension, and appeals; and
 - (iii) the registration of audit firms; and
 - (iv) the register of licensed auditors and registered audit firms; and
 - (v) the FMA to perform the functions referred to in section 5; and
- (c) Part 3 provides for amendments to other enactments, regulations, and transitional and other miscellaneous matters.

(2) This section is only a guide to the general scheme and effect of this Act.

Section 4(1)(a)(i): amended, on 1 April 2014, by section 128(1) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

5 FMA's functions under this Act

The FMA's functions under this Act are as follows:

- (a) to issue licences to overseas auditors and to authorise the registration of overseas audit firms:
- (b) to prescribe licensing, registration, and other matters under subpart 3 of Part 2:
- (c) to grant accreditation to persons under subpart 5 of Part 2:

- (d) to monitor the audit regulatory systems of accredited bodies, report on the adequacy and effectiveness of those systems, and take action in respect of those systems that are inadequate or ineffective:
- (e) to conduct quality reviews and investigations under subparts 6 and 7 of Part 2:
- (f) to take over and perform regulatory functions under subpart 8 of Part 2:
- (g) to perform or exercise any other functions, powers, and duties conferred or imposed on it by or under this Act.

6 Interpretation

- (1) In this Act, unless the context otherwise requires,—

accredited body means a person that is granted accreditation, or is treated as having been granted accreditation, under subpart 5 of Part 2

audit firm means a partnership or body corporate that carries on the business of providing auditing services (whether or not it provides other services)

audit regulatory systems means, in relation to an accredited body, the body's systems and processes for performing its regulatory functions

auditing and assurance standard has the same meaning as in section 5 of the Financial Reporting Act 2013

Auditor-General has the same meaning as in section 4 of the Public Audit Act 2001

company has the same meaning as in section 2(1) of the Companies Act 1993

director has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013

disciplinary body,—

- (a) in relation to the Institute, means the Disciplinary Tribunal referred to in section 6(1)(g) of the New Zealand Institute of Chartered Accountants Act 1996:

- (b) in relation to any other accredited body, means the tribunal, committee, or other body that has been—

- (i) set up to take disciplinary action in respect of the members of the accredited body; and

- (ii) approved by the FMA to act as the disciplinary body

engagement partner or director, in respect of an FMC audit where an audit firm is acting, means the partner, director, or other person in the firm who is responsible for the audit and the performance of the audit, and for the audit report that is issued on behalf of the firm

financial statements has the same meaning as in section 6 of the Financial Reporting Act 2013

FMA means the Financial Markets Authority established under the Financial Markets Authority Act 2011

FMC audit—

- (a) means the audit of—
 - (i) the financial statements or group financial statements of an FMC reporting entity that are prepared under the Financial Markets Conduct Act 2013; or
 - (ii) the financial statements of a scheme or a fund prepared under section 461A of the Financial Markets Conduct Act 2013; or
 - (iii) the financial statements referred to in section 461B of the Financial Markets Conduct Act 2013; and
- (b) includes any audit or review required to be carried out under the regulations made, or exemptions granted, under the Financial Markets Conduct Act 2013 or the Securities Act 1978 by a qualified auditor (within the meaning of either of those Acts); and
- (c) includes any audit of the financial statements or group financial statements prepared under the Financial Reporting Act 1993 in accordance with section 55 of the Financial Reporting Act 2013; and
- (d) includes any issuer audit (as defined in this Act before the commencement of this paragraph); but
- (e) does not include any audit carried out under the Public Audit Act 2001 (whether the Auditor-General or any other person is acting as the auditor)

FMC reporting entity—

- (a) has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013; and
- (b) includes a person to which section 55 of the Financial Reporting Act 2013 applies; and
- (c) includes any issuer (as defined in this Act before the commencement of this paragraph)

group financial statements has the same meaning as in section 7 of the Financial Reporting Act 2013

Institute means the New Zealand Institute of Chartered Accountants constituted under the New Zealand Institute of Chartered Accountants Act 1996

licence—

- (a) means a licence issued by an accredited body or the FMA under Part 2; and
- (b) includes a licence that a person is treated as holding under subpart 3 of Part 3

licensed auditor means a person who holds, or is treated as holding, a licence

limited partnership means—

- (a) a limited partnership that is registered under section 51 of the Limited Partnerships Act 2008; or
- (b) an overseas limited partnership within the meaning of the Limited Partnerships Act 2008

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

member means, in relation to an accredited body, a person to whom the accredited body has issued a licence

overseas audit firm means an audit firm that is—

- (a) a partnership where a majority of the partners are ordinarily resident in a country, state, or territory outside New Zealand; or
- (b) an overseas company

overseas auditor means a person who is entitled to act as an auditor in a country, state, or territory outside New Zealand that is prescribed for the purposes of this definition

overseas company means a body corporate that is incorporated outside New Zealand

prescribed minimum standards means the prescribed minimum standards for the issue of a licence or for the registration of an audit firm (as the case may be) prescribed under subpart 3 of Part 2

quality review means a quality review under subpart 6 of Part 2

register means the register kept under subpart 4 of Part 2

registered audit firm means an audit firm that is, or is treated as being, registered under subpart 2 of Part 2

Registrar means the Registrar of Companies appointed in accordance with section 357(1) of the Companies Act 1993

regulatory function includes any of the following functions that are performed by an accredited body or any committee or disciplinary body of an accredited body (to the extent that those functions relate to, or are in connection with, persons who apply for, hold, or have held a licence or audit firms that apply to be, or are, registered or have been registered):

- (a) considering applications for licences, issuing licences, and setting conditions of licences:
- (b) considering applications for the registration of audit firms and setting conditions of registration:
- (c) adopting, implementing, and monitoring codes of ethics:

- (d) monitoring compliance with auditing and assurance standards:
 - (e) promoting, monitoring, and reviewing the ongoing competence of members:
 - (f) inquiring into the conduct of members and audit firms:
 - (g) investigating complaints against members, audit firms, and former members:
 - (h) hearing complaints about, and taking disciplinary action against, its members and former members and audit firms:
 - (i) dealing with appeals from decisions of the disciplinary body.
- (2) In this Act, unless the context otherwise requires, audit regulatory systems are **adequate and effective** if they are designed and operate in a manner that—
- (a) promotes, in respect of FMC audits, quality, expertise, and integrity in the profession of auditors; and
 - (b) promotes the recognition of the professional status of New Zealand auditors in overseas jurisdictions.
- (3) In this Act, unless the context otherwise requires, a person is **ordinarily resident** in a country, state, or territory if that person—
- (a) is domiciled in the country, state, or territory; or
 - (b) is living in the country, state, or territory and the place where that person usually lives is, and has been for the immediately preceding 12 months, in the country, state, or territory, whether or not that person has on occasions been away from the country, state, or territory during that period.

Section 6(1) **auditing and assurance standard**: replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 6(1) **company**: inserted, on 1 July 2015, by section 4(5) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 6(1) **director**: amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 6(1) **engagement partner**: repealed, on 1 July 2015, by section 4(1) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 6(1) **engagement partner or director**: inserted, on 1 July 2015, by section 4(1) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 6(1) **engagement partner or director**: amended, on 1 July 2015, by section 4(2) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 6(1) **financial statements**: replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 6(1) **FMC audit**: inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 6(1) **FMC reporting entity**: inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 6(1) **group financial statements**: replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 6(1) **issuer**: repealed, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 6(1) **issuer audit**: repealed, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 6(1) **limited partnership** paragraph (b): replaced, on 1 July 2015, by section 4(3) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 6(1) **overseas audit firm**: replaced, on 1 July 2015, by section 4(4) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 6(1) **overseas company**: inserted, on 1 July 2015, by section 4(5) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 6(2)(a): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

7 Act binds the Crown

This Act binds the Crown.

Key provisions

8 Auditors in respect of FMC audits must be licensed

- (1) Every natural person who acts as the auditor in respect of an FMC audit must hold a licence that—
 - (a) authorises the person to act as the auditor in respect of that kind of FMC audit; and
 - (b) is recorded in the register.
- (2) A person who acts as the auditor in respect of an FMC audit in breach of subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$50,000.

Section 8 heading: amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 8(1): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 8(1)(a): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 8(2): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 8(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

9 Audit firms engaged or appointed to act as auditor in respect of FMC audits must be registered

- (1) An audit firm must not accept an engagement or appointment to act as the auditor in respect of an FMC audit unless it is a registered audit firm.
- (2) If an audit firm is engaged or appointed to act as the auditor in respect of an FMC audit, the audit firm must ensure that each engagement partner or director

is a licensed auditor whose licence authorises him or her to act as the auditor in respect of that kind of FMC audit.

- (2A) If an audit firm that is a partnership is engaged or appointed to act as the auditor in respect of an FMC audit, each partner of the audit firm, from time to time, who is a licensed auditor and whose licence authorises him or her to act as the auditor in respect of that kind of FMC audit must, for the purposes of this Act, be treated as acting as the auditor in respect of the FMC audit.
- (2B) If an audit firm that is a company or an overseas company is engaged or appointed to act as the auditor in respect of an FMC audit, the company or overseas company must, for the purposes of this Act, be treated as acting as the auditor in respect of the FMC audit.
- (2C) Nothing in this section or section 10 limits the power of the Institute or any other accredited body to make, maintain, and enforce any rules relating to the investigation and hearing of complaints against, and disciplining of, a member or former member in connection with the carrying out of an audit (for example, if a company is treated as acting as the auditor, a director or an employee of that company may be subject to disciplinary action in respect of the audit).
- (3) If an audit firm breaches subsection (1) or (2), every partner or director of the audit firm commits an offence and is liable on conviction to a fine not exceeding \$50,000 if—
- (a) the breach took place with his or her authority, permission, or consent; or
 - (b) he or she could reasonably have known that the breach was to be or was being made and failed to take all reasonable steps to prevent or stop it.

Section 9 heading: amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 9(1): amended, on 1 July 2015, by section 5(1) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 9(1): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 9(2): replaced, on 1 July 2015, by section 5(2) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 9(2A): inserted, on 1 July 2015, by section 5(2) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 9(2B): inserted, on 1 July 2015, by section 5(2) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 9(2C): inserted, on 1 July 2015, by section 5(2) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 9(3): amended, on 1 July 2015, by section 5(3) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 9(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

10 Partners or directors who are responsible if FMC audit not carried out in accordance with requirements

- (1) Subsection (2) applies if a registered audit firm is engaged or appointed to act as the auditor in respect of an FMC audit and that FMC audit is not being, or has not been, carried out—
 - (a) in accordance with this Act or any other enactment that relates to the conduct of an FMC audit; or
 - (b) in accordance with auditing and assurance standards; or
 - (c) otherwise with reasonable care, diligence, and skill.
- (2) Despite section 9(2A) and (2B), a partner or director of the registered audit firm may have his or her licence cancelled under section 20(1)(c) or suspended under section 21(1)(b), or be subject to an order under section 78, in relation to the failure to carry out the FMC audit in accordance with the matters referred to in subsection (1)(a) or (b) or otherwise with reasonable care, diligence, and skill if, and only if,—
 - (a) he or she was the engagement partner or director in respect of the FMC audit; or
 - (b) the failure took place with his or her authority, permission, or consent; or
 - (c) he or she could reasonably have known of the failure and failed to take all reasonable steps to prevent or stop it.
- (3) For the purposes of subsection (2), sections 20(1)(c) and 21(1)(b) apply as if the FMC audit is carried out by the partner or director to which subsection (2)(a), (b), or (c) applies.

Section 10 heading: amended, on 1 July 2015, by section 6(1) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 10 heading: amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 10(1): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 10(1)(a): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 10(2): amended, on 1 July 2015, by section 6(2) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 10(2): amended, on 1 July 2015, by section 6(3) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 10(2): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 10(2)(a): amended, on 1 July 2015, by section 6(4) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 10(2)(a): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 10(3): inserted, on 1 July 2015, by section 6(5) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

10A Licence and registration requirements do not apply if FMA exemption applies

Sections 8 and 9 do not apply to an FMC audit if—

- (a) the FMA has granted an exemption under the Financial Markets Conduct Act 2013 that applies in relation to the FMC audit; and
- (b) the effect of the exemption is that, for the purposes of that Act, the FMC audit is not required to be carried out by a qualified auditor (within the meaning of that Act); and
- (c) the terms and conditions of the exemption are complied with.

Section 10A: inserted, on 1 April 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 10A: amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 10A(a): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 10A(b): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Part 2**Licences, registration, accreditation, and role of FMA****Subpart 1—Licences***Issue of licences by accredited bodies***11 Licences issued by accredited bodies**

- (1) An accredited body may, on an application made by a natural person, issue a licence to the person if the accredited body is satisfied that the person—
 - (a) meets the prescribed minimum standards; and
 - (b) is otherwise a fit and proper person to hold a licence.
- (2) The application must be accompanied by payment of the prescribed registration fee (which the accredited body must either send to the Registrar under section 14(1)(c) or refund to the applicant if the licence is not issued).

*Issue of licences by FMA to overseas auditors***12 Licences issued by FMA to overseas auditors**

- (1) The FMA may, on an application made by a natural person, issue a licence to the person if the FMA is satisfied that—
 - (a) the person is an overseas auditor; and
 - (b) the person meets the prescribed minimum standards; and

- (c) the person is required, under the law or the regulatory requirements of the person's home jurisdiction, to comply with requirements for maintaining the person's ongoing competence, and that those requirements are equivalent to, or as satisfactory as, the requirements under section 18; and
 - (d) the person's practice is subject to review arrangements that are equivalent to, or as satisfactory as, the quality review arrangements under subpart 6; and
 - (e) the systems, policies, and procedures of the person's practice are satisfactory in terms of—
 - (i) promoting compliance with the requirements imposed by or under this Act and other enactments that relate to the conduct of FMC audits; and
 - (ii) promoting compliance with auditing and assurance standards; and
 - (iii) otherwise promoting reasonable care, diligence, and skill in the carrying out of FMC audits; and
 - (f) the person is otherwise a fit and proper person to hold a licence.
- (2) In subsection (1), **home jurisdiction**, in relation to a person, means the country, state, or territory outside New Zealand in which the person is—
- (a) ordinarily resident; and
 - (b) entitled to act as an auditor.
- (3) Applications under subsection (1) must be—
- (a) made in the manner that is specified by the FMA; and
 - (b) accompanied by payment of the prescribed fee for the application (if any); and
 - (c) accompanied by payment of the prescribed registration fee (which the FMA must either send to the Registrar under section 14(1)(c) or refund to the applicant if the licence is not issued).
- (4) Every applicant under subsection (1) must provide to the FMA the information that is required by the FMA to assist it in determining the application.
- (5) This section does not prevent a licence from being issued to an overseas auditor under section 11.

Section 12(1)(e)(i): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 12(1)(e)(iii): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

13 Person that holds licence under section 12 must notify FMA of relevant changes

- (1) Every person who holds a licence under section 12 must give written notice to the FMA of any relevant change within 10 working days after the person first became aware of the change.
- (2) In this section, **relevant change**—
 - (a) means, in relation to a person, a change in the circumstances of the person that result in the person no longer—
 - (i) being an overseas auditor; or
 - (ii) meeting the prescribed minimum standards; or
 - (iii) being required to comply with the requirements referred to in section 12(1)(c); and
 - (b) includes any change that may be prescribed.
- (3) Every person who fails to comply with this section commits an offence and is liable on conviction to a fine not exceeding \$10,000.

Section 13(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

*Licence details to be sent to Registrar***14 Accredited body or FMA must send licence details to Registrar**

- (1) An accredited body or the FMA must, after issuing a licence to a person, send to the Registrar notification of the issue of the licence together with—
 - (a) the relevant information referred to in section 41(1); and
 - (b) any other prescribed information; and
 - (c) the prescribed registration fee.
- (2) After receiving the notification and information under subsection (1), the Registrar must enter the relevant information in respect of the licence and the licensed auditor in the register.

*Conditions***15 Licence subject to conditions**

- (1) A licence issued to a person by an accredited body or the FMA—
 - (a) must be subject to any applicable conditions of the kinds prescribed under section 32(1)(b)(i); and
 - (b) may be subject to any other conditions of a kind prescribed under section 32(1)(b)(ii) that the accredited body or the FMA thinks fit; and
 - (c) must specify a condition relating to the kinds of FMC audits in respect of which the person is authorised to act under the licence.

- (2) The condition under subsection (1)(c) may specify that the person is authorised to act in respect of all kinds of FMC audits.
- (3) The accredited body or the FMA may, at any time after the licence is issued, vary, remove, add to, or substitute any conditions of the licence.
- (4) The accredited body or the FMA must not exercise a power referred to in subsection (3) unless—
 - (a) the accredited body or the FMA gives the licensed auditor at least 10 working days' written notice of the following matters before it exercises the power:
 - (i) that the accredited body or the FMA may exercise a power under subsection (3); and
 - (ii) the reasons why it is considering exercising that power; and
 - (b) the accredited body or the FMA gives the licensed auditor or his or her representative an opportunity to make written submissions on the matter within that notice period.

Section 15(1)(c): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 15(2): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

16 FMA must have regard to limits on overseas auditors

The FMA must, in considering what conditions to impose under section 15(1)(c) in respect of an overseas auditor, have regard to any limitations on the overseas auditor's ability to act in respect of an audit that are imposed by or in relation to any certificate, registration, licence, or other authorisation that entitles the overseas auditor to act as an auditor in a country, state, or territory outside New Zealand.

Duration of licence

17 Duration of licence

- (1) A licence must specify the date of its expiry (the **expiry date**).
- (2) The expiry date must not be later than 5 years after the date of the issue of the licence.
- (3) A licence continues in force until the close of the expiry date unless sooner suspended or cancelled under this Act.
- (4) If a licensed auditor applies for a new licence before the expiry date of an existing licence that the new licence is intended to supersede, and the application is not disposed of before the expiry date, the existing licence continues in force until the application is disposed of.

*Ongoing competence requirements***18 Ongoing competence requirements**

- (1) An accredited body must, in accordance with the requirements prescribed under section 32(1)(c),—
 - (a) require its members to complete competence programmes to maintain their ongoing competence; and
 - (b) otherwise promote, monitor, and review the ongoing competence of its members.
- (2) Every member must comply with the requirements under subsection (1)(a).
- (3) Any competence programme may require a member to do 1 or more of the following, within the period, or at the intervals, prescribed in the programme:
 - (a) pass an examination or assessment (or both):
 - (b) complete a period of practical training:
 - (c) complete a period of practical experience:
 - (d) undertake a course of studies:
 - (e) anything else that the accredited body considers appropriate.

19 Unsatisfactory results of competence programme

- (1) If any member who is required to complete a competence programme does not satisfy the requirements of the programme, the accredited body may—
 - (a) vary, remove, add to, or substitute any conditions of the member's licence under section 15; or
 - (b) suspend the member's licence under section 21.
- (2) This section does not limit sections 15 and 21.

*Cancellation and suspension of licences***20 Cancellation of licences**

- (1) A relevant authority may cancel a licence issued to a person—
 - (a) if the person, by written notice, requests that the relevant authority do so; or
 - (b) if the relevant authority is satisfied on reasonable grounds that—
 - (i) the person has died; or
 - (ii) the person obtained the licence by making a false or misleading representation or declaration (whether oral or written); or
 - (iii) the person does not satisfy, or no longer satisfies, the prescribed minimum standards; or
 - (iv) the person has failed to comply with a condition of the licence; or

- (v) the person has failed to comply with section 13, 85(3), or 86(3); or
- (vi) the person is otherwise not a fit and proper person to hold a licence; or
- (c) if the relevant authority is satisfied on reasonable grounds that 1 or more FMC audits carried out by the person are not being, or have not been, carried out—
 - (i) in accordance with this Act or any other enactment that relates to the conduct of an FMC audit; or
 - (ii) in accordance with auditing and assurance standards; or
 - (iii) otherwise with reasonable care, diligence, and skill.
- (2) In this section and sections 21 and 22, **relevant authority** means,—
 - (a) in the case of a licence issued under section 11, either or both of the following:
 - (i) the accredited body that issued the licence;
 - (ii) a disciplinary body in accordance with subsection (3); or
 - (b) in the case of a licence issued under section 12, the FMA.
- (3) The rules of an accredited body may authorise a disciplinary body to act under this section or section 21 and provide for any other reasonable matters, not inconsistent with this Act, in respect of the exercise of that power to act.
- (4) A licence may also be—
 - (a) treated as cancelled under section 61:
 - (b) cancelled by the FMA under subpart 6 or 7.

Section 20(1)(c): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 20(1)(c)(i): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

21 Suspension of licences

- (1) A relevant authority may suspend a licence issued to a person if the relevant authority is satisfied on reasonable grounds—
 - (a) that the person—
 - (i) has failed to comply with a condition of the licence; or
 - (ii) has failed to comply with section 13, 85(3), or 86(3); or
 - (iii) has not satisfied the requirements of a competence programme that he or she is required to complete (in the case of a licence issued under section 11) or has failed to comply with the requirements referred to in section 12(1)(c) (in the case of a licence issued under section 12); or

- (b) that 1 or more FMC audits carried out by the person are not being, or have not been, carried out—
 - (i) in accordance with this Act or any other enactment that relates to the conduct of an FMC audit; or
 - (ii) in accordance with auditing and assurance standards; or
 - (iii) otherwise with reasonable care, diligence, and skill.
- (2) A suspension under subsection (1) is for the period that the relevant authority thinks fit or until the person satisfies any requirements specified by the relevant authority.
- (3) If a person's licence is suspended, the person is not a licensed auditor during the period for which the licence is suspended (but this does not prevent the Registrar from including information in the register in relation to the person).
- (4) At the end of the period of suspension, the person's licence is immediately revived (unless there is some other ground to suspend or cancel the licence).
- (5) A licence may also be—
 - (a) treated as suspended under section 61:
 - (b) suspended by the FMA under subpart 6 or 7.

Section 21(1)(b): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 21(1)(b)(i): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

22 Procedure relating to exercise of cancellation or suspension powers

- (1) A relevant authority must not cancel a licence under section 20(1)(b)(ii) to (vi) or (c) or suspend a licence under section 21(1) unless—
 - (a) the relevant authority gives the licensed auditor at least 10 working days' written notice of the following matters before it exercises the power:
 - (i) that the relevant body may cancel or suspend the licence; and
 - (ii) the reasons why it is considering exercising that power; and
 - (b) the relevant authority gives the licensed auditor or his or her representative an opportunity to make written submissions and to be heard on the matter within that notice period.
- (2) The relevant authority must give notice of the cancellation or suspension to—
 - (a) the licensed auditor; and
 - (b) the Registrar.
- (3) The notice given to the licensed auditor must include a statement of the grounds for the cancellation or suspension.

23 FMA may authorise person to continue to act in respect of FMC audit despite cancellation or suspension of licence

- (1) This section applies if—
 - (a) a person’s licence is cancelled or suspended; and
 - (b) the person is acting, or has been appointed to act, as the auditor in respect of an FMC audit at the time that the licence is cancelled or suspended.
- (2) The FMA may, on an application made under subsection (4), authorise the person whose licence is cancelled or suspended to act, or to continue to act, as the auditor in respect of the FMC audit referred to in subsection (1)(b).
- (3) The FMA may act under subsection (2) only if the FMA is satisfied that the FMC audit will be carried out—
 - (a) in accordance with—
 - (i) this Act and any other enactment that relates to the conduct of the FMC audit; and
 - (ii) auditing and assurance standards; and
 - (b) otherwise with reasonable skill, diligence, and care.
- (4) An application—
 - (a) may be made only by the FMC reporting entity in respect of the FMC audit referred to in subsection (1)(b); and
 - (b) must otherwise be made in the manner that is specified by the FMA; and
 - (c) must be accompanied by payment of the prescribed fee for the application (if any).
- (5) The authorisation may be subject to the terms and conditions that the FMA thinks fit.
- (6) A person who acts, or continues to act, as the auditor in respect of an FMC audit in accordance with the terms and conditions of an authorisation does not commit an offence under section 8.

Section 23 heading: amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 23(1)(b): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 23(2): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 23(3): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 23(3)(a)(i): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 23(4)(a): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 23(6): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Appeals in respect of licensing and related matters

24 Appeals in respect of licensing and related matters

- (1) A person may appeal to the District Court against any decision of an accredited body or the FMA to—
 - (a) decline to issue a licence to the person; or
 - (b) include conditions under section 15(1)(b) or (c) on the person's licence or proposed licence (or to act under section 15(3)); or
 - (c) suspend or cancel his or her licence; or
 - (d) decline to act on an application made by the person under section 23 (or to include terms and conditions on an authorisation following such an application); or
 - (e) issue a direction to the person under subpart 6; or
 - (f) make any other order under subpart 6 or 7 in respect of the person.
- (2) A person may appeal to the District Court against any decision of a disciplinary body to cancel or suspend his or her licence unless the rules of the accredited body provide for an appeal against the decision to a body established to hear appeals against the decision (for example, the Appeals Council referred to in section 6(1)(h) of the New Zealand Institute of Chartered Accountants Act 1996).
- (3) An appeal to the District Court under this section must be brought—
 - (a) in accordance with the rules of court; and
 - (b) within 20 working days after notice of the decision is communicated to the appellant, or within any further time a District Court Judge allows on application made before or after the period expires.

Section 24(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 24(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 24(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Subpart 2—Registration of audit firms

25 Accredited body may authorise registration of audit firms

- (1) An accredited body may, on an application made by an audit firm that is a partnership or a company, authorise the Registrar to register the audit firm if the accredited body is satisfied that,—
 - (a) in the case of a partnership,—

- (i) 1 or more of the partners of the firm are licensed auditors; and
 - (ii) the firm meets the prescribed minimum standards:
- (b) in the case of a company,—
 - (i) 1 or more of the directors of the firm are licensed auditors; and
 - (ii) the firm meets the prescribed minimum standards; and
 - (iii) the firm satisfies the requirements prescribed for the purposes of this subparagraph.
- (2) A limited partnership may not apply under subsection (1) (and may not be a registered audit firm).
- (3) The application must be accompanied by payment of the prescribed registration fee (which the accredited body must either send to the Registrar under section 27(1)(c) or refund to the audit firm if it is not registered).

Section 25(1): replaced, on 1 July 2015, by section 7 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

26 FMA may authorise registration of overseas audit firms

- (1) The FMA may, on an application made by an overseas audit firm, authorise the Registrar to register the audit firm if the FMA is satisfied that—
 - (a) in the case of a partnership, 1 or more of the partners of the firm are licensed auditors; and
 - (ab) in the case of an overseas company,—
 - (i) 1 or more of the directors of the firm are licensed auditors; and
 - (ii) the firm is eligible to act as an auditor in the country, State, or territory in which it is incorporated; and
 - (iii) the firm is required, under the law or the regulatory requirements of the country, State, or territory in which it is incorporated, to comply with requirements for maintaining the firm's independence as an auditor, and that those requirements are equivalent to, or as satisfactory as, the requirements that apply to New Zealand auditors; and
 - (iv) the firm satisfies the requirements prescribed for the purposes of this subparagraph; and
 - (b) the firm is subject to review arrangements that are equivalent to, or as satisfactory as, the quality review arrangements under subpart 6; and
 - (c) the systems, policies, and procedures of the firm are satisfactory in terms of—
 - (i) promoting compliance with the requirements imposed by or under this Act and other enactments that relate to the conduct of FMC audits; and
 - (ii) promoting compliance with auditing and assurance standards; and

- (iii) otherwise promoting reasonable care, diligence, and skill in the carrying out of FMC audits; and
- (d) the firm meets the prescribed minimum standards.
- (2) A limited partnership may not apply under subsection (1) (and may not be a registered audit firm).
- (3) The application must be accompanied by payment of the prescribed registration fee (which the FMA must either send to the Registrar under section 27(1)(c) or refund to the audit firm if it is not registered).

Section 26(1)(a): replaced, on 1 July 2015, by section 8 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 26(1)(ab): inserted, on 1 July 2015, by section 8 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 26(1)(c)(i): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 26(1)(c)(iii): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

27 Registration of audit firm

- (1) An accredited body or the FMA (as the case may be) must, after deciding to authorise the registration of an audit firm, send to the Registrar notification of that decision together with—
 - (a) the relevant information referred to in section 41(2); and
 - (b) any other prescribed information; and
 - (c) the prescribed registration fee.
- (2) After receiving the notification and information under subsection (1), the Registrar must register the audit firm and enter the relevant information in respect of the registration in the register.
- (3) For the purposes of this subpart, the **relevant body**, in respect of a registered audit firm, is the accredited body or the FMA (as the case may be) that gave the notification under subsection (1).

28 Registration subject to conditions

- (1) The registration of an audit firm is subject to any conditions that the relevant body thinks fit.
- (2) The relevant body may, at any time after the audit firm is registered, vary, remove, add to, or substitute any conditions of registration.

29 Cancellation or suspension of registration

- (1) The relevant body may give notice to the Registrar to cancel or suspend the registration of a registered audit firm if the relevant body is satisfied on reasonable grounds that the audit firm—
 - (a) no longer has at least 1 partner or director who is a licensed auditor; or

- (b) obtained the registration by making a false or misleading representation or declaration (whether oral or written); or
 - (c) no longer meets the prescribed minimum standards; or
 - (ca) no longer satisfies the requirements prescribed for the purposes of section 25(1)(b)(iii) or 26(1)(ab)(iv); or
 - (cb) no longer satisfies the requirements of section 26(1)(ab)(ii) or (iii) (in the case of an overseas company); or
 - (d) has failed to comply with a condition of its registration; or
 - (e) has failed to comply with a direction issued under subpart 6; or
 - (f) has failed to comply with section 87(6).
- (2) A suspension under subsection (1) is for the period that the relevant body thinks fit or until the audit firm satisfies any requirements specified by the relevant body (and that period or those requirements must be specified in the notice given under subsection (1)).
- (3) After receiving a notification under subsection (1), the Registrar must—
- (a) cancel or suspend the registration of the audit firm; and
 - (b) give written notice of the cancellation or suspension to the audit firm.
- (4) The Registrar must, after receiving notification of an order under subpart 7 of the cancellation or suspension of the registration of an audit firm, cancel or suspend the registration of the audit firm.
- (5) The registration of an audit firm may also be treated as cancelled or suspended under section 61(6).

Section 29 heading: amended, on 1 July 2015, by section 9(1) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 29(1): amended, on 1 July 2015, by section 9(2) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 29(1)(a): replaced, on 1 July 2015, by section 9(3) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 29(1)(ca): inserted, on 1 July 2015, by section 9(4) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 29(1)(cb): inserted, on 1 July 2015, by section 9(4) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 29(2): replaced, on 1 July 2015, by section 9(5) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 29(3): inserted, on 1 July 2015, by section 9(5) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 29(4): inserted, on 1 July 2015, by section 9(5) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 29(5): inserted, on 1 July 2015, by section 9(5) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

30 Relevant body must give notice before exercising power

The relevant body must not exercise a power referred to in section 28(2) or 29 unless—

- (a) the relevant body gives the audit firm (or at least 1 of the partners or directors of the firm) at least 10 working days' written notice of the following matters before it exercises the power:
 - (i) that the relevant body may exercise a power under section 28(2) or 29 (as the case may be); and
 - (ii) the reasons why it is considering exercising that power; and
- (b) the relevant body gives the audit firm or a representative of the audit firm an opportunity to make written submissions on the matter within that notice period.

Section 30(a): amended, on 1 July 2015, by section 10 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

31 Appeals in respect of registration matters

- (1) An audit firm may appeal to the District Court against any decision of an accredited body or the FMA to—
 - (a) decline to authorise the registration of the firm; or
 - (b) include conditions under section 28 on the firm's registration (or to act under section 28(2)); or
 - (c) give notice to the Registrar to cancel or suspend the firm's registration.
- (2) An appeal to the District Court under this section must be brought—
 - (a) in accordance with the rules of court; and
 - (b) within 20 working days after notice of the decision is communicated to the appellant, or within any further time a District Court Judge allows on application made before or after the period expires.

Section 31(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 31(1)(c): amended, on 1 July 2015, by section 11 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 31(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Subpart 3—FMA may prescribe licensing, registration, and other matters**32 FMA may prescribe licensing, registration, and other matters**

- (1) The FMA may, by notice in the *Gazette*,—
 - (a) prescribe the minimum standards for licensing (including standards relating to required competence, qualifications, and experience) that a person must meet in order to be issued with a licence by an accredited body or the FMA; and

- (b) prescribe the kinds of conditions to which licences—
 - (i) must be subject; and
 - (ii) may be subject if the accredited body or the FMA thinks fit; and
 - (c) prescribe requirements for ongoing competence that must be complied with by persons who are issued with a licence under section 11; and
 - (d) prescribe the minimum standards for registration of an audit firm that an audit firm must meet in order to be registered as a registered audit firm; and
 - (e) prescribe the minimum standards for accreditation (including standards relating to the adequacy and effectiveness of audit regulatory systems) that a person must meet in order to be granted accreditation by the FMA; and
 - (f) prescribe the procedure that accredited bodies must follow when performing regulatory functions; and
 - (g) prescribe transitional requirements for the purposes of subpart 3 of Part 3 (including requirements relating to required competence, qualifications, and experience and, in the case of audit firms, requirements relating to the firm's systems, policies, and procedures).
- (2) Matters prescribed under subsection (1) may—
- (a) have general or specific application;
 - (b) differ according to differences in time or circumstance.

33 Minimum standards for licence

- (1) A notice under section 32 may prescribe minimum standards for licensing in any way the FMA thinks fit, including in 1 or more of the following ways:
- (a) by requiring a degree or diploma or certificate of a stated kind recognised by the FMA;
 - (b) by requiring the successful completion of a degree, course of studies, or programme recognised by the FMA;
 - (c) by requiring a pass in a specified examination or any other assessment;
 - (d) by reference to registration with, a licence issued by, or other authorisation from an overseas organisation;
 - (e) by requiring experience in the provision of services of a particular kind;
 - (f) by requiring a certain level of competence.
- (2) The FMA may recognise any overseas qualification, certificate, registration, or licence as satisfying a particular minimum standard for licensing (in whole or in part) if, in the opinion of the FMA, that overseas qualification, certificate, registration, or licence is equivalent to, or as satisfactory as, the standard, or part of the standard, that is treated as being satisfied.

34 Minimum standards for registration of audit firm

- (1) A notice under section 32 may prescribe minimum standards for the registration of an audit firm in any way the FMA thinks fit, including prescribing requirements relating to the firm's systems, policies, and procedures that relate to—
 - (a) promoting compliance with—
 - (i) the requirements imposed by or under this Act and other enactments that relate to the conduct of FMC audits; and
 - (ii) auditing and assurance standards; and
 - (b) otherwise promoting reasonable care, diligence, and skill in the carrying out of FMC audits.
- (2) The FMA may recognise any overseas certificate, registration, licence, or other authorisation as satisfying a particular minimum standard for the registration of an audit firm (in whole or in part) if, in the opinion of the FMA, that overseas certificate, registration, licence, or authorisation is equivalent to, or as satisfactory as, the standard, or part of the standard, that is treated as being satisfied.
- (3) Nothing in regulations made under section 84(1)(ca) limits the FMA's power to prescribe minimum standards for the registration of an audit firm.

Section 34(1)(a)(i): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 34(1)(b): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 34(3): inserted, on 1 July 2015, by section 12 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

35 Principles guiding prescribing of licensing, registration, and other matters

In prescribing matters under this subpart, the FMA must be guided by the following principles:

- (a) the matters must be necessary or desirable to—
 - (i) promote, in respect of FMC audits, quality, expertise, and integrity in the profession of auditors; or
 - (ii) promote the recognition of the professional status of New Zealand auditors in overseas jurisdictions; or
 - (iii) carry out, give effect to, or provide for a matter that is incidental to, or consequential on, the matters relating to subparagraph (i) or (ii); and
- (b) the matters should not unnecessarily restrict the licensing of auditors or the registration of audit firms; and
- (c) the matters should not impose undue costs on auditors, on audit firms, or on FMC reporting entities.

Section 35(a)(i): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 35(c): amended, on 1 April 2014, by section 128(1) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

36 FMA must consult before publishing notices

- (1) Before the FMA publishes a notice in the *Gazette* under section 32, the FMA must consult the following about its proposal for the contents of the notice:
 - (a) persons who the FMA considers are able to represent the views of auditors who carry out FMC audits (including the Institute); and
 - (b) organisations—
 - (i) that the FMA considers will be substantially affected by the proposal; or
 - (ii) whose members the FMA considers will be substantially affected by the proposal.
- (2) A failure to comply with subsection (1) does not affect the validity of any notice under section 32.

Section 36(1)(a): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

37 Other provisions relating to notices under section 32

- (1) The FMA must ensure that an up-to-date version of each notice under section 32 is—
 - (a) available at all reasonable times on an Internet site maintained by or on behalf of the FMA; and
 - (b) available at the head office of the FMA during business hours, so that members of the public may—
 - (i) inspect the notice free of charge; or
 - (ii) obtain a copy of the notice for a reasonable fee.
- (2) Each notice under section 32—
 - (a) is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012; and
 - (b) must be presented to the House of Representatives under section 41 of that Act.

Section 37(2): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Subpart 4—Register of licensed auditors and registered audit firms

38 Register of licensed auditors and registered audit firms

The Registrar must establish and maintain, in accordance with this subpart, a register of licensed auditors and registered audit firms.

39 Operation of and access to register

- (1) The register may be kept—
 - (a) as an electronic register; or
 - (b) in any other manner that the Registrar thinks fit.
- (2) The register must be available for access and searching by members of the public unless suspended under subsection (3).
- (3) The Registrar may refuse access to the register or otherwise suspend the operation of the register, in whole or in part,—
 - (a) if the Registrar considers that it is not practical to provide access to the register; or
 - (b) for any other reason that is prescribed by regulations made under this Act.

40 Purpose of register

The purpose of the register is—

- (a) to enable any person to—
 - (i) determine whether a person is a licensed auditor and, if so, the status and relevant history of the person's licence; and
 - (ii) determine whether a partnership, a company, or an overseas company is a registered audit firm and, if so, the status and relevant history of the firm's registration; and
 - (iii) choose a suitable person or audit firm to carry out an FMC audit; and
 - (iv) know which licensed auditors have been disciplined within the last 7 years; and
- (b) to assist any person in the exercise of the person's powers or the performance of the person's functions under this Act or any other enactment.

Section 40(a)(ii): amended, on 1 July 2015, by section 13 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 40(a)(iii): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

41 Contents of register

- (1) The register must contain the following information about each licensed auditor (to the extent that the information is relevant):
 - (a) the full name and business address of the licensed auditor; and
 - (b) the name and address of the entity that has issued a licence to the licensed auditor (being either an accredited body or the FMA); and
 - (c) the date of each licence that has been issued to the licensed auditor; and

- (d) the date on which each licence was recorded in the register; and
 - (e) the expiry date of each licence that is currently in force (and whether the licence continues in force under section 17(4)); and
 - (f) the kinds of FMC audits in respect of which the licensed auditor is authorised to act under each licence; and
 - (g) the conditions placed on each licence that is currently in force; and
 - (h) any suspension or cancellation of a licence that has been issued to the licensed auditor or any other action that has been taken on a disciplinary matter against the licensed auditor under this Act by an accredited body, a disciplinary body, or the FMA in the last 7 years; and
 - (i) any other prescribed information.
- (2) The register must contain the following information about each registered audit firm (to the extent that the information is relevant):
- (a) the full name and business address of the firm; and
 - (b) the name and address of the entity that authorised the registration of the firm (being either an accredited body or the FMA); and
 - (c) the date of registration; and
 - (d) the names of all of the partners, directors, and employees of the firm that are licensed auditors; and
 - (e) the conditions placed on the registration that are currently in force; and
 - (f) any other prescribed information.
- (3) The register may also contain—
- (a) information about former licensed auditors and former registered audit firms; and
 - (b) information about licences that have been cancelled or suspended or otherwise expired in the last 7 years; and
 - (c) any other information or documentation that the Registrar considers necessary or desirable for the purposes of the register.
- (4) The Registrar must remove from the register information about a former licensed auditor contained in the register under subsection (3)(a) if the last licence held by the person was cancelled or expired more than 7 years ago.

Section 41(1)(f): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 41(2)(d): amended, on 1 July 2015, by section 14 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

42 Obligation to notify Registrar of prescribed changes

- (1) Every accredited body and the FMA must give written notice to the Registrar of any prescribed changes within 10 working days after the accredited body or the FMA (as the case may be) first becomes aware of the change.

- (2) In subsection (1), **prescribed changes** means changes to the information included in the register that are of a kind that is prescribed for the purposes of this section.
- (3) An accredited body commits an offence if it fails to comply with this section and is liable on conviction to a fine not exceeding \$30,000.

Section 42(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

43 Annual confirmation by accredited bodies and FMA

- (1) Every accredited body and the FMA must ensure that the Registrar receives each year, during the month allocated to the body or the FMA for the purposes of this section, an annual confirmation.
- (2) The annual confirmation must—
 - (a) be in the form (if any) required by the Registrar and be accompanied by the prescribed fee (if any); and
 - (b) either—
 - (i) confirm that, as at the date of the certificate, the information supplied to the Registrar in respect of the licences issued, and the registrations of audit firms authorised, by the accredited body or the FMA is correct to the best of the accredited body's or the FMA's knowledge; or
 - (ii) contain updated information to ensure that, as at the date of the certificate, the information referred to in subparagraph (i) is correct to the best of the accredited body's or the FMA's knowledge; and
 - (c) contain, or be accompanied by, any other prescribed information or documents.
- (3) The annual confirmation must be dated as at a day within the month during which the certificate is required to be received by the Registrar.
- (4) The Registrar must allocate a month to an accredited body and the FMA for the purposes of this section.
- (5) The Registrar may, by written notice to an accredited body or the FMA, alter the month allocated to the accredited body or the FMA under subsection (4).

44 Registrar must amend register in certain circumstances

The Registrar must amend the register if—

- (a) an accredited body or the FMA informs the Registrar of information that is different from the information entered on the register; or
- (b) an annual confirmation contains information that is different from the information entered on the register; or

- (c) the Registrar is satisfied at any time that the register contains a typographical error or a mistake, or omits information supplied to the Registrar; or
- (d) the regulations otherwise require the register to be amended.

45 Registrar may refuse to accept document

The Registrar may refuse to accept a document received by the Registrar under this Act if that document—

- (a) is not in the required form (if any); or
- (b) does not comply with prescribed requirements (if any).

46 Search of register

- (1) A person may search the register in accordance with this Act or the regulations.
- (2) The register may be searched only by reference to the following criteria:
 - (a) the name, or any part of the name, of a person or audit firm:
 - (b) the business address of a person or audit firm:
 - (c) the name of an accredited body:
 - (d) any kind of FMC audit in respect of which a licensed auditor is authorised to act under a licence:
 - (e) any other prescribed criteria:
 - (f) any combination of the criteria in paragraphs (a) to (e).
- (3) The register may be searched for the following purposes:
 - (a) by an individual, or a person with the consent of the individual, for the purpose of searching for information about that individual in accordance with the Privacy Act 1993:
 - (b) by a person for a purpose referred to in section 40.
- (4) A person who searches the register for personal information in breach of this section must be treated, for the purposes of Part 8 of the Privacy Act 1993, as having breached an information privacy principle under section 66(1)(a)(i) of that Act.

Section 46(2)(d): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

47 Power of Registrar to delegate

- (1) The Registrar may delegate to any person, either generally or particularly, any of the Registrar's functions, duties, and powers under this Part except the power of delegation.
- (2) A delegation—
 - (a) must be in writing; and

- (b) may be made subject to any restrictions and conditions the Registrar thinks fit; and
 - (c) is revocable at any time, in writing; and
 - (d) does not prevent the performance or exercise of a function, duty, or power by the Registrar.
- (3) A person to whom any functions, duties, or powers are delegated may perform and exercise them in the same manner and with the same effect as if they had been conferred directly by this Part and not by delegation.
- (4) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

Subpart 5—Accreditation

48 FMA may grant accreditation

- (1) The FMA may, on an application made by a person, grant accreditation to the person for the purposes of this Act if the FMA is satisfied that the person—
- (a) will implement and maintain audit regulatory systems that are adequate and effective; and
 - (b) meets the minimum standards for the grant of accreditation prescribed under section 32(1)(e); and
 - (c) is a fit and proper person to perform regulatory functions for the purposes of this Act.
- (2) Applications under subsection (1) must be—
- (a) made in the manner that is specified by the FMA; and
 - (b) accompanied by payment of the prescribed fee for the application (if any).
- (3) Every applicant under subsection (1) must provide to the FMA the information that is required by the FMA to assist it in determining the application.

49 Accreditation subject to conditions

- (1) A person may be accredited as an accredited body subject to any conditions referred to in subsection (2) that the FMA thinks fit.
- (2) The conditions are—
- (a) conditions relating to the procedure that an accredited body must follow when performing regulatory functions;
 - (b) conditions to ensure that the accredited body's audit regulatory systems are adequate and effective;
 - (c) any other prescribed conditions or conditions that relate to prescribed matters.

- (3) The FMA may, at any time after accreditation is granted or treated as having been granted, by written notice to any accredited body (including the Institute), vary, remove, add to, or substitute any conditions of accreditation.

50 New Zealand Institute of Chartered Accountants treated as having been granted accreditation

- (1) The Institute must be treated as having been granted accreditation under this subpart on the commencement of this section.
- (2) Subsection (1) does not prevent the FMA from—
- (a) imposing, varying, removing, adding to, or substituting any conditions of accreditation under section 49; or
 - (b) cancelling or suspending the accreditation of the Institute under section 59; or
 - (c) exercising or performing any other functions, powers, or duties under this Act in respect of the Institute.

51 Accredited bodies must supply annual report to FMA

- (1) Every accredited body must supply to the FMA an annual report.
- (2) The annual report must—
- (a) be supplied each year within the time, and in the manner and form, specified by the FMA by a direction under subsection (3); and
 - (b) contain—
 - (i) information relating to the accredited body's performance in carrying out regulatory functions for the purposes of this Act; and
 - (ii) information relating to any material changes to the accredited body's audit regulatory systems that it has implemented, is in the process of implementing, or is considering implementing (including stating what it has done in response to any direction issued under section 56); and
 - (iii) any other prescribed information.
- (3) The FMA must—
- (a) prepare a direction that specifies the time within which, and the manner and form in which, annual reports must be supplied; and
 - (b) send a copy of the direction to each accredited body; and
 - (c) publish the direction on an Internet site maintained by or on behalf of the FMA.
- (4) An accredited body that fails to supply an annual report in accordance with this section commits an offence and is liable on conviction to a fine not exceeding \$50,000.

Section 51(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

52 FMA must publish plan relating to auditor regulation and oversight

- (1) The FMA must, before the start of each financial year, publish on an Internet site maintained by or on behalf of the FMA a plan relating to its intentions in relation to auditor regulation and oversight under this Act.
- (2) The plan must relate to the forthcoming financial year and 2 or more further financial years.
- (3) The plan must describe, in relation to auditor regulation and oversight,—
 - (a) the specific impacts, outcomes, or objectives that the FMA seeks to achieve or contribute to; and
 - (b) the ways in which the FMA expects accredited bodies to contribute to those impacts, outcomes, or objectives; and
 - (c) how the FMA proposes to monitor accredited bodies under section 54.
- (4) In this section and section 55, **financial year** means a financial year of the FMA.

53 Publication of policies

The FMA must publish on an Internet site maintained by or on behalf of the FMA its policies in relation to how it acts, or proposes to act,—

- (a) in determining applications for accreditation; and
- (b) in imposing, varying, removing, or adding to conditions of accreditation.

54 FMA must monitor audit regulatory systems

- (1) The FMA must monitor the audit regulatory systems of each accredited body in order to determine the extent to which those systems are adequate and effective.
- (2) An accredited body must give all reasonable assistance to the FMA to enable the FMA to act under subsection (1).
- (3) An accredited body commits an offence if the accredited body—
 - (a) fails to comply with subsection (2); or
 - (b) otherwise hinders, obstructs, or delays the FMA in acting under subsection (1).
- (4) An accredited body that commits an offence under subsection (3) is liable on conviction to a fine not exceeding \$100,000.

Section 54(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

55 FMA must report on audit regulatory systems of each accredited body

- (1) The FMA must, no later than 6 months after the start of each financial year, prepare a report on the extent to which the audit regulatory systems of each accredited body are adequate and effective.
- (2) Subsection (1) does not apply in respect of an accredited body if the FMA has, in the preceding financial year, been monitoring the accredited body under section 54 for less than 6 months.
- (3) The FMA must, no later than 1 month after preparing a report under subsection (1), publish a notice in the *Gazette* that—
 - (a) states that it has published a report on the adequacy and effectiveness of the audit regulatory systems of 1 or more accredited bodies; and
 - (b) names the accredited bodies covered by the report; and
 - (c) summarises any directions given under section 56 in the preceding financial year (but not the reasons); and
 - (d) specifies where a copy of the report may be inspected or obtained.
- (4) The FMA must, after publishing a notice in the *Gazette* under subsection (3), publish a copy of the report on an Internet site maintained by or on behalf of the FMA.
- (5) This section does not prevent the FMA from preparing and publishing at any time any other reports about the extent to which the audit regulatory systems of an accredited body are adequate and effective.

56 FMA may issue directions

- (1) The FMA may give a direction under this section to an accredited body if the FMA is satisfied on reasonable grounds that—
 - (a) its audit regulatory systems are not adequate and effective; or
 - (b) the adequacy or effectiveness of its audit regulatory systems can be improved in order to better meet the purposes of this Act; or
 - (c) its audit regulatory systems are inconsistent in a material respect with the FMA's plan under section 52.
- (2) The directions may require the accredited body, within the time and in the manner specified by the FMA in the directions, to amend its audit regulatory systems to effectively address the matters that caused the FMA to give the directions.

57 Miscellaneous matters relating to directions

A direction given under section 56 must—

- (a) be in writing; and
- (b) state the grounds on which it is given.

58 Offence to contravene directions

An accredited body that fails to comply with a direction under section 56 commits an offence and is liable on conviction to a fine not exceeding \$50,000.

Section 58: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

59 FMA may suspend or cancel accreditation or censure accredited body in certain circumstances

- (1) This section applies if the FMA is satisfied on reasonable grounds that—
 - (a) an accredited body has failed to—
 - (i) comply with a condition of its accreditation; or
 - (ii) supply an annual report in accordance with section 51; or
 - (iii) comply with a direction under section 56; or
 - (iv) comply with section 18, 42, 43, 54(2), or 77; or
 - (b) the audit regulatory systems of an accredited body are not adequate and effective.
- (2) The FMA may do 1 or more of the following:
 - (a) order that the accreditation of the accredited body be cancelled;
 - (b) order that a body whose accreditation has been cancelled may not apply to be re-accredited before the expiry of a specified period;
 - (c) order that the accreditation of the accredited body be suspended—
 - (i) for any period that the FMA thinks fit; or
 - (ii) until the body does the things specified by the FMA in order to demonstrate that accreditation should be reinstated;
 - (d) censure the accredited body;
 - (e) order the accredited body to pay to the FMA any sum that the FMA considers just and reasonable towards the costs and expenses of, and incidental to, the FMA's consideration of whether an order should be made under this section;
 - (f) make an order under section 61.
- (3) However, the FMA may only cancel or suspend the accreditation of an accredited body if the FMA is satisfied on reasonable grounds that—
 - (a) the failure or failures referred to in subsection (1)(a) (as the case may be) are serious or persistent; or
 - (b) in the case of subsection (1)(b), the audit regulatory systems of the accredited body are seriously inadequate or ineffective.
- (4) The FMA may order that an order under subsection (2)(a), (b), or (c) is to take effect immediately or at some later time.

60 Miscellaneous matters relating to orders

An order made under section 59 must—

- (a) be in writing; and
- (b) state the grounds on which it is made.

61 Effect of cancellation or suspension on licences issued and registrations authorised by accredited body or former accredited body

- (1) If the accreditation of a person (A) is—
 - (a) cancelled under section 59, each licence issued by A is treated as cancelled:
 - (b) suspended under section 59, each licence issued by A is treated as suspended during the period in which A's accreditation is suspended.
- (2) The FMA may order that subsection (1) does not apply in respect of 1 or more classes of licences.
- (3) If 1 or more classes of licences issued by A continue in force as a result of an order under subsection (2), the FMA may order, on the terms and conditions that it thinks fit, that another accredited body may perform regulatory functions in respect of those licences as if the other accredited body issued those licences (and that other accredited body may be the FMA acting under section 91).
- (4) The FMA may authorise a person whose licence is suspended or cancelled under subsection (1) to act, or continue to act, in respect of an FMC audit under section 23.
- (5) Subsection (1) is subject to subsections (2) and (4).
- (6) If A was the relevant body under subpart 2 in respect of a registered audit firm,—
 - (a) the registration of the audit firm must be treated as cancelled if A's accreditation is cancelled under section 59; and
 - (b) the registration of the audit firm must be treated as suspended during the period in which A's accreditation is suspended (if A's accreditation is suspended under section 59); but
 - (c) the FMA may order that paragraph (a) or (b) does not apply in respect of 1 or more classes of audit firm.
- (7) If 1 or more classes of audit firm continue to be registered as the result of an order under subsection (6)(c), the FMA may order, on the terms and conditions that it thinks fit, that another accredited body may act as the relevant body under subpart 2 (and that other accredited body may be the FMA acting under section 91).

Section 61(4): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 61(6): replaced, on 1 July 2015, by section 15 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 61(7): inserted, on 1 July 2015, by section 15 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

62 FMA must give opportunity to make submissions

The FMA must not exercise a power referred to in section 49(3), 56, or 59 unless—

- (a) the FMA gives the accredited body at least 10 working days' written notice of the following matters before it exercises the power:
 - (i) that the FMA may exercise a power under section 49(3), 56, or 59 (as the case may be); and
 - (ii) the reasons why it is considering exercising that power; and
- (b) the FMA gives the accredited body or its representative an opportunity to make written submissions and to be heard on the matter within that notice period.

63 Appeals

- (1) A person may appeal to the High Court against any decision of the FMA—
 - (a) to decline to grant accreditation to the person under this subpart; or
 - (b) to include conditions under section 49 on the person's accreditation or proposed accreditation; or
 - (c) to give a direction under section 56 in respect of the person's accreditation; or
 - (d) to make an order under section 59 in respect of the person's accreditation; or
 - (e) to decline to make an order under section 61(2) or (6)(c) in respect of the person's licence or registration.
- (2) An appeal must be brought—
 - (a) in accordance with the rules of court; and
 - (b) within 20 working days after notice of the decision is communicated to the appellant, or within any further time a High Court Judge allows on an application made before or after the period expires.
- (3) The High Court may make an order, or otherwise exercise a power, on an appeal under subsection (1)(e) only in respect of 1 or more of the parties to the proceedings.

Section 63(1)(e): replaced, on 1 July 2015, by section 16(1) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 63(3): inserted, on 1 July 2015, by section 16(2) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

64 Certain provisions of New Zealand Institute of Chartered Accountants Act 1996 apply to other accredited bodies

If an accredited body is not the Institute, sections 9 to 13 and 16 of the New Zealand Institute of Chartered Accountants Act 1996 apply to the accredited body with any necessary modifications in relation to persons to whom it has issued a licence as if references to—

- (a) the Professional Conduct Committee were references to the committee or other authority of the accredited body that has the function of investigating complaints against members and former members of the accredited body; and
- (b) a disciplinary body were references to a disciplinary body of the accredited body; and
- (c) the Institute were references to the accredited body.

Subpart 6—Quality review

65 FMA must ensure that regular quality reviews are carried out

- (1) The FMA must, for the purpose referred to in subsection (2), ensure that a review is carried out of the systems, policies, and procedures of—
 - (a) each registered audit firm, and every other audit firm that has at least 1 partner, director, or employee who holds a licence issued under section 11; and
 - (b) each licensed auditor who holds a licence issued under section 11 that is not a partner, director, or employee of an audit firm.
- (2) The quality review is for the purpose of ensuring that the systems, policies, and procedures are satisfactory in terms of—
 - (a) promoting compliance with—
 - (i) the requirements imposed by or under this Act and other enactments that relate to the conduct of FMC audits; and
 - (ii) auditing and assurance standards; and
 - (b) otherwise promoting reasonable care, diligence, and skill in the carrying out of FMC audits.
- (3) A quality review must be carried out at least once in every 4-year period during which,—
 - (a) in the case of subsection (1)(a), at least 1 partner, director, or employee of the audit firm holds a licence issued under section 11;
 - (b) in the case of subsection (1)(b), the person holds a licence issued under section 11.

- (4) The audit firm or licensed auditor (as the case may be) must pay to the FMA the prescribed fees and charges in respect of a quality review at the prescribed time or times.

Section 65(2)(a)(i): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 65(2)(b): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

66 FMA may make arrangements for quality review to be carried out on its behalf

- (1) The FMA may arrange for an accredited body or any other suitably qualified person to carry out a quality review (in whole or in part) on its behalf.
- (2) For the purposes of subsection (1), sections 73 to 76 of the Crown Entities Act 2004 (which relate to delegations) apply as if the persons to whom the FMA may make a delegation under section 73(1) of that Act include a person referred to in subsection (1).
- (3) The FMA must take reasonable steps to ensure that the judgement of the individuals that carry out a quality review is not impaired by reason of any relationship with or interest in the relevant audit firm or licensed auditor.

67 Restrictions on application of section 65

- (1) Section 65 does not apply to—
- (a) an overseas auditor who is issued with a licence by the FMA (and holds no other licence issued by an accredited body); or
 - (b) an overseas audit firm that is a registered audit firm (as a result of an application made under section 26); or
 - (c) the Auditor-General or any of his or her employees.
- (2) If a licensed auditor or registered audit firm is acting under the Public Audit Act 2001, the quality review under section 65 may not extend to a review of any matter relating to the carrying out of an audit under section 15 of that Act, or to the provision of a specific service under section 17 of that Act, unless the Auditor-General gives his or her written approval.
- (3) Subsection (2) does not limit subsection (1).
- (4) This section does not limit section 15A of the Public Audit Act 2001.

68 Quality review must include certain matters

- (1) A quality review must include—
- (a) an assessment of the design of the internal quality control system of the audit firm or licensed auditor in connection with the provision of audit services; and

- (b) reasonable compliance testing of procedures, and a review of audit files in respect of a reasonable number of FMC audits, in order to verify the effectiveness of the internal quality control system; and
 - (c) a review of the systems, policies, and procedures of the audit firm or licensed auditor in respect of—
 - (i) compliance with this Act and other enactments that relate to the conduct of FMC audits:
 - (ii) compliance with auditing and assurance standards:
 - (iii) the quantity and quality of resources used:
 - (iv) compliance with competence programmes.
- (2) A quality review must otherwise be carried out in the prescribed manner.
- (3) If an audit file has been reviewed under subsection (1)(b), the quality review may include any further inquiries in respect of the FMC audit for the purpose of determining whether the FMC audit has been carried out—
- (a) in accordance with—
 - (i) the requirements imposed by or under this Act and other enactments that relate to the conduct of FMC audits; and
 - (ii) auditing and assurance standards; and
 - (b) otherwise with reasonable care, diligence, and skill.

Section 68(1)(b): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 68(1)(c)(i): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 68(3): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 68(3)(a)(i): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

69 Offence to hinder, obstruct, or delay FMA

- (1) This section applies, in respect of a quality review of the systems, policies, and procedures of an audit firm, to—
- (a) every partner, director, and employee of the audit firm; and
 - (b) every person who provides services to the audit firm under a contract for services; and
 - (c) every FMC reporting entity in relation to which the audit firm (or any of its partners, directors, or employees) has carried out, or is carrying out, an FMC audit.
- (2) This section applies, in respect of a quality review of the systems, policies, and procedures of a licensed auditor, to—
- (a) the licensed auditor; and

- (b) every employee of the licensed auditor; and
 - (c) every person who provides services to the licensed auditor under a contract for services; and
 - (d) every FMC reporting entity in relation to which the licensed auditor (or any of his or her employees) has carried out, or is carrying out, an FMC audit.
- (3) Every person to whom this section applies commits an offence if the person hinders, obstructs, or delays the FMA (or a person referred to in section 66(1)) in connection with the carrying out of a quality review and is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$40,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$100,000.

Section 69(1)(c): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 69(1)(c): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 69(2)(d): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 69(2)(d): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 69(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

70 FMA may issue directions

- (1) Subsection (2) applies if, after a quality review is completed, the FMA is satisfied on reasonable grounds that the systems, policies, and procedures of the audit firm or the licensed auditor are not sufficient in terms of—
- (a) promoting compliance with—
 - (i) the requirements imposed by or under this Act and other enactments that relate to the conduct of FMC audits; or
 - (ii) auditing and assurance standards; or
 - (b) otherwise promoting reasonable care, diligence, and skill in the carrying out of FMC audits.
- (2) The FMA may give directions to the audit firm or the licensed auditor that require the audit firm or the licensed auditor, within the time and in the manner specified by the FMA in the directions, to amend the systems, policies, and procedures of the audit firm or the licensed auditor to effectively address the matters that caused the FMA to give the directions.
- (3) Subsection (4) applies if, after inquiries are made under section 68(3) in respect of an FMC audit, the FMA is satisfied on reasonable grounds that the FMC audit has not been carried out—
- (a) in accordance with—

- (i) the requirements imposed by or under this Act and other enactments that relate to the conduct of FMC audits; or
 - (ii) auditing and assurance standards; or
- (b) otherwise with reasonable care, diligence, and skill.
- (4) The FMA may give directions to the audit firm or the licensed auditor that require the audit firm or the licensed auditor, within the time and in the manner specified by the FMA in the directions, to take reasonable steps to mitigate or remedy the failure to carry out the FMC audit in accordance with the matters referred to in subsection (3)(a) or otherwise with reasonable care, diligence, and skill (for example, by making a public announcement relating to the auditor's report).
- (5) However, the FMA may not require a person, under subsection (4), to pay compensation to any other person in respect of the failure.
- (6) Subsection (4) does not limit the action that the FMA may take in respect of the matter under subpart 7 (and, for that purpose, the FMA's inquiries under section 68(3) may form part of or constitute the FMA's investigation under that subpart).

Section 70(1)(a)(i): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 70(1)(b): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 70(3): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 70(3)(a)(i): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 70(4): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

71 Consequences of failing to comply with directions

- (1) If an audit firm fails to comply with a direction given to it under section 70,—
 - (a) every partner or director of the firm commits an offence and is liable on conviction to a fine not exceeding \$25,000 if—
 - (i) the failure to comply took place with his or her authority, permission, or consent; or
 - (ii) he or she could reasonably have known that the failure to comply was to take or was taking place and failed to take all reasonable steps to prevent or stop it; and
 - (b) the FMA may make an order that the licence of 1 or more of those partners or directors be—
 - (i) suspended for the period that the FMA thinks fit; or
 - (ii) cancelled; and

- (c) a notice may be given to the Registrar under section 29 to cancel or suspend the registration of the audit firm.
- (2) If a licensed auditor fails to comply with a direction given to him or her under section 70,—
 - (a) he or she commits an offence and is liable on conviction to a fine not exceeding \$25,000; and
 - (b) the FMA may make an order that his or her licence be—
 - (i) suspended for the period that the FMA thinks fit; or
 - (ii) cancelled.
- (3) If the FMA orders the cancellation of a licence, it may also make an order that the person whose licence is cancelled may not apply to be relicensed, whether with the same or a different accredited body, before the expiry of a specified period.

Section 71(1)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 71(1)(c): amended, on 1 July 2015, by section 17 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 71(2)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

72 Miscellaneous matters relating to directions and orders

- (1) A direction given under section 70 and an order made under section 71 must—
 - (a) be in writing; and
 - (b) state the grounds on which it is given or made.
- (2) The FMA must give a copy of the order made under section 71 to—
 - (a) the licensed auditor; and
 - (b) the accredited body that issued the licence to the licensed auditor; and
 - (c) the Registrar.
- (3) The FMA must not give a direction to an audit firm under section 70 unless—
 - (a) the FMA gives to the audit firm (or to at least 1 of the partners or directors of the audit firm) at least 10 working days' written notice of the following matters before it gives the direction:
 - (i) that the FMA may give a direction under section 70; and
 - (ii) the reasons why it is considering exercising that power; and
 - (b) the FMA gives the audit firm or a representative of the audit firm an opportunity to make written submissions and to be heard on the matter within that notice period.
- (4) The FMA must not give a direction to a licensed auditor under section 70 or make an order under section 71 in respect of a licensed auditor unless—

- (a) the FMA gives the licensed auditor at least 10 working days' written notice of the following matters before it exercises the power:
 - (i) that the FMA may give a direction under section 70 or make an order under section 71 (as the case may be); and
 - (ii) the reasons why it is considering exercising that power; and
 - (b) the FMA gives the licensed auditor or his or her representative an opportunity to make written submissions and to be heard on the matter within that notice period.
- (5) The FMA may order that an order under section 71 is to take effect immediately or at some later time.

73 FMA must prepare annual report

- (1) The FMA must, no later than 6 months after the start of each financial year of the FMA, prepare a report on the quality reviews that have been carried out under this subpart in the previous financial year.
- (2) The FMA must, no later than 1 month after preparing a report under subsection (1), publish a notice in the *Gazette* that—
 - (a) states that it has prepared a report under subsection (1); and
 - (b) specifies where a copy of the report may be inspected or obtained.
- (3) The FMA must, after publishing a notice in the *Gazette* under subsection (2), publish a copy of the report on an Internet site maintained by or on behalf of the FMA.

74 FMA may prepare reports about particular quality reviews

- (1) The FMA may prepare a report on a quality review of the systems, policies, and procedures of a particular licensed auditor or audit firm.
- (2) The FMA may publish a copy of the report on an Internet site maintained by or on behalf of the FMA.

Subpart 7—Investigations by FMA

75 FMA may start or take over investigation or investigate in conjunction with accredited body

- (1) The FMA may, if it is satisfied on reasonable grounds that it is in the public interest to do so,—
 - (a) start an investigation; or
 - (b) take over an investigation started by an accredited body; or
 - (c) conduct an investigation in conjunction with an accredited body.
- (2) However, the FMA may not investigate, under this subpart, the conduct of a member of an accredited body in respect of an FMC audit unless—

- (a) the FMA is satisfied on reasonable grounds that—
 - (i) the accredited body has decided not to investigate the matter; or
 - (ii) the matter is not being investigated promptly or otherwise in a reasonable manner by, or on behalf of, the accredited body; or
 - (b) the accredited body has asked the FMA to act under this subpart in respect of the matter.
- (3) In this subpart, an **investigation** is an investigation into the conduct of either or both of the following:
- (a) a licensed auditor in respect of 1 or more FMC audits (whether he or she holds a licence issued under section 11 or 12):
 - (b) a registered audit firm in respect of 1 or more FMC audits (whether the firm's registration is authorised under section 25 or 26).
- (4) This subpart does not limit any other powers of the FMA, under any other enactment, to investigate or inquire into any matter.

Section 75(2): amended, on 1 April 2014, by section 128(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 75(3): replaced, on 1 July 2015, by section 18 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

76 Relationship between FMA's investigation and other investigations or proceedings

- (1) If the FMA starts, or takes over, an investigation under this subpart in respect of a member of an accredited body, the accredited body may do the following only with the FMA's written approval:
- (a) start or continue another investigation into the same matter:
 - (b) take any disciplinary or other action against the licensed auditor in respect of the same matter.
- (2) However, the FMA may not act under this subpart in respect of the conduct of a licensed auditor if the conduct is, or has been, the subject of proceedings before a disciplinary body.

77 Accredited body must give reasonable assistance

- (1) An accredited body must, in respect of the following kinds of investigation, give all reasonable assistance to the FMA to enable the investigation to be carried out:
- (a) an investigation by the FMA involving a member of the accredited body:
 - (b) an investigation by the FMA involving a registered audit firm that has 1 or more partners, directors, or employees who are members of the accredited body.
- (2) An accredited body commits an offence if the accredited body—
- (a) fails to comply with subsection (1); or

- (b) otherwise hinders, obstructs, or delays the FMA in carrying out an investigation.
- (3) An accredited body that commits an offence under subsection (2) is liable on conviction to a fine not exceeding \$100,000.

Section 77(1): replaced, on 1 July 2015, by section 19 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 77(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

78 Disciplinary powers of FMA

- (1) The FMA may, after acting under section 75, make 1 or more of the orders specified in subsection (2) if it is satisfied on reasonable grounds that 1 or more FMC audits carried out by the licensed auditor (**A**) or registered audit firm (**B**) (or both) are not being, or have not been, carried out—
 - (a) in accordance with—
 - (i) the requirements imposed by or under this Act or any other enactments that relate to the conduct of FMC audits; or
 - (ii) auditing and assurance standards; or
 - (b) with reasonable care, diligence, and skill.
- (2) The orders are—
 - (a) an order that A's licence be cancelled:
 - (b) an order that B's registration be cancelled:
 - (c) an order that the person whose licence or registration is cancelled may not apply to be relicensed or reregistered, whether with the same or a different accredited body, before the expiry of a specified period:
 - (d) an order that A's licence be suspended for the period that the FMA thinks fit:
 - (e) an order that B's registration be suspended for the period that the FMA thinks fit:
 - (f) an order prohibiting A or B (or both) from acting in respect of a specified FMC audit, or a specified class or classes of FMC audit,—
 - (i) permanently; or
 - (ii) for any period that the FMA thinks fit:
 - (g) an order that A or B (or both) pay to the FMA any sum that the FMA considers just and reasonable towards the costs and expenses of, and incidental to, the FMA's investigation and the proceedings.
- (3) The FMA must not exercise a power referred to in this section in relation to A or B unless—
 - (a) the FMA gives A or B at least 10 working days' written notice of the following matters before it exercises the power:

- (i) that the FMA may exercise a power under this section; and
 - (ii) the reasons why it is considering exercising that power; and
 - (b) the FMA gives A or B or his, her, or its representative an opportunity to make written submissions and to be heard on the matter within that notice period.
- (4) The FMA may order that an order under this section is to take effect immediately or at some later time.

Section 78(1): replaced, on 1 July 2015, by section 20 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 78(2): replaced, on 1 July 2015, by section 20 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 78(3): replaced, on 1 July 2015, by section 20 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

79 Miscellaneous matters relating to orders

- (1) An order made under section 78 must—
- (a) be in writing; and
 - (b) state the grounds on which it is made.
- (2) The FMA must give a copy of the order made under section 78 to—
- (a) the licensed auditor or audit firm against which the order is made; and
 - (b) the accredited body that issued the licence to that licensed auditor or authorised the registration of that audit firm; and
 - (c) the Registrar.

Section 79(2)(a): replaced, on 1 July 2015, by section 21 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 79(2)(b): replaced, on 1 July 2015, by section 21 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Subpart 8—FMA may take over and perform regulatory functions

80 FMA may take over and perform regulatory functions

The FMA may take over and perform a regulatory function of an accredited body (in whole or in part), or perform a regulatory function of an accredited body (in whole or in part) in conjunction with the accredited body, if—

- (a) the accredited body asks the FMA to act in that manner in relation to—
 - (i) a class of its members; or
 - (ii) a class of audit firms that the accredited body has authorised the registration of under section 25; and
- (b) the FMA is satisfied on reasonable grounds that it is necessary or desirable for the FMA to act in that manner in order to promote the recognition of the professional status of New Zealand auditors in overseas jurisdictions.

Section 80(a): replaced, on 1 July 2015, by section 22 of the Auditor Regulation Amendment Act 2014 (2014 No 62).

81 Powers of FMA when acting under this subpart

- (1) For the purposes of this subpart, the FMA has the following powers:
 - (a) all powers that the accredited body, or any committee or disciplinary body of the accredited body, has in respect of the regulatory function or part of the regulatory function as the case may be (whether conferred by or under this Act or any other enactment or the rules of the accredited body); and
 - (b) any other prescribed powers.
- (2) This section does not limit any other powers of the FMA.

Part 3

Amendments to other enactments, regulations, transitional provisions, and other miscellaneous matters

Subpart 1—Amendments to other enactments

82 Amendments to other Acts

The enactments specified in the Schedule are amended in the manner indicated in that schedule.

83 Amendment to Securities Regulations 2009

- (1) This section amends the Securities Regulations 2009.
- (2) Schedule 15 is amended by revoking clause 6 and substituting the following clause:

6 Duty to audit or review half-yearly financial statements

- (1) The issuer must have the half-yearly financial statements of the borrowing group audited by a qualified auditor, unless the trustee expressly waives this requirement.
- (2) If the trustee waives the requirement for half-yearly audits, the issuer must instead have the half-yearly financial statements of the borrowing group reviewed by a qualified auditor.

Subpart 2—Regulations

84 Regulations

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
 - (a) prescribing countries, states, or territories for the purposes of the definition of overseas auditor:

- (b) prescribing changes for the purposes of sections 13 and 42:
- (c) prescribing information or documents for the purposes of section 14, 27, 43, 51, 85, 86, or 87:
- (ca) prescribing requirements for the purposes of section 25(1)(b)(iii) or 26(1)(ab)(iv), including (without limitation) requirements relating to a company's or an overseas company's—
 - (i) ownership, including requirements relating to who may be a shareholder or member and who may exercise voting rights (for example, requiring all or a majority of voting rights to be held by members of the Institute or an accredited body):
 - (ii) governance, including requirements relating to who may be a director or senior manager (for example, requiring all or a majority of directors to be members of the Institute or an accredited body):
 - (iii) legal structure:
 - (iv) systems, policies, and procedures that relate to any of the following:
 - (A) promoting compliance with the requirements imposed by or under any enactment that relates to the conduct of FMC audits:
 - (B) promoting compliance with auditing and assurance standards:
 - (C) otherwise promoting reasonable care, diligence, and skill in the carrying out of FMC audits:
 - (v) professional indemnity insurance:
- (d) prescribing conditions or matters that conditions may relate to for the purposes of section 49(2)(c):
- (e) prescribing the manner in which a quality review must be carried out (including prescribing matters that must be considered, reviewed, or tested):
- (f) prescribing powers for the purposes of subpart 8 of Part 2:
- (g) prescribing forms for the purposes of this Act, and prescribing—
 - (i) the inclusion in, or attachment to, forms of specified information or documents:
 - (ii) forms to be signed by specified persons:
- (h) prescribing requirements with which information or documents sent or delivered for registration must comply:

- (i) prescribing fees and charges that the Registrar or the FMA may require to be paid to him, her, or it (or the rate at which or the method by which fees and charges are to be calculated)—
 - (i) in connection with the exercise or performance by the Registrar or the FMA of any function, power, or duty conferred by or under this Act (for example, when conducting a quality review):
 - (ii) on an application to the Registrar or the FMA to exercise or perform any function, power, or duty conferred by or under this Act:
 - (j) authorising the Registrar or the FMA to require payment of any costs incurred by the Registrar or the FMA:
 - (k) prescribing procedures, requirements, and other matters, not inconsistent with this Act, for the register, including matters that relate to—
 - (i) the operation of the register:
 - (ii) the form of the register:
 - (iii) the information to be contained in the register:
 - (iv) access to the register:
 - (v) the location of, and hours of access to, the register:
 - (vi) search criteria for the register:
 - (l) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- (1A) Any regulations made under subsection (1)(ca) relating to professional indemnity insurance may, without limitation,—
- (a) specify the terms and conditions upon which insurance is to be available, and any circumstances in which insurance cover may be excluded or modified:
 - (b) specify the minimum terms and conditions that an insurance policy must satisfy:
 - (c) specify circumstances in which a body corporate or any class of bodies corporate is exempt from the requirements:
 - (d) require a body corporate to have arrangements in place that ensure that an accredited body can ascertain whether the insurance is being maintained in accordance with the regulations.
- (2) The Registrar or the FMA may refuse to perform a function or exercise a power until a prescribed fee, charge, or cost is paid.
- (3) Regulations made under subsection (1)(i) or (j) may—
- (a) prescribe the method of payment of a fee, charge, or cost; and
 - (b) authorise the Registrar or the FMA to refund or waive, in whole or in part and on any prescribed conditions, payment of a fee, charge, or cost in relation to any person or class of persons.

- (4) Any fee, charge, cost, or other amount payable to the Registrar or the FMA by or under this Act is recoverable by the Registrar or the FMA in any court of competent jurisdiction as a debt due to the Registrar or the FMA.

Section 84(1)(ca): inserted, on 1 July 2015, by section 23(1) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Section 84(1A): inserted, on 1 July 2015, by section 23(2) of the Auditor Regulation Amendment Act 2014 (2014 No 62).

Subpart 3—Transitional provisions

85 Certain auditors treated as holding licence

- (1) This section applies to a person who,—
- (a) immediately before the commencement of this section, is a chartered accountant who has, at any time within the 2-year period before that commencement, acted as the auditor in respect of an issuer audit; and
 - (b) satisfies the transitional requirements prescribed under section 32(1)(g) for the purposes of this section.
- (2) The person must, on and after the commencement of this section, be treated as holding a licence issued by the Institute under section 11 that—
- (a) is recorded in the register; and
 - (b) is subject to a condition that authorises the person to act as the auditor in respect of all kinds of FMC audits; and
 - (c) expires on the earliest of—
 - (i) the date that the person is issued with another licence under section 11; or
 - (ii) the date that the licence is cancelled; or
 - (iii) the date that is 2 years after the commencement of this section.
- (3) For the purpose of including information in the register in respect of a person that is treated as holding a licence under this section, the person must provide to the Registrar the prescribed information within 40 working days after the commencement of this section.
- (4) If a person fails to comply with subsection (3), the licence may be cancelled under section 20 or suspended under section 21.

Section 85(2)(b): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

86 Certain overseas auditors treated as holding licence

- (1) This section applies to a person who,—
- (a) immediately before the commencement of this section, is a person referred to in section 199(1)(c) or (d) of the Companies Act 1993 and who has, at any time within the 2-year period before that commencement, acted as the auditor in respect of an issuer audit; and

- (b) satisfies the transitional requirements prescribed under section 32(1)(g) for the purposes of this section.
- (2) The person must, on and after the commencement of this section, be treated as holding a licence issued by the FMA under section 12 that—
 - (a) is recorded in the register; and
 - (b) is subject to a condition that authorises the person to act as the auditor in respect of all kinds of FMC audits; and
 - (c) expires on the earliest of—
 - (i) the date that the person is issued with another licence under section 12; or
 - (ii) the date that the licence is cancelled; or
 - (iii) the date that is 2 years after the commencement of this section.
- (3) For the purpose of including information in the register in respect of a person that is treated as holding a licence under this section, the person must provide to the Registrar the prescribed information within 40 working days after the commencement of this section.
- (4) If a person fails to comply with subsection (3), the licence may be cancelled under section 20 or suspended under section 21.

Section 86(2)(b): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

87 Certain audit firms treated as registered

- (1) This section applies to an audit firm that,—
 - (a) immediately after the commencement of section 85, is a partnership that has at least 1 partner who is a licensed auditor; and
 - (b) has, at any time within the 2-year period before that commencement, been appointed or engaged to act as the auditor in respect of an issuer audit; and
 - (c) satisfies the transitional requirements prescribed under section 32(1)(g) for the purposes of this section.
- (2) However, this section does not apply to an overseas audit firm or a limited partnership.
- (3) On and from the commencement of this section, the audit firm must be treated as being a registered audit firm and the Institute must be treated as being the relevant body for the purposes of subpart 2 of Part 2.
- (4) However, the audit firm ceases to be treated as being a registered audit firm under this section on the earliest of—
 - (a) the date that the Registrar registers the audit firm under section 27 (following an application under section 25); or
 - (b) the date that the registration is cancelled under section 29; or

- (c) the date that is 2 years after the commencement of this section.
- (5) Subsection (4) does not prevent an audit firm from continuing to be a registered audit firm by virtue of registration under subpart 2 of Part 2.
- (6) For the purpose of including information in the register in respect of an audit firm that is treated as being a registered audit firm under this section, the audit firm must provide to the Registrar the prescribed information within 40 working days after the commencement of this section.
- (7) If an audit firm fails to comply with subsection (6), the registration of the firm may be cancelled under section 29.

88 Transitional provisions do not prevent exercise of powers

Nothing in section 85 or 86 or 87 prevents—

- (a) the Institute or the FMA (as the case may be) from—
- (i) varying, removing, adding, or substituting conditions of the licence or registration (including varying the condition referred to in section 85(2)(b) or 86(2)(b)); or
 - (ii) cancelling or suspending the licence of a person or giving a notice to the Registrar to cancel the registration of an audit firm; or
 - (iii) exercising any other power in relation to that licence or registration under this Act; or
- (b) the FMA from exercising any power in relation to that licence or registration under this Act.

89 Requirements do not apply to accounting periods that have ended

- (1) The requirements in sections 8 and 9 do not apply to FMC audits in respect of financial statements, or group financial statements, prepared for accounting periods that ended before the commencement of this section.
- (2) The amendments made by section 82 and the Schedule do not apply to audits in respect of financial statements, or group financial statements, prepared for accounting periods that ended before the commencement of this section and, accordingly, the requirements and provisions that would have applied if those amendments had not been made continue to apply to those audits.

Section 89(1): amended, on 1 April 2014, by section 128(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Subpart 4—Miscellaneous provisions

90 Application of Act in respect of Auditor-General

Nothing in section 8 or 9 applies to the Auditor-General (and, accordingly, the Auditor-General is not required to hold a licence).

91 FMA may act as accredited body

- (1) The FMA may act as an accredited body if it—
 - (a) suspends or cancels the accreditation of a body under section 59; and
 - (b) considers that it is in the public interest for it to act as an accredited body having regard to the purposes of this Act.
- (2) If the FMA decides to act under subsection (1), it must be treated as being an accredited body (except for the purposes of subpart 5 of Part 2).

92 Power to amend or revoke

- (1) The FMA's power under this Act to make, issue, give, or publish any order, direction, notice, or other instrument includes the power to—
 - (a) amend or revoke it:
 - (b) revoke it and replace it with another.
- (2) This section does not limit section 15 of the Interpretation Act 1999.

93 Protection from liability for accredited bodies and others

- (1) An accredited body is not liable for anything it may do or fail to do in the course of the performance or exercise or intended performance or exercise of its functions, powers, or duties under this Act, unless it is shown that it acted in bad faith or without reasonable care.
- (2) An officer, an employee, or a person acting on behalf of an accredited body is not liable for anything he or she may do or say or fail to do or say in the course of the performance or exercise or intended performance or exercise of the accredited body's functions, powers, or duties under this Act, unless it is shown that he or she acted in bad faith.

94 Sharing of information and documents with FMA

- (1) An accredited body may provide to the FMA any information, or a copy of any document, that the accredited body—
 - (a) holds in relation to the performance or exercise of the accredited body's functions, powers, or duties under the rules of the accredited body or under any enactment; and
 - (b) considers may assist the FMA in the performance or exercise of the FMA's functions, powers, or duties under this Act or any other enactment.
- (2) An accredited body may, subject to any conditions imposed by the FMA, use any information, or a copy of any document, provided to it by the FMA under any enactment in the accredited body's performance or exercise of its functions, powers, or duties under the rules of the accredited body or under any enactment.

- (3) This section applies despite anything to the contrary in any enactment, contract, deed, or document.

95 Notice and service of documents

- (1) Unless this Act provides otherwise, if a provision of this Act requires or authorises any notice or other document, or any notification, to be given or provided to a person, the notice, document, or notification must be given in writing to the person—
- (a) by delivering it personally or by an agent (such as a courier) to the person; or
 - (b) by sending it by prepaid post addressed to the person at the person's usual or last known place of residence or business; or
 - (c) by sending it by fax or electronic communication to the person's fax number or electronic address provided by the person for the purpose; or
 - (d) in any other manner a District Court Judge directs.
- (2) In the absence of proof to the contrary, a notice, document, or notification sent to a person in accordance with—
- (a) subsection (1)(b) must be treated as having been given or provided to the person when it would have been delivered in the ordinary course of the post; and, in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted;
 - (b) subsection (1)(c) must be treated as having been given or provided to the person on the second working day after the day on which it is sent.
- (3) If a person is absent from New Zealand, a notice, document, or notification given to the person's agent in New Zealand in accordance with subsection (1) must be treated as having been given or provided to the person.
- (4) If a person has died, the notice, document, or notification may be given, in accordance with subsection (1), to his or her personal representative.
- (5) If a notice, document, or notification is required to be given to an audit firm that is a partnership, it may be given to any of the partners; and for the purposes of this Act, giving it to any of the partners must, unless otherwise directed by the FMA, be treated as service on all of those partners.

96 False declarations and representations

- (1) Every person commits an offence who, for the purpose of obtaining any licence, registration, or accreditation under this Act or for any other purpose relating to this Act, either on the person's own behalf or on behalf of any other person,—
- (a) either orally or in writing, makes any declaration or representation to a specified body that, to the person's knowledge, is false or misleading in any material particular; or

- (b) provides to a specified body any document knowing that the document—
 - (i) contains any declaration or representation that is false or misleading in any material particular; or
 - (ii) is not genuine; or
 - (c) makes use of any document knowing that the document—
 - (i) contains any declaration or representation that is false or misleading in any material particular; or
 - (ii) is not genuine.
- (2) In subsection (1), **specified body** means an accredited body, the Registrar, or the FMA.
- (3) A person who is convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding \$50,000.

Section 96(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Schedule

Amendments to other Acts relating to auditor regulation

s 82

Building Societies Act 1965 (1965 No 22)

Section 2(1): insert in their appropriate alphabetical order:

licensed auditor has the same meaning as in section 6 of the Auditor Regulation Act 2011

registered audit firm has the same meaning as in section 6 of the Auditor Regulation Act 2011

Section 98(2): omit “at the time of the appointment” and substitute “from time to time”.

Section 98: insert after subsection (2):

(2A) However, if the society is an issuer (within the meaning of section 4 of the Financial Reporting Act 1993),—

- (a) a partnership appointed by its firm name to be the auditors of the society must be a registered audit firm; and
- (b) the appointment of a registered audit firm by its firm name to be the auditors of the society is to be taken to be the appointment of all the partners in the firm, from time to time, who are licensed auditors.

Section 100(1): repeal and substitute:

(1) No person is qualified for appointment as auditor of a society unless he or she is,—

- (a) in the case of a society that is an issuer (within the meaning of section 4 of the Financial Reporting Act 1993), a licensed auditor;
- (b) in any other case,—
 - (i) a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); or
 - (ii) a member, fellow, or associate of an association of accountants constituted outside New Zealand that is for the time being approved for the purposes of section 199 of the Companies Act 1993.

Companies Act 1993 (1993 No 105)

Section 198: repeal and substitute:

198 Appointment of partnership

(1) A partnership may be appointed by the firm name to be the auditor of a company if,—

Companies Act 1993 (1993 No 105)—continued

- (a) in the case of a company that is an issuer, the partnership is a registered audit firm:
 - (b) in any other case, all or some of the partners are persons who are qualified to be appointed as auditors of the company.
- (2) The appointment of a partnership by the firm name to be the auditor of a company is deemed, despite section 199, to be the appointment of,—
- (a) in the case of a company that is an issuer, all the partners in the firm, from time to time, who are licensed auditors:
 - (b) in any other case, all the partners in the firm from time to time.
- (3) If a partnership that includes persons who are not qualified to be appointed as auditors of a company is appointed as auditor of a company, the persons who are not qualified to be appointed as auditors must not act as auditors of the company.
- (4) In this section and section 199, **issuer**, **registered audit firm**, and **licensed auditor** have the same meanings as in section 6 of the Auditor Regulation Act 2011.

Section 199(1): insert after paragraph (a):

- (ab) the person is a licensed auditor; or

Section 199: insert after subsection (1):

- (1A) However, if the company is an issuer, a person must not be appointed or act as an auditor of the company unless he or she is a licensed auditor.

Financial Markets Authority Act 2011 (2011 No 5)

Paragraph (a) of the definition of **financial markets participant** in section 4: insert “accredited,” after “appointed,” in each place where it appears.

Definition of **law enforcement or regulatory agency** in section 4: add:

- (i) an accredited body (within the meaning of section 6(1) of the Auditor Regulation Act 2011)

Part 1 of Schedule 1: insert before the item relating to the Financial Advisers Act 2008 “Auditor Regulation Act 2011”.

Friendly Societies and Credit Unions Act 1982 (1982 No 118)

Section 2: insert in their appropriate alphabetical order:

licensed auditor has the same meaning as in section 6 of the Auditor Regulation Act 2011

registered audit firm has the same meaning as in section 6 of the Auditor Regulation Act 2011

Section 63(1): repeal and substitute:

Friendly Societies and Credit Unions Act 1982 (1982 No 118)—*continued*

- (1) No person is qualified for appointment as auditor of a registered society or branch under this Act unless he or she is,—
- (a) in the case of a registered society or branch that is an issuer (within the meaning of section 4 of the Financial Reporting Act 1993), a licensed auditor:
 - (b) in any other case,—
 - (i) a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); or
 - (ii) a member, fellow, or associate of an association of accountants constituted outside New Zealand that is for the time being approved for the purposes of section 199 of the Companies Act 1993.

Section 63(2): omit “at the time of the appointment” and substitute “from time to time”.

Section 63: insert after subsection (2):

- (2A) However, if the registered society or branch is an issuer (within the meaning of section 4 of the Financial Reporting Act 1993),—
- (a) a partnership appointed by its firm name to be the auditors of the registered society or branch must be a registered audit firm; and
 - (b) the appointment of a registered audit firm by its firm name to be the auditors of the registered society or branch is to be taken to be the appointment of all the partners in the firm, from time to time, who are licensed auditors.

Section 63(5): insert “, (2A),” after “Subsections (1)”.

Section 123(1): repeal and substitute:

- (1) For the purposes of section 122(1), no person is qualified for appointment as auditor of a credit union unless he or she is,—
- (a) in the case of a credit union that is an issuer (within the meaning of section 4 of the Financial Reporting Act 1993), a licensed auditor:
 - (b) in any other case,—
 - (i) a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); or
 - (ii) a member, fellow, or associate of an association of accountants constituted outside New Zealand that is for the time being approved for the purposes of section 199 of the Companies Act 1993.

Section 123(2): omit “at the time of the appointment” and substitute “from time to time”.

Friendly Societies and Credit Unions Act 1982 (1982 No 118)—continued

Section 123: insert after subsection (2):

- (2A) However, if the credit union is an issuer (within the meaning of section 4 of the Financial Reporting Act 1993),—
- (a) a partnership appointed by its firm name to be the auditors of the credit union must be a registered audit firm; and
 - (b) the appointment of a registered audit firm by its firm name to be the auditors of the credit union is to be taken to be the appointment of all the partners in the firm, from time to time, who are licensed auditors.

Section 123(5): insert “, (2A),” after “Subsections (1)”.

Industrial and Provident Societies Act 1908 (1908 No 81)

Section 19: insert after subsection (2):

- (2A) However, if the registered society is an issuer, the registered society must appoint—
- (a) a licensed auditor as the auditor of the society; or
 - (b) a registered audit firm by its firm name to be the auditors of the society (in which case, all the partners in the firm, from time to time, who are licensed auditors are deemed to be appointed as the auditors).
- (2B) In subsection (2A), **issuer**, **registered audit firm**, and **licensed auditor** have the same meanings as in section 6 of the Auditor Regulation Act 2011.

Section 19(3): insert “(except subsection (2A))” after “Nothing in this section”.

KiwiSaver Act 2006 (2006 No 40)

Section 174(b): omit “audited” and substitute “audited by a licensed auditor or a registered audit firm (within the meaning of section 6 of the Auditor Regulation Act 2011)”.

New Zealand Institute of Chartered Accountants Act 1996 (1996 No 39)

Section 15: add:

- (5) Nothing in this section limits sections 8 and 9 of the Auditor Regulation Act 2011.

Privacy Act 1993 (1993 No 28)

Part 1 of Schedule 2: insert in its appropriate alphabetical order:

Auditor Regulation Act 2011

section 38

Public Audit Act 2001 (2001 No 10)

New section 15A: insert after section 15:

Public Audit Act 2001 (2001 No 10)—continued**15A Auditor-General may ask for quality review in respect of audits of issuers**

- (1) The Auditor-General may ask the Financial Markets Authority to arrange for a quality review to be carried out of the systems, policies, and procedures applying to the employees of the Auditor-General who assist in the carrying out of audits of issuers under this Act.
- (2) The purpose of a quality review under this section is to provide the Auditor-General with advice on whether those systems, policies, and procedures are satisfactory in terms of—
 - (a) promoting, in relation to audits of issuers under this Act, compliance with the auditing and assurance standards that apply to those audits; and
 - (b) otherwise promoting reasonable care, diligence, and skill in the carrying out of those audits.
- (3) The Auditor-General must take reasonable steps to ensure that the period between quality reviews carried out under this section does not exceed 4 years.
- (4) The Financial Markets Authority may—
 - (a) prepare a report on a quality review carried out under this section; and
 - (b) include recommendations in the report.
- (5) The Auditor-General must have regard to a report prepared under subsection (4) (but is not required to comply with any recommendations).

Section 32: insert after subsection (1):

- (1A) The Auditor-General must, before appointing a person to act as the auditor of an issuer under subsection (1)(a) or (b), be satisfied that the person—
 - (a) meets the prescribed minimum standards for the issue of a licence prescribed under subpart 3 of Part 2 of the Auditor Regulation Act 2011; or
 - (b) has the competence, qualifications, and experience that are equivalent to, or as satisfactory as, those standards.
- (1B) The Auditor-General must, before appointing a partnership to act as the auditor of an issuer under subsection (1)(c), be satisfied that the partnership—
 - (a) meets the prescribed minimum standards for the registration of an audit firm prescribed under subpart 3 of Part 2 of the Auditor Regulation Act 2011; or
 - (b) meets other requirements that are equivalent to, or as satisfactory as, those standards.
- (1C) Subsections (1A) and (1B) apply only after the relevant minimum standards have been prescribed under subpart 3 of Part 2 of the Auditor Regulation Act 2011.

Securities Act 1978 (1978 No 103)

Section 2C(1): repeal and substitute:

- (1) For the purposes of this Act, **qualified auditor** means—
- (a) a licensed auditor; or
 - (b) a registered audit firm; or
 - (c) in the case of an issuer that is a public entity under the Public Audit Act 2001, the Auditor-General or any other person who may act as the auditor under that Act.
- (1A) In this section, **licensed auditor** and **registered audit firm** have the same meanings as in section 6 of the Auditor Regulation Act 2011.
- (1B) The appointment of a registered audit firm by the firm name to be the qualified auditor for the purposes of this Act is deemed to be the appointment of all the partners in the firm, from time to time, who are licensed auditors.

Superannuation Schemes Act 1989 (1989 No 10)

Definition of **auditor** in section 2(1): repeal and substitute:

auditor means—

- (a) a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); or
- (b) a licensed auditor (within the meaning of section 6 of the Auditor Regulation Act 2011)

Reprints notes

1 *General*

This is a reprint of the Auditor Regulation Act 2011 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

District Court Act 2016 (2016 No 49): section 261

Auditor Regulation Amendment Act 2014 (2014 No 62)

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): sections 126, 128

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Legislation Act 2012 (2012 No 119): section 77(3)

Auditor Regulation Act Commencement Order 2011 (SR 2011/380)

Criminal Procedure Act 2011 (2011 No 81): section 413