

**Reprint  
as at 1 July 2015**



**New Zealand Institute of Chartered Accountants Act  
1996**

Public Act     1996 No 39  
Date of assent     24 June 1996  
Commencement     see section 1

Act name: substituted, on 7 July 2010, by section 5(1)(a) of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

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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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**An Act to—**

- (a) **continue the New Zealand Society of Accountants under the name New Zealand Institute of Chartered Accountants; and**
- (b) **require the Institute to have rules governing membership, discipline, and other matters and a code of ethics governing the professional conduct of its members; and**
- (c) **prohibit the use of terms implying membership of the Institute by persons who are not members; and**
- (d) **provide for related matters; and**
- (e) **repeal the New Zealand Society of Accountants Act 1958**

Title paragraph (a): amended, on 7 July 2010, by section 4 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

**1 Short Title and commencement**

- (1) This Act may be cited as the New Zealand Institute of Chartered Accountants Act 1996.
- (2) Except as provided in subsection (3), this Act shall come into force on 1 October 1996.
- (3) Subsections (3) and (4) of section 21 shall come into force on a date to be appointed by the Governor-General by Order in Council.

Section 1(3): section 21(3) and (4) brought into force, on 5 April 2002, by the Institute of Chartered Accountants of New Zealand Act Commencement Order 2002 (SR 2002/51).

Section 1(1): amended, on 7 July 2010, by section 5(2) of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**Appeals Council** means the Appeals Council referred to in section 6(1)(h)

**certificate of public practice** means a certificate of public practice issued in accordance with the rules

**chartered accountant** means a member of the Institute who, under the rules of the Institute, is entitled to use the designation chartered accountant

**code** means the code of ethics of the Institute referred to in section 7

**Council** means the Council of the Institute referred to in section 6(1)(a)

**disciplinary body** or **body** means the Disciplinary Tribunal or the Appeals Council

**Disciplinary Tribunal** means the Disciplinary Tribunal referred to in section 6(1)(g)

**document** includes any book or paper

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

**Institute** means the New Zealand Institute of Chartered Accountants constituted under this Act

**member** means a person who, under the rules of the Institute, is a full member or provisional member of the Institute

**Professional Conduct Committee** means the Professional Conduct Committee referred to in section 6(1)(f)

**Registrar** means the Registrar of Companies at Wellington

**registration** means registration by the Registrar on a public file

**rules** means the rules of the Institute delivered to the Registrar under section 6

**Society** means the New Zealand Society of Accountants constituted under the New Zealand Society of Accountants Act 1958

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

Section 2 **Executive Board**: inserted, on 25 November 2014, by section 4 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

Section 2 **Institute**: amended, on 7 July 2010, by section 6 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

Section 2 **specified association**: inserted, on 25 November 2014, by section 4 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

## 2A Transitional, savings, and related provisions

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

Section 2A: inserted, on 25 November 2014, by section 5 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

## 3 Act to bind the Crown

This Act binds the Crown.

*New Zealand Institute of Chartered Accountants*

Heading: substituted, on 7 July 2010, by section 7 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

**4 Continuation of Society as Institute**

- (1) The body corporate existing under the name of the New Zealand Society of Accountants immediately before the day on which this section comes into force continues on and after that day under the name New Zealand Institute of Chartered Accountants.
- (2) The Institute is a body corporate with perpetual succession and a common seal, and has and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.
- (3) The Institute shall have members in accordance with the rules and this Act; but membership does not of itself—
  - (a) impose on the members any liability in respect of any contract, debt, or other obligation made or incurred by the Institute; or
  - (b) confer on the members any right, title, or interest in the property of the Institute.

Section 4(1): amended, on 7 July 2010, by section 8 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

**5 Functions of Institute**

The functions of the Institute are—

- (aa) to carry out the duty imposed under section 5A:
  - (a) to promote quality, expertise, and integrity in the profession of accountancy by its members in New Zealand:
  - (b) to promote the profession of accountancy by its members in New Zealand:
  - (c) to promote the training, education, and examination of persons practising, or intending to practise, the profession of accountancy in New Zealand or elsewhere:
  - (d) any other functions that are conferred on it by the rules.

Section 5(aa): inserted, on 25 November 2014, by section 6(1) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

Section 5(b): replaced, on 25 November 2014, by section 6(2) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

**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.

Section 5A: inserted, on 25 November 2014, by section 7 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

**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).

Section 5B: inserted, on 25 November 2014, by section 7 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

**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.

Section 5C: inserted, on 25 November 2014, by section 7 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

## 6 Rules of Institute

- (1) The Institute must have rules that provide for—
  - (a) a Council of the Institute and the powers of the Council; and
  - (b) the admission of members of the Institute and the cessation of membership; and
  - (c) the summoning and holding of general meetings of the Institute, and the method of voting at those meetings; and
  - (d) *[Repealed]*
  - (e) an Executive Board of the Institute; and
  - (f) a Professional Conduct Committee to investigate complaints against members and former members of the Institute and the powers and procedure of that Committee; and
  - (g) a Disciplinary Tribunal to hear complaints and matters referred to it by the Professional Conduct Committee and the powers and procedure of that Tribunal; and
  - (h) an Appeals Council to hear appeals from decisions of the Disciplinary Tribunal and the powers and procedure of that Council; and
  - (i) the kinds of conduct, including criminal offences, professional misconduct, and financial misconduct, for which a member or former member may be disciplined; and
  - (j) the actions that may be taken in respect of, and the penalties that may be imposed on, a member or former member by the Professional Conduct Committee or a disciplinary body for such conduct; and
  - (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
  - (k) the amendment and replacement of the rules.
- (2) In addition to the provisions required by subsection (1), the rules may contain any other provisions that are not inconsistent with this Act or any other Act or any rule of law.
- (3) The Council must, no later than 14 days after the day on which this Act comes into force, deliver to the Registrar for registration a document described as, and which shall constitute, the rules of the Institute.
- (4) The Executive Board must, no later than 14 days after the passing of any amendment to the rules or replacing the rules, deliver to the Registrar for registration a copy of the amendment or the new rules.

Section 6(1)(d): repealed, on 25 November 2014, by section 8(1) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

Section 6(1)(ja): inserted, on 1 July 2015, by section 8(2) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

Section 6(1)(jb): inserted, on 1 July 2015, by section 8(2) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

Section 6(4): amended, on 25 November 2014, by section 8(3) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

## 7 Code of ethics

- (1) The Institute must always have a code of ethics that governs the professional conduct of its members.
- (2) The code of ethics must be prescribed by the Executive Board.
- (3) *[Repealed]*
- (4) The Executive Board may at any time amend the code or revoke the code and replace it with a new code.
- (5) The Executive Board must, no later than 14 days after passing any amendment to the code or replacing the code, deliver to the Registrar for registration a copy of the amendment or the new code.
- (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).

Section 7(2): amended, on 25 November 2014, by section 9(1) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

Section 7(3): repealed, on 25 November 2014, by section 9(2) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

Section 7(4): amended, on 25 November 2014, by section 9(1) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

Section 7(5): amended, on 25 November 2014, by section 9(1) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

Section 7(6): inserted, on 25 November 2014, by section 9(3) of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

## 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).

Section 7A: inserted, on 25 November 2014, by section 10 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

## **8 Application of Part 3 of Legislation Act 2012 to certain rules and code of ethics**

The following are disallowable instruments, but not legislative instruments, for the purposes of the Legislation Act 2012:

- (a) the rules that relate to the matters referred to in sections 5(d), 6(1)(a), (b), and (f) to (jb), and 19:
- (b) rules that relate to the entitlement of members to use the designation chartered accountant:
- (c) the code of ethics required by section 7.

Section 8: replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Section 8(a): amended, on 1 July 2015, by section 11 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

### *Provisions concerning specified association*

Heading: inserted, on 25 November 2014, by section 12 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

#### **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).

Section 8A: inserted, on 25 November 2014, by section 12 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

#### **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.

Section 8B: inserted, on 25 November 2014, by section 12 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

### *Matters relating to disciplining of members*

## **9 Professional Conduct Committee and disciplinary bodies to observe rules of natural justice**

In the exercise of their functions and powers, the Professional Conduct Committee and each disciplinary body shall observe the rules of natural justice.

## **10 Evidence at hearings of disciplinary bodies**

- (1) A disciplinary body may—
  - (a) receive evidence on oath (and for that purpose an officer or employee of the Institute, or a member of the disciplinary body, may administer an oath); and
  - (b) permit a person appearing as a witness before it to give evidence by tendering a written statement and verifying that statement by oath.
- (2) A hearing before a disciplinary body is a judicial proceeding for the purposes of section 109 of the Crimes Act 1961.

## **11 Disciplinary bodies may summon witnesses**

- (1) A District Court Judge may, on the application of a party to proceedings before a disciplinary body, give a certificate authorising the disciplinary body to issue a summons under this section.
- (2) A District Court Judge shall not give a certificate under subsection (1) unless satisfied that—
  - (a) the evidence of the witness is or may be material to the hearing of a matter by the disciplinary body; and
  - (b) it is necessary or desirable that the summons be issued to compel the attendance of the witness at the hearing.
- (3) A disciplinary body shall, on production of a certificate referred to in subsection (1), issue a summons in writing, signed by a member of the disciplinary body, requiring a person specified in the summons to attend a hearing of the disciplinary body at the time and place specified in the summons and do all or any of the following at the hearing:

- (a) give evidence:
  - (b) give evidence under oath:
  - (c) produce documents, things, or information or any specified documents, things, or information in the possession or control of that person that are relevant to the hearing.
- (4) A disciplinary body may require that any documents or information produced under this section be verified by oath, statutory declaration, or otherwise.
- (5) A disciplinary body may—
- (a) require that copies of any documents or information produced under this section must also be provided to any person appearing at the hearing; and
  - (b) impose any terms and conditions in respect of the provision of copies of any documents or information to a person appearing at the hearing and the use that may be made of them.
- (6) A summons may be served—
- (a) by delivering it to the person summoned; or
  - (b) by posting it to the person summoned at that person's usual place of residence.
- (7) A summons must,—
- (a) if it is to be served under subsection (6)(a), be served at least 24 hours before the attendance of the witness is required:
  - (b) if it is to be served under subsection (6)(b), be served at least 10 days before the attendance of the witness is required.
- (8) A summons that is posted shall be treated as having been served when it would have been served in the ordinary course of post.
- (9) There shall be paid or tendered to the witness by the person requiring the attendance of the witness at the time the summons is served, or at some other reasonable time before the hearing, the sum estimated to be payable to that witness for fees, allowances, and expenses in accordance with the scales for the time being prescribed by regulations under the Criminal Procedure Act 2011.

Section 11(9): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **12 Protection for members of disciplinary bodies and others**

- (1) No action shall lie against a member of the Professional Conduct Committee or a disciplinary body in exercising, in good faith, any power or function under this Act or the rules.
- (2) Every person who—
- (a) provides documents, things, or information to the Professional Conduct Committee; or

- (b) produces documents or things to a disciplinary body; or
  - (c) gives evidence or answers questions at a hearing of a disciplinary body—
- has the same privileges as witnesses have in a court.
- (3) Every counsel appearing before a disciplinary body has the same privileges and immunities as counsel in a court.

### **13 Enforcement of orders**

- (1) Where the Professional Conduct Committee or a disciplinary body, acting in accordance with this Act or the rules, makes an order or otherwise exercises any power in respect of any person who is or was a member of the Institute, that order or other exercise of any power has effect whether or not that person remains a member of the Institute.
- (2) Where the Professional Conduct Committee or a disciplinary body, acting in accordance with this Act or the rules, orders any person who is or was a member of the Institute to pay a penalty, expenses, or other monetary amount to the Institute, that amount is recoverable by the Institute from that person as a debt due to the Institute, whether or not that person remains a member of the Institute.

### *Offences*

### **14 Improper use of terms implying membership of Institute**

- (1) Every person commits an offence who,—
- (a) not being a member of the Institute, uses in connection with his or her business, employment, or profession any written words, initials, or abbreviations of words intended to cause or which may reasonably cause any other person to believe that the person is a member of the Institute; or
  - (b) not being entitled to do so under the rules, describes himself or herself in writing as a chartered accountant or a chartered accountant in public practice or an associate chartered accountant or an associate chartered accountant in public practice or an accounting technician; or
  - (c) not being a member of the Institute, describes himself or herself in writing as a registered accountant, unless it is proved that the manner and circumstances in which the description was given were such as to raise no reasonable inference that it was referring to membership of the Institute; or
  - (d) not being entitled to do so under the rules, uses in connection with his or her name, or with the name under which he or she carries on business, the initials CA, ACA, FCA, FACA, CA (PP), ACA (PP), or AT or an abbreviation of the words chartered accountant, associate chartered ac-

countant, registered accountant, or accounting technician, or any combination of any such initials or abbreviations, unless it is proved that the manner and circumstances in which the initials or abbreviations were used were such as to raise no reasonable inference that they were referring to membership of the Institute.

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

Section 14(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **15 Accountants and auditors must be qualified**

*[Repealed]*

Section 15: repealed, on 1 July 2015, by section 13 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

## **16 Failure to comply with summons of disciplinary body**

- (1) Every person summoned under section 11 to attend a hearing of a disciplinary body commits an offence if he or she, without sufficient cause, does any or all of the following:
- (a) fails to attend in accordance with the summons:
  - (b) does not give evidence when required to do so:
  - (c) does not give evidence under oath when required to do so:
  - (d) does not answer any question that is lawfully asked by the disciplinary body:
  - (e) does not provide any documents, things, or information the summons requires that person to provide.
- (2) A person summoned to attend a hearing of a disciplinary body shall not be convicted of an offence against subsection (1) of this section unless witnesses expenses are paid or tendered to that person in accordance with section 11(9).
- (3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$1,000.

Section 16(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### *Appointment of agent to conduct practice of sole practitioner*

## **17 Agent may be appointed to conduct sole practitioner's practice**

- (1) Notwithstanding any other enactment or rule of law, an agent may be appointed, in accordance with the provisions of Schedule 1, to conduct the practice of a chartered accountant in public practice who is a sole practitioner.
- (2) Every power of attorney given in accordance with the provisions of the New Zealand Society of Accountants Amendment Act 1968 and in force immediate-

ly before the day on which subsection (1) comes into force shall be deemed to have been given in accordance with that subsection and Schedule 1 of this Act.

*Miscellaneous provisions*

**18 References to Society**

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

**18A References to Institute of Chartered Accountants of New Zealand**

A reference in an enactment or in a document to the Institute of Chartered Accountants of New Zealand must, unless the context otherwise requires, be read as a reference to the New Zealand Institute of Chartered Accountants.

Section 18A: inserted, on 7 July 2010, by section 9 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

**19 References to chartered accountants**

Every reference in any enactment to a—

- (a) chartered accountant; or
- (b) chartered accountant in public practice; or
- (c) chartered accountant who holds a certificate of public practice,—

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

**20 Fees payable to Registrar**

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

**21 Fidelity fund**

*[Repealed]*

Section 21: repealed, on 25 November 2014, by section 14 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

**22 Transitional provision relating to disciplinary proceedings**

*[Repealed]*

Section 22: repealed, on 25 November 2014, by section 14 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

**23 Amendments to other Acts**

*[Repealed]*

Section 23: repealed, on 25 November 2014, by section 14 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

**24 Repeals**

*[Repealed]*

Section 24: repealed, on 25 November 2014, by section 14 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

## Schedule 1AA

### Transitional, savings, and related provisions

s 2A

Schedule 1AA: inserted, on 25 November 2014, by section 15 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

#### *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).



## Schedule 1

### Appointment of agent to conduct sole practitioner's practice

s 17(1)

#### 1 Interpretation

(1) In this schedule,—

**administrator** has the meaning given to it by section 4 of the Administration Act 1969

**agent** means a chartered accountant in public practice appointed under clause 2 to conduct the practice of a sole practitioner; and includes a substitute appointed under clause 4

**appointor** means a person who has given a power of attorney under this schedule

**chartered accountant in public practice** means a chartered accountant who for the time being holds a certificate of public practice issued under the rules

**manager** has the meaning given to it by section 2 of the Protection of Personal and Property Rights Act 1988

**representative of a sole practitioner** means—

- (a) an administrator of the estate of a sole practitioner; or
- (b) a manager of the practice of a sole practitioner

**sole practitioner** means a chartered accountant in public practice without a partner or partners.

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

#### 2 Appointment of agent

(1) Subject to the provisions of this schedule, a sole practitioner or the representative of a sole practitioner may appoint 1 or more chartered accountants in public practice to conduct the sole practitioner's practice in the sole practitioner's name.

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

- (a) an agent has already been appointed in respect of that practice; and
- (b) the powers of that agent have been suspended under clause 7.

#### 3 Consent to appointment

The appointment of an agent may be made only with the consent of the agent and, in the case of an appointment by an administrator, may be made only with the consent of the Executive Board.

Schedule 1 clause 3: amended, on 25 November 2014, by section 16 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

#### **4 Form and conditions of appointment**

- (1) The appointment of an agent—
  - (a) must be by a power of attorney in a form approved by the Executive Board; and
  - (b) if 2 or more persons are appointed agents, must state whether they are appointed jointly and severally or otherwise; and
  - (c) may authorise the agent to appoint 1 or more chartered accountants in public practice as a substitute for that agent.
- (2) All the provisions of this schedule apply to a substitute appointed by an agent under this clause as if that substitute had been the agent originally appointed under clause 2.

Schedule 1 clause 4(1)(a): amended, on 25 November 2014, by section 16 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

#### **5 Term of appointment**

- (1) The appointment of any agent by a sole practitioner, or by a manager of a sole practitioner's practice, must be for 1 or more of the following periods:
  - (a) any period during which the sole practitioner is incapacitated and unable to conduct his or her practice;
  - (b) any period during which the sole practitioner is absent from New Zealand;
  - (c) a period from the death of the sole practitioner until the earlier of the following:
    - (i) an administrator of the estate of the sole practitioner revokes the appointment;
    - (ii) 1 year after the grant of administration in the estate of the sole practitioner.
- (2) The appointment of an agent by an administrator of the estate of a sole practitioner shall continue until the administrator revokes the appointment.

#### **6 Cessation of agent's powers**

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

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

#### **7 Suspension of powers of agent**

- (1) The manager of the practice of a sole practitioner may, at any time, suspend the powers of an agent to conduct the practice of the sole practitioner.
- (2) A manager may revoke any suspension by him or her under subclause (1).
- (3) A manager shall, as soon as practicable, give the agent notice in writing of the suspension or revocation.

#### **8 Obligations of agents**

- (1) An agent must not act until—
- (a) he or she has given a certified copy of the power of attorney to the Institute; and
- (b) the Executive Board, or a committee of the Executive Board authorised by the Executive Board for this purpose, has resolved to permit the agent to act under that power of attorney.
- (2) If an agent ceases to act as such, the agent and his or her appointor (if living) must, as soon as practicable, give the Institute notice in writing of the agent ceasing to act.
- (3) Notice to the Institute under this clause may be given to an officer or employee of the Institute authorised to accept notice for this purpose.

Schedule 1 clause 8(1)(b): amended, on 25 November 2014, by section 16 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

#### **9 Fees, etc**

- (1) Every agent acting under a power of attorney given under this Act must pay all fees payable in accordance with the rules of the Institute, all contributions and levies to the fidelity fund, and all other amounts for which the sole practitioner would have been liable if he or she had continued to practise as a chartered accountant in public practice.
- (2) While all such fees, contributions, levies, and amounts are being paid in respect of any sole practitioner who has died, the provisions of the Act and the rules shall apply in respect of that sole practitioner as if he or she were living and practising as a chartered accountant in public practice.

#### **10 Notice to Commissioner of Inland Revenue in certain cases**

*[Repealed]*

Schedule 1 clause 10: repealed, on 24 May 1999, by section 15(1) of the Estate Duty Repeal Act 1999 (1999 No 64).

**11 Miscellaneous provisions**

- (1) The provisions of this schedule apply notwithstanding the provisions of the Property Law Act 2007 or any other enactment or rule of law.
- (2) Every enactment and rule of law applies to any agent or any agency under this schedule, except to the extent that the enactment or rule of law has been modified by this schedule.
- (3) Nothing in this schedule prevents—
  - (a) the lawful disposal of the practice of a sole practitioner; or
  - (b) a chartered accountant granting a power of attorney otherwise than under this schedule.

Schedule 1 clause 11(1): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

**Schedule 2**  
**Amendments to New Zealand Society of Accountants Amendment  
Act 1963**

*[Repealed]*

s 21

Schedule 2: repealed, on 5 April 2002, by section 21(4).

**Schedule 3**  
**Enactments relating to fidelity fund repealed**

*[Repealed]*

s 21(4)

Schedule 3: repealed, on 25 November 2014, by section 14 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

**Schedule 4**  
**Enactments amended**

*[Repealed]*

s 23

Schedule 4: repealed, on 25 November 2014, by section 14 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

**Schedule 5**  
**Enactments repealed**

*[Repealed]*

s 24

Schedule 5: repealed, on 25 November 2014, by section 14 of the New Zealand Institute of Chartered Accountants Amendment Act 2014 (2014 No 65).

## Reprints notes

### 1 *General*

This is a reprint of the New Zealand Institute of Chartered Accountants Act 1996 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 (2014 No 65)

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

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

New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74)

Property Law Act 2007 (2007 No 91): section 364(1)

Institute of Chartered Accountants of New Zealand Act Commencement Order 2002 (SR 2002/51)

Estate Duty Repeal Act 1999 (1999 No 64): section 15(1)

Institute of Chartered Accountants of New Zealand Act 1996 (1996 No 39): section 21(4)