

Reprint
as at 1 July 2015



**New Zealand Institute of Chartered Accountants
Amendment Act 2014**

Public Act 2014 No 65
Date of assent 6 November 2014
Commencement see section 2

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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.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the New Zealand Institute of Chartered Accountants Amendment Act 2014.

2 Commencement

- (1) This Act comes into force on a date 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.
- (2) To the extent that it has not previously been brought into force under subsection (1), the rest of this Act comes into force on 1 April 2017.

Section 2(1): this Act, except sections 8(2), 11 and 13, brought into force, on 25 November 2014, by the New Zealand Institute of Chartered Accountants Amendment Act 2014 Commencement Order 2014 (LI 2014/351).

Section 2(1): the rest of this Act brought into force, on 1 July 2015, by the New Zealand Institute of Chartered Accountants Amendment Act 2014 Commencement Order 2015 (LI 2015/116).

3 Principal Act

This Act amends the New Zealand Institute of Chartered Accountants Act 1996 (the **principal Act**).

4 Section 2 amended (Interpretation)

In section 2, insert in their appropriate alphabetical order:

Executive Board means the Executive Board of the Institute referred to in section 6(1)(e)

specified association means the association of accountants that is declared to be the specified association under section 8A

5 New section 2A inserted (Transitional, savings, and related provisions)

After section 2, insert:

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 Section 5 amended (Functions of Institute)

(1) Before section 5(a), insert:

(aa) to carry out the duty imposed under section 5A:

(2) Replace section 5(b) with:

(b) to promote the profession of accountancy by its members in New Zealand:

7 New sections 5A to 5C inserted

After section 5, insert:

5A Duty to control and regulate profession of accountancy practised by members in New Zealand

(1) The Institute must, with reasonable skill and care, control and regulate the practice of the profession of accountancy by its members in New Zealand.

(2) The duty under subsection (1) includes—

(a) maintaining, complying with, monitoring compliance with, and enforcing the rules referred to in section 6(1)(f) to (ja) (which relate to the investigation and hearing of complaints and other matters, appeals, disciplinary matters, and the recognition of auditors); and

(b) maintaining, monitoring members' compliance with, and enforcing professional and ethical standards, including the code of ethics required by section 7; and

(c) monitoring members' compliance with the Auditor Regulation Act 2011 and other enactments that relate to the practice of accountancy; and

(d) monitoring compliance with, and enforcing, section 14; and

(e) complying with the Institute's duties—

(i) as an accredited body under the Auditor Regulation Act 2011; and

(ii) that are imposed on the Institute (by name) under any other enactment.

5B Institute must perform duty to control and regulate profession but may delegate other functions

- (1) The Institute must not delegate the duty under section 5A (in whole or in part) to any person.
- (2) The Institute may delegate the functions specified in section 5(a), (b), (c), and (d) (except to the extent that those functions relate to the duty in section 5A), either generally or specifically, to any other person.
- (3) Subsection (2) is subject to subsection (1).

5C Specified association may act in its own interests rather than Institute's interests

- (1) This section applies to the specified association if any functions referred to in section 5B(2) are delegated to the association.
- (2) The specified association may, when performing a delegated function, act in a manner that the association believes is in the best interests of the association (or its members) even though it may not be in the best interests of the Institute (or the Institute's members).
- (3) Subsection (2) does not permit the specified association to act in a manner that may materially prejudice the Institute's ability to carry out the duty imposed under section 5A.

8 Section 6 amended (Rules of Institute)

- (1) Repeal section 6(1)(d).
- (2) After section 6(1)(j), insert:
 - (ja) the recognition of persons for the purposes of sections 36(1)(a) and 36C of the Financial Reporting Act 2013, for keeping such recognition under review, and for the cancellation and suspension of such recognition; and
 - (jb) the powers of a person to whom functions are delegated under section 5B(2), the effect of a delegation on the Institute, and the revocation of a delegation; and
- (3) In section 6(4), replace "Council" with "Executive Board".

9 Section 7 amended (Code of ethics)

- (1) In section 7(2), (4), and (5), replace "Council" with "Executive Board".
- (2) Repeal section 7(3).
- (3) After section 7(5), insert:
 - (6) The code of ethics prescribed by the Council and that is in force immediately before the commencement of this subsection continues in force and may be amended, revoked, or replaced by the Executive Board under subsection (4).

10 New section 7A inserted (Membership rules may require membership of specified association)

After section 7, insert:

7A Membership rules may require membership of specified association

- (1) The rules that relate to the matters referred to in section 6(1)(b) (admission of members and the cessation of membership) may provide for either or both of the following:
 - (a) that a person may be admitted as a member of the Institute only if the person is a member of the specified association:
 - (b) that a person ceases to be a member of the Institute if the person—
 - (i) does not become a member of the specified association in accordance with the rules; or
 - (ii) ceases to be a member of the specified association.
- (2) Those rules may provide for a cessation referred to in subsection (1)(b) to be automatic or to occur after a specified process.
- (3) This section does not limit section 6(1)(b) (and, in particular, the ability to provide for other requirements for the admission of members).

11 Section 8 amended (Application of Part 3 of Legislation Act 2012 to certain rules and code of ethics)

In section 8(a), replace “(j)” with “(jb)”.

12 New sections 8A and 8B and cross-heading inserted

After section 8, insert:

Provisions concerning specified association

8A Specified association

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Commerce, declare an association of accountants to be the specified association for the purposes of this Act.
- (2) The Minister of Commerce may make a recommendation under subsection (1) only after consulting the Institute.
- (3) In this section, **association of accountants** includes any association or other professional body of accountants (whether constituted or established overseas or in New Zealand).

8B Members of Council or Executive Board may act in best interests of specified association rather than Institute

- (1) This section applies to a person (A) who is appointed by or on behalf of the specified association, in accordance with the rules of the Institute, to be a member of either or both of the following:
 - (a) the Council:
 - (b) the Executive Board.
- (2) A may, when exercising powers or performing duties as a member of the Council or the Executive Board, if expressly permitted to do so by the rules of the Institute, act in a manner that he or she believes is in the best interests of the specified association (or its members) even though it may not be in the best interests of the Institute (or the Institute's members).
- (3) Subsection (2) does not permit A to act in a manner that may materially prejudice the Institute's ability to carry out the duty imposed under section 5A.

13 Section 15 repealed (Accountants and auditors must be qualified)

Repeal section 15.

14 Sections 21 to 24 and Schedules 3 to 5 repealed

Repeal sections 21 to 24 and Schedules 3 to 5.

15 New Schedule inserted

Before Schedule 1, insert the Schedule 1AA set out in the Schedule of this Act.

16 Schedule 1 amended

In Schedule 1, clauses 3, 4(1)(a), and 8(1)(b), replace "Council" with "Executive Board" in each place.

Schedule
New Schedule inserted

s 15

Schedule 1AA
Transitional, savings, and related provisions

s 2A

*Provisions relating to New Zealand Institute of Chartered Accountants
Amendment Act 2014*

1 Interpretation

In clause 2,—

2014 Amendment Acts means—

- (a) the New Zealand Institute of Chartered Accountants Amendment Act 2014; and
- (b) the Financial Reporting Amendment Act 2014

principal Act means the New Zealand Institute of Chartered Accountants Act 1996.

2 References to President or Vice President of Institute

Unless the context otherwise requires, and subject to the provisions of the 2014 Amendment Acts, every reference in any other enactment or in any deed or other document to the President or a Vice President of the Institute must, after this clause comes into force, be read as if it were a reference to the Chair of the Executive Board (or his or her delegate).

Reprints notes

1 *General*

This is a reprint of the New Zealand Institute of Chartered Accountants Amendment Act 2014 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*

New Zealand Institute of Chartered Accountants Amendment Act 2014 Commencement Order 2015 (LI 2015/116)

New Zealand Institute of Chartered Accountants Amendment Act 2014 Commencement Order 2014 (LI 2014/351)