

Accounting Infrastructure Reform Bill

Government Bill

Explanatory note

General policy statement

The main purpose of the Accounting Infrastructure Reform Bill is to enable the accounting and audit industry to be more efficient and effective.

The Bill achieves this by—

- amending rules on who may perform statutory audits to enable more people who are competent to perform audits to do so:
- replacing legislative references to a chartered accountant with references to a qualified statutory accountant to enable more people who are competent to perform statutory accountancy functions to do so:
- reducing restrictions on legal form for audit firms while maintaining the quality of audits through standards and checks:
- introducing a requirement for independent assurance of financial statements for medium-sized and large charities:
- allowing the New Zealand Institute of Chartered Accountants (NZICA) more freedom in how to structure itself.

These measures will support the aims of the Business Growth Agenda. A more competitive and efficient accounting market will provide better business advice for New Zealand firms. An

effective audit industry, giving better assurance for users of financial statements, will build confidence in financial markets. The Bill will continue the changes begun by the Financial Markets Conduct Act 2013 and the Financial Reporting Act 2013. Together the 3 Acts contribute to the overarching policy of promoting and facilitating the development of fair, efficient, and transparent financial markets and to promoting the confident and informed participation of businesses, investors, and consumers in the financial markets.

Legislative reforms are necessary to achieve the objective because the existing barriers to efficiencies, for example, the restrictions on which people and entities may perform audits, are contained in legislation. To achieve better assurance about charities' financial statements, legislative measures are necessary to ensure consistent compliance.

Amending rules on who may perform statutory audits

Auditors are regulated in one of the following ways in New Zealand, depending on the type of entity they audit:

- auditors of FMC reporting entities (this group includes issuers of financial products) under the Financial Markets Conduct Act 2013 must be licensed by an accredited professional body. Accreditation is granted by the Financial Markets Authority under the Auditor Regulation Act 2011. An audit of an FMC reporting entity is called an **FMC audit**:
- there is currently no single consistent qualification standard for audits that are required by legislation, but are not audits of FMC reporting entities (**non-FMC audits**). Some Acts specifically require the auditor to be a chartered accountant. Many Acts will cross-refer to the definition of qualified auditor in the Financial Reporting Act 2013:
- auditors who perform audits that are not required by statute (for example, audits of incorporated societies) are not regulated by legislation, although some professional bodies choose to impose their own standards on members performing these audits.

The Bill amends the qualification requirement in the Financial Reporting Act 2013 relating to non-FMC audits, in the second category

above. It adds to, rather than replaces, the existing ways to be a qualified auditor under that Act.

The Bill enables accounting professional bodies accredited under the Auditor Regulation Act 2011 to assess and recognise their members as qualified to perform non-FMC audits. This is an extension of accredited bodies' powers, in addition to their role relating to FMC audits in the first category above.

The Bill also amends the few remaining public Acts that had required a chartered accountant to perform a statutory audit, to instead cross-refer to the definition of qualified auditor in the Financial Reporting Act 2013. This makes the statutory auditor qualification requirement (for all auditors except those of FMC reporting entities) consistent across all public statutes.

The Bill also adds a requirement that chartered accountants must be recognised by NZICA in order to perform statutory audits. This reflects NZICA's existing practice of imposing requirements beyond merely being a chartered accountant. It also ensures consistency with the requirement for members of accredited bodies to be recognised.

The Bill requires professional bodies to maintain a public record of recognised members and incorporated firms and to keep that recognition under review. The Bill creates offences for misleading behaviour for the purpose of obtaining recognition and acting as an auditor without being qualified. It also restates the offence of holding oneself out as a qualified auditor.

Enabling people who are competent to perform legislative accountancy roles to do so

The Bill replaces references to a chartered accountant in various Acts with references to a qualified statutory accountant, where the context relates to specifying who may perform an accounting-related statutory role. The existing provisions had limited who could perform these roles based on membership of NZICA.

The policy behind the change is that the limitation should instead be based on competency to perform the role. The new definition of qualified statutory accountant allows members of accredited bodies to perform these roles. It is intended to improve the efficiency of the accounting industry by enabling more competition.

Reducing restrictions on legal form for audit firms

The Bill removes the ban on companies performing statutory audits. It allows New Zealand audit firms to incorporate using the company form. It also allows incorporated overseas audit firms to operate in New Zealand, providing they satisfy certain requirements.

This measure reflects moves in other jurisdictions and other professional services industries (for example, the legal profession) to allow incorporation. It will improve the efficiency of the audit industry by allowing greater freedom to structure a firm in the most efficient way. The Bill requires incorporated audit firms performing non-FMC audits to maintain a link to a professional accounting body through a director (or equivalent) and to be recognised similarly to an individual. Incorporated audit firms performing FMC audits will need to be registered under the Auditor Regulation Act 2011.

The Bill also provides for standards relating to an incorporated audit firm's ownership, governance, compliance systems, and professional indemnity insurance to be set in regulations. These requirements will ensure auditor independence, regulatory oversight, and effective remedies are maintained, regardless of the legal structure chosen by the firm.

Requiring independent review of charities' financial statements

The Bill creates a new requirement for large charitable entities to have their financial statements audited by a qualified auditor. Large charitable entities are those with a total operating expenditure of \$1 million or more over each of the 2 preceding accounting periods.

The Bill also requires medium-sized charitable entities to have their financial statements audited or reviewed by a qualified auditor. Medium-sized charitable entities are those that are not large but have had a total operating expenditure of \$500,000 or more over each of the 2 preceding accounting periods.

These provisions will improve the effectiveness of financial reporting by ensuring sizeable charities' financial statements are of high quality. These changes will also support amendments made to the Charities Act 2005 by the Financial Reporting (Amendments to Other Enactments) Act 2013 (which requires charitable entities to prepare financial statements in accordance with financial reporting standards issued by the External Reporting Board).

Allowing NZICA to structure itself in the way its members choose

The Bill makes amendments that are necessary to facilitate NZICA's proposed agreement to join the Institute of Chartered Accountants in Australia in a combined new trans-Tasman institute.

The new provisions define and preserve to NZICA the functions relating to the regulation of its members. These functions will continue to be performed by NZICA for New Zealand members. All other functions will be able to be delegated, for example, to a specified association such as the new trans-Tasman institute. This ability to delegate will enable the 2 institutes to consolidate various member services, such as marketing, membership, advocacy, education, and training in the trans-Tasman institute and achieve greater efficiency and benefits of scale by only maintaining a single system for each of these services.

The Bill enables NZICA's rules to require that members must also be members of another association of accountants. This aims to enable the parties' agreement to be as close to an amalgamation as possible. It will ensure NZICA does not have to maintain a duplicative membership system, thus allowing it to achieve the efficiencies and benefits of scale noted above.

The Bill allows the specified association to perform the delegable functions in the interests of the specified association or its members, even if it is not in NZICA's interests, as long as it does not materially prejudice NZICA's ability to carry out its regulatory function. Similarly, NZICA's rules may allow any members of NZICA's Council and Executive Board who are appointed by the specified association to act in the interests of the specified association or its members in performing their functions as long as this does not materially prejudice NZICA's ability to carry out its regulatory function. This further supports the goal of achieving an agreement as close to an amalgamation as possible.

The Bill removes the requirement for NZICA to have a President and Vice-President. The presidential roles have no functions conferred by the Act as the substantive role of governing NZICA falls to the Council and Executive Board. The proposed trans-Tasman institute will have its own presidential roles, rendering the New Zealand equivalents unnecessary.

Lastly, the Bill transfers some tasks from NZICA's Council to its Executive Board as they do not fit with the Council's role of setting high-level strategy and governance principles.

It is intended that the Bill be divided at the committee of the whole House stage into separate Bills as follows:

- *subpart 1 of Part 1* will become the Auditor Regulation Amendment Bill:
- *subpart 2 of Part 1* will become the Charities Amendment Bill:
- *subpart 3 of Part 1, Part 2, and Schedules 1 and 2* will become the Financial Reporting Amendment Bill:
- *subpart 4 of Part 1* will become the New Zealand Institute of Chartered Accountants Amendment Bill.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2013&no=180&>.

Regulatory impact statements

The Ministry of Business, Innovation, and Employment produced regulatory impact statements on 13 May 2013 and 28 June 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of the regulatory impact statements can be found at—

- <http://www.med.govt.nz/business/business-law/current-business-law-work/accounting-infrastructure-reform-bill>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides for the commencement of the Bill by Order in Council (with all of the provisions required to come into force no later than 1 April 2017). The Bill has a close connection with the Financial Markets Conduct Act 2013 (the **FMCA**) and the Financial Reporting Act 2013. Commencement by Order in Council for this Bill is necessary in order to take into account the commencement of that other legislation. Another reason for the deferred commencement is that regulations need to be made to give effect to some parts of the Bill.

Part 1 **Amendments to Acts**

Subpart 1—Amendments to Auditor Regulation Act 2011

Subpart 1 amends the Auditor Regulation Act 2011 to allow New Zealand companies and overseas companies to be registered as registered audit firms. This will allow these entities to act as the auditor in respect of the audit of the financial statements of issuers and other FMC reporting entities (*see* Part 7 of the FMCA). The main amendments are as follows:

- section 9 is amended by *clause 5* to provide that if a company is engaged or appointed to act as the auditor, the company must ensure that the engagement director is a licensed auditor. The engagement director is the director or other person in the firm who is responsible for the audit and for the audit report that is issued on behalf of the firm. Section 9 is also amended to clarify that the engagement partner or director must hold a licence that authorises him or her to act as the auditor in respect of the particular kind of audit being carried out. In addition, where a company is appointed, the company is treated as acting as the auditor (rather than any individual in the firm who actually does the work):
- section 10 is amended by *clause 6* to provide for a director of the company to be responsible if the audit is not carried out in accordance with auditing and assurance standards or other requirements. A director is responsible (and can have his or her licence suspended or cancelled) if he or she was the engagement director or the failure took place with his or her

authority, permission, or consent or he or she failed to take reasonable steps to prevent the failure:

- section 25 is amended by *clause 7* to allow the New Zealand Institute of Chartered Accountants (the **Institute**) or another accredited body to authorise the registration of a New Zealand company as an audit firm if the company has at least 1 director who is a licensed auditor, it meets prescribed minimum standards, and it complies with other requirements prescribed by the regulations (*see* changes to section 84):
- section 26 is amended by *clause 8* to allow the Financial Markets Authority (the **FMA**) to authorise the registration of an overseas company as an audit firm if the overseas company has at least 1 director who is a licensed auditor, it is eligible to act as an auditor in its home jurisdiction, it is subject to satisfactory independence requirements, it meets prescribed minimum standards, and it complies with other requirements prescribed by the regulations (*see* changes to section 84):
- section 29 (which currently relates to the cancellation of registration of an audit firm) is extended by *clause 9* to provide for the suspension of the registration of an audit firm:
- section 61 is amended by *clause 14* to provide that, in the case of an audit firm, the registration of the firm must be treated as cancelled or suspended if the accreditation of the relevant body is cancelled or suspended. This applies whether the audit firm is a company or a partnership:
- sections 75 and 77 to 79 are amended by *clauses 17 to 20* to allow the FMA's investigation powers under subpart 7 of Part 2 to extend to registered audit firms (as well as individual licensed auditors):
- section 80 is amended by *clause 21* to allow the FMA to take over and perform regulatory functions in relation to registered audit firms on request from the relevant accredited body:
- section 84 is amended by *clause 22* to allow regulations to prescribe requirements that a company must satisfy before it can be registered. These requirements may, for example, relate to—
 - ownership, governance, and legal structure; and

- systems, policies, and procedures that are designed to promote compliance with auditing and assurance standards and other requirements; and
 - professional indemnity insurance:
- various consequential changes are made to sections 29 and 30 (cancellation of registration), section 34 (minimum standards for registration), and sections 40 and 41 (purpose and contents of the register of licensed auditors and registered audit firms).

Subpart 2—Amendments to Charities Act 2005

This subpart amends the Charities Act 2005 to provide for the audit or review of the financial statements of certain charitable entities (*see clause 24*). In particular,—

- *new section 42C* requires the financial statements of a large charitable entity to be audited and the financial statements of a medium-sized charitable entity to be either audited or reviewed. In each case, the audit or review must be by a qualified auditor within the meaning of section 35 of the Financial Reporting Act 2013:
- *new section 42D* specifies whether a charitable entity is large or of medium size. A charitable entity is large if its total operating expenditure in each of the 2 preceding accounting periods is \$1 million or more. A charitable entity is of medium size if it is not large and its total operating expenditure in each of the 2 preceding accounting periods is \$500,000 or more. These amounts can be reviewed to take into account inflation under the Financial Reporting Act 2013 (*see clauses 33 and 34*):
- *new section 42E* provides for an offence for failing to comply with *new section 42C*. The offence has a maximum fine of \$50,000:
- *new section 42F* requires the audit or review to be carried out in accordance with auditing and assurance standards:
- section 46 is amended by *clause 25*. Section 46 relates to the terms and conditions upon which a parent entity and 1 or more other entities may be treated as forming part of a single entity. The amendment provides for the financial statements of

a charitable entity to describe, in the statement of accounting policies section, the terms and conditions relating to the basis on which the statements are prepared (either on a consolidated basis in respect of the single entity or separately in respect of each entity).

Subpart 3—Amendments to Financial Reporting Act 2013

This subpart amends the Financial Reporting Act 2013 to—

- allow New Zealand companies and overseas companies to be qualified auditors for the purposes of various enactments. This will allow these entities to act as the auditor in respect of non-FMC audits (for example, to audit the financial statements of a company that is not an issuer or any other kind of FMC reporting entity); and
- provide for the Institute and other accredited bodies under the Auditor Regulation Act 2011 to recognise their members as eligible to act as qualified auditors; and
- insert a new definition of qualified statutory accountant. This term will be referred to in various enactments rather than the term chartered accountant. The new term is broader and includes, in addition to chartered accountants, members of accredited bodies other than the Institute (for example, certified practising accountants who are members of CPA Australia Limited). *See clause 27 and Schedule 2.*

The main amendments are as follows:

- section 36(1)(a) (which currently provides for chartered accountants to be qualified auditors) is amended to require the chartered accountant to be recognised by the Institute as being eligible to act as an auditor. The amendments to section 36 are in *clause 30*:
- section 36 is amended to allow other accredited bodies (for example, CPA Australia Limited) to recognise their members as eligible to act as qualified auditors (*see new section 36(1)(ab)*):
- section 36 is amended to allow a body corporate that is a registered audit firm to act as a qualified auditor (*see new section 36(1)(e)*):

- section 36 is amended to allow New Zealand companies to be recognised as being eligible to act as qualified auditors (*see new section 36(1)(f)*):
- section 36 is amended to allow an overseas company to act as a qualified auditor if the overseas company is recognised as being eligible to act, it is incorporated in an approved jurisdiction, and it has an approved legal structure (*see new section 36(1)(g)*). *See also new section 36B*, which provides for the Registrar of Companies to approve jurisdictions and legal structures. *New section 36(6)* confirms that the Registrar's notices in the *Gazette* under this section and *new section 36B* are neither legislative instruments nor disallowable instruments (given that the notices are administrative in character):
- *clause 31* inserts *new sections 36A to 36L*, which relate to recognition under section 36:
- *new section 36A* allows the Institute, an accredited body, and an approved association to recognise a body corporate as eligible to act as an auditor if the body corporate satisfies the requirements prescribed by regulations and it has at least 1 director who is a member of the Institute, body, or association and who is a qualified auditor:
- *new section 36C* requires the Institute, accredited bodies, and approved associations to keep the recognition of auditors under review:
- *new section 36D* provides that if a body corporate is acting as an auditor, the engagement director must be a qualified auditor:
- *new section 36E* provides that, if the recognition requirements for a body corporate are no longer met, the body corporate must not act as an auditor and must notify the recognising body:
- *new section 36F* provides that failure to comply with *section 36D or 36E* is an offence for both the body corporate and its directors (with a maximum fine of \$50,000 for a director and \$150,000 for the body corporate):
- *new section 36G* provides for the cancellation or suspension of recognition:

- *new section 36H* provides for the effect that cancellation or suspension of a body's accreditation, or of its approval as an association of accountants, has on any recognition given by that body. In this case, the recognition is also treated as cancelled or suspended:
- *new section 36I* allows the Registrar of Companies to authorise a person to continue to act in respect of an audit despite the cancellation or suspension of the person's recognition under *new section 36H*. This applies where the audit has already started or is about to start:
- *new section 36J* requires the Institute, accredited bodies, and approved associations to keep records of persons that are recognised and to prominently publish a record of those persons on an Internet site:
- *new section 36K* provides for appeals in relation to recognition decisions:
- *new section 36L* provides for a person to commit an offence if the person makes a false declaration or representation for the purpose of obtaining or maintaining recognition. The offence has a maximum fine of \$50,000 in the case of an individual and \$150,000 in the case of a body corporate:
- *new section 39A* provides that a person commits an offence if the person acts as an auditor but is not a qualified auditor. The offence has a maximum fine of \$50,000 in the case of an individual and \$150,000 in the case of a body corporate (*see clause 32*):
- *new section 39B* provides that a person commits an offence if the person holds out that they are recognised or qualified to act as an auditor if that is not the case. The offence has a maximum fine of \$50,000 in the case of an individual and \$150,000 in the case of a body corporate (*see clause 32*):
- section 50 is amended by *clause 35* to allow regulations to prescribe matters that a body must have regard to when recognising a person for the purposes of *new section 36A* and to prescribe requirements that a company must satisfy before it can be recognised. These requirements may, for example, relate to—
 - ownership, governance, and legal structure; and

- systems, policies, and procedures that are designed to promote compliance with auditing and assurance standards and other requirements; and
- professional indemnity insurance:
- *new subpart 1A of Part 3 (see clause 37)* provides for a person to commit an offence if the person holds out that they are qualified to act as a qualified statutory accountant if that is not the case. The offence has a maximum fine of \$50,000 in the case of an individual and \$150,000 in the case of a body corporate:
- *new section 62 (inserted by clause 38)* and the *new Schedule (inserted by clause 39 and Schedule 1 of this Bill)* provide for transitional matters. The new requirements for chartered accountants to be recognised by the Institute apply only in relation to accounting periods that commence on or after the commencement of the Bill.

Subpart 4—Amendments to New Zealand Institute of Chartered Accountants Act 1996

This subpart amends the New Zealand Institute of Chartered Accountants Act 1996. The main amendments are as follows:

- section 5 (the Institute’s functions) is amended by *clause 42* to include a function relating to controlling and regulating the profession of accountancy by the Institute’s members in New Zealand (the **regulatory function**). *New section 5A (see clause 43)* provides for the nature of the duty to control and regulate the profession of accountancy by its members. The duty includes, for example, maintaining, complying with, monitoring compliance with, and enforcing the Institute’s rules relating to the investigation and hearing of complaints, appeals, and disciplinary matters (but not the rules relating to membership):
- *new section 5B* provides that the regulatory function may not be delegated, but allows the non-regulatory functions to be delegated. *New section 5C* allows a specified association of accountants to which functions are delegated to act in its own interests rather than the Institute’s interests (as long as this does not materially prejudice the performance of the regula-

tory function). *See clause 43 and new sections 8A and 8B inserted by clause 48:*

- section 6 (rules of the Institute) is amended by *clause 44* to refer to new rules relating to the powers of a person to whom non-regulatory functions are delegated, the effect of the delegation, and the revocation of the delegation. In addition, section 6 is amended to refer to new rules relating to the recognition of persons as auditors (*see subpart 3 of Part 1 of this Bill*). Section 6 is also amended to remove a reference to rules for a President and 1 or more Vice Presidents of the Institute:
- section 7 (Code of ethics) is amended by *clause 45* to allow the Executive Board of the Institute to amend or replace the code of ethics (rather than the Council):
- *new section 7A (see clause 46)* allows the membership rules of the Institute to require its members to be members of another association of accountants. The other association of accountants will be specified by Order in Council under *new section 8A*. If an existing member does not become a member of the specified association, or ceases to be such a member, the rules may provide for the person to cease to be a member of the Institute (and hence, to cease to be a chartered accountant):
- section 8 provides that certain rules of the Institute are disallowable instruments, but not legislative instruments, for the purposes of the Legislation Act 2012. For consistency, section 8 is amended by *clause 47* to extend it to refer to the new rules relating to the delegation of non-regulatory functions and the recognition of auditors:
- *new section 8B* relates to members of the Council or Executive Board of the Institute who are appointed by the specified association. These members would normally be expected to act in the best interests of the Institute. However, the provision allows these members to instead act in the best interests of the specified association rather than the Institute (as long as this does not materially prejudice the performance of the regulatory function):
- section 15 is repealed by *clause 49*. This section contains provisions relating to the qualifications of accountants and auditors. Provisions in the Financial Reporting Act 2013 are

amended by *subpart 3 of Part 1* of this Bill to provide for the qualifications of auditors and accountants:

- various provisions are amended to replace references to the Council of the Institute with references to the Executive Board of the Institute.

Part 2

Amendments to other Acts

Clause 52 and Schedule 2 provide for amendments to other enactments. Most of the amendments replace references to a chartered accountant with references to either a qualified statutory accountant (to be defined in section 5(1) of the Financial Reporting Act 2013) or a qualified auditor (as defined in section 35 of that Act).

Hon Craig Foss

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Accounting Infrastructure Reform Act **2013**.

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. 5
- (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. 10

Part 1**Amendments to Acts**

Subpart 1—Amendments to Auditor
Regulation Act 2011

15

3 Principal Act

This **subpart** amends the Auditor Regulation Act 2011 (the **principal Act**).

4 Section 6 amended (Interpretation)

- (1) In section 6(1), definition of **engagement partner**, after “**partner**”, insert “**or director**”. 20
- (2) In section 6(1), definition of **engagement partner**, after “means the partner”, insert “, director,”.
- (3) In section 6(1), definition of **limited partnership**, replace paragraph (b) with: 25
“(b) an overseas limited partnership within the meaning of the Limited Partnerships Act 2008”.
- (4) In section 6(1), replace the definition of **overseas audit firm** with: 30
“**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”.

- (5) In section 6(1), insert in their appropriate alphabetical order:
 “**company** has the same meaning as in section 2(1) of the Companies Act 1993

“**overseas company** means a body corporate that is incorporated outside New Zealand”.

5 Section 9 amended (Audit firms engaged or appointed to act as auditor in respect of issuer audits must be registered)

- (1) In section 9(1), delete “a partnership that is”. 10

- (2) Replace section 9(2) with:

“(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. 15

“(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. 20

“(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.” 25

- (3) In section 9(3), replace “(2)(b)” with “**(2)**”.

6 Section 10 amended (Partners who are responsible if issuer audit not carried out in accordance with requirements) 30

- (1) In the heading to section 10, after “**Partners**”, insert “**or directors**”.

- (2) In section 10(2), replace “Despite section 9(2)(a), a partner” with “Despite **section 9(2A) and (2B)**, a partner or director”. 35

- (3) In section 10(2), replace “only if” with “if, and only if.”
- (4) In section 10(2)(a), replace “engagement partner” with “engagement partner or director”.

7 Section 25 amended (Accredited body may authorise registration of audit firms)

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Replace section 25(1) with:

- “(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,—

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“(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:

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“(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

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“(iii) the firm satisfies the requirements prescribed for the purposes of this subparagraph.”

8 Section 26 amended (FMA may authorise registration of overseas audit firms)

Replace section 26(1)(a) with:

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“(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

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“(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

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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” 5

9 Section 29 amended (Cancellation of registration)

- (1) In the heading to section 29, after “**Cancellation**”, insert “**or suspension**”.
- (2) In section 29(1), after “cancel”, insert “or suspend”. 10
- (3) Replace section 29(1)(a) with:
 “(a) no longer has at least 1 partner or director who is a licensed auditor; or”.
- (4) After section 29(1)(c), insert:
 “(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” 15
- (5) Replace section 29(2) with: 20
 “(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.
 “(3) After receiving a notification under subsection (1), the Registrar must— 25
 “(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. 30
 “(5) The registration of an audit firm may also be treated as cancelled or suspended under **section 61(6)**.”

- 10 Section 30 amended (Relevant body must give notice before exercising power)**
In section 30(a), after “partners”, insert “or directors”.
- 11 Section 34 amended (Minimum standards for registration of audit firm)** 5
After section 34(2), insert:
“(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.”
- 12 Section 40 amended (Purpose of register)** 10
In section 40(a)(ii), after “partnership”, insert “, a company, or an overseas company”.
- 13 Section 41 amended (Contents of register)**
In section 41(2)(d), after “partners”, insert “, directors,”.
- 14 Section 61 amended (Effect of cancellation or suspension on licences issued and registrations authorised by accredited body or former accredited body)** 15
Replace section 61(6) with:
“(6) If A was the relevant body under subpart 2 in respect of a registered audit firm,— 20
“(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 25
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 30
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).”

15 Section 63 amended (Appeals)

Replace section 63(1)(e) with:

“(e) to decline to make an order under section 61(2) or **(6)(c)** 5
in respect of the person’s licence or registration.”

16 Section 71 amended (Consequences of failing to comply with directions)

In section 71(1)(c), after “cancel”, insert “or suspend”.

17 Section 75 amended (FMA may start or take over investigation or investigate in conjunction with accredited body) 10

Replace section 75(3) with:

“(3) In this subpart, an **investigation** is an investigation into the conduct of either or both of the following: 15

“(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 20 under section 25 or 26).”

18 Section 77 amended (Accredited body must give reasonable assistance)

Replace section 77(1) with:

“(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: 25

“(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.” 30

19 Section 78 amended (Disciplinary powers of FMA)

Replace section 78(1) to (3) with:

- “(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: 15
- “(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: 20
- “(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,— 25
- “(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. 30
- “(3) The FMA must not exercise a power referred to in this section in relation to A or B unless— 35
- “(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.” 5
- 20 Section 79 amended (Miscellaneous matters relating to orders)**
Replace section 79(2)(a) and (b) with: 10
“(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”. 15
- 21 Section 80 amended (FMA may take over and perform regulatory functions)**
Replace section 80(a) with:
“(a) the accredited body asks the FMA to act in that manner in relation to— 20
“(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”.
- 22 Section 84 amended (Regulations)** 25
(1) After section 84(1)(c), insert:
“(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— 30
“(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): 35

- “(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): 5
- “(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: 10
- “(B) promoting compliance with auditing and assurance standards:
- “(C) otherwise promoting reasonable care, diligence, and skill in the carrying out of FMC audits: 15
- “(v) professional indemnity insurance:”.
- (2) After section 84(1), insert:
- “(1A) Regulations made under **subsection (1)(ca)(v)** may, without limitation,— 20
- “(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: 25
- “(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.” 30

Subpart 2—Amendments to Charities Act 2005

- 23 Principal Act** 35
- This **subpart** amends the Charities Act 2005 (the **principal Act**).

24 New sections 42C to 42F inserted

After section 42B, insert:

“42C When financial statements must be audited or reviewed

“(1) This section applies to—

“(a) every charitable entity that is large; and 5

“(b) every charitable entity that is of medium size.

“(2) Every charitable entity to which this section applies (**A**) must ensure that the financial statements of **A** that accompany an annual return under section 41 are—

“(a) audited by a qualified auditor if **A** is large in respect of the accounting period to which the financial statements relate: 10

“(b) audited or reviewed by a qualified auditor if **A** is of medium size in respect of the accounting period to which the financial statements relate. 15

“(3) If financial statements are prepared on a consolidated basis in respect of a single entity under section 46(1A)(a),—

“(a) the parent entity must ensure that the financial statements of the single entity that accompany an annual return under section 41 are— 20

“(i) audited by a qualified auditor if the single entity is large in respect of the accounting period to which the financial statements relate:

“(ii) audited or reviewed by a qualified auditor if the single entity is of medium size in respect of the accounting period to which the financial statements relate; and 25

“(b) for the purposes of **paragraph (a)**, the references to a charitable entity in **subsection (1)** and in **sections 42D(1) and 42F** must be treated as references to the single entity. 30

“42D Meaning of large and medium size

“(1) In **section 42C**,—

“(a) a charitable entity is **large** in respect of an accounting period if, in each of the 2 preceding accounting periods of the entity, the total operating expenditure of the entity is \$1 million or more: 35

- “(b) a charitable entity is of **medium size** in respect of an accounting period if—
- “(i) it is not large under **paragraph (a)**; and
- “(ii) in each of the 2 preceding accounting periods of the entity, the total operating expenditure of the entity is \$500,000 or more: 5
- “(c) **qualified auditor** has the same meaning as in section 35 of the Financial Reporting Act 2013.
- “(2) A financial reporting standard (within the meaning of the Financial Reporting Act 2013), or a part of such a standard, that is expressed as applying for the purposes of **subsection (1)(a) or (b)** must be applied in determining whether that provision applies (for example, the standard may define operating expenditure). 10
- “**42E Offence relating to audit or review** 15
If a charitable entity fails to comply with **section 42C**, the charitable entity commits an offence and is liable on conviction to a fine not exceeding \$50,000.
- “**42F Audit or review must be carried out in accordance with auditing and assurance standards** 20
- “(1) An auditor must, in carrying out an audit or a review of the financial statements of a charitable entity, comply with all applicable auditing and assurance standards.
- “(2) The auditor’s report must comply with the requirements of all applicable auditing and assurance standards. 25
- “(3) This section does not apply in respect of a charitable entity that is a public entity (within the meaning of the Public Audit Act 2001).
- “(4) In this section, **applicable auditing and assurance standards** has the same meaning as in section 5 of the Financial Reporting Act 2013.” 30
- 25 Section 46 amended (Board or chief executive may treat parent entity and 1 or more other entities as forming part of single entity on certain terms and conditions)**
Before section 46(2), insert: 35

“(1C) If terms and conditions referred to in subsection (1A) relate to the financial statements of an entity, those terms and conditions must be treated as including a requirement for the financial statements to disclose, in the statement of accounting policies section, a brief description of the terms and conditions that apply under subsection (1A).” 5

Subpart 3—Amendments to Financial Reporting Act 2013

26 Principal Act
This **subpart** amends the Financial Reporting Act 2013 (the **principal Act**). 10

27 Section 5 amended (Interpretation)
In section 5(1), insert in their appropriate alphabetical order:
“**accredited body** means a person that is granted accreditation, or is treated as having been granted accreditation, under subpart 5 of Part 2 of the Auditor Regulation Act 2011 15
“**approved association** means an association of accountants that is approved for the time being by the Registrar of Companies under section 36(1)(c)
“**Institute** means the New Zealand Institute of Chartered Accountants constituted under the New Zealand Institute of Chartered Accountants Act 1996 20
“**qualified statutory accountant** means a person who is—
“(a) a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); or 25
“(b) a member of an accredited body (other than the Institute) who holds the full professional designation of that body (for example, a certified practising accountant)”.

28 New section 10A inserted (Transitional and savings provisions relating to amendments to this Act) 30
After section 10, insert:

“10A Transitional and savings provisions relating to amendments to this Act

The Schedule contains transitional and savings provisions (relating to amendments made to this Act) that affect other provisions of this Act (*see section 62*).”

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29 Section 34 amended (Purpose and application)

(1) After section 34(1)(b), insert:

“(c) offences for an unqualified person to act as an auditor or to hold himself, herself, or itself out as being a qualified auditor.”

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(2) In section 34(2), after “of the entity”, insert “or of its financial statements”.

30 Section 36 amended (Qualifications of auditor)

(1) In section 36(1), after “of a specified entity”, insert “(or of its financial statements)”.

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(2) Replace section 36(1)(a) with:

“(a) the person is—

“(i) a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); and

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“(ii) recognised by the Institute, in accordance with the rules of that body, as being eligible to act as an auditor in respect of entities of the same kind as the specified entity; or

“(ab) the person is—

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“(i) a member of an accredited body; and

“(ii) recognised by the accredited body, in accordance with the rules of that body, as being eligible to act as an auditor in respect of entities of the same kind as the specified entity; or”.

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(3) In section 36(1)(d)(ii), after “*Gazette*”, insert “; or”.

(4) After section 36(1)(d), insert:

“(e) the person is a company, or an overseas company, that is a registered audit firm; or

“(f) the person is a company that is recognised, in accordance with **section 36A**, as being eligible to act as an

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- auditor in respect of entities of the same kind as the specified entity; or
- “(g) the person is an overseas company that—
- “(i) is recognised, in accordance with **section 36A**, as being eligible to act as an auditor in respect of entities of the same kind as the specified entity; and 5
- “(ii) is incorporated or constituted in a country, State, or territory that is approved for the time being under **section 36B**; and 10
- “(iii) has a legal structure that is approved for the time being under **section 36B**.”
- (5) In section 36(2)(a), replace “unless he or she is a licensed auditor” with “unless he, she, or it is a licensed auditor or a body corporate that is a registered audit firm”. 15
- (6) Replace section 36(4)(d) with:
- “(d) a body corporate (unless the body corporate is a registered audit firm or recognised as referred to in **subsection (1)(f) or (g)**):”.
- (7) After section 36(5), insert: 20
- “(6) A notice in the *Gazette* referred to in this section or **section 36B** is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.” 25
- 31 New sections 36A to 36L and cross-heading inserted**
- After section 36, insert:
- “36A Institute, accredited bodies, and approved associations may recognise body corporate as eligible to act as auditor**
- “(1) The Institute, any other accredited body, or an approved association may recognise a company or an overseas company for the purposes of **section 36(1)(f) or (g)** if, after taking into account the prescribed matters, the Institute, accredited body, or approved association is satisfied that the company or overseas company— 30
- “(a) satisfies the requirements that are prescribed for the purposes of this paragraph; and 35

- “(b) satisfies the minimum standards that are prescribed for the purposes of this paragraph; and
- “(c) has at least 1 director who is—
- “(i) a member of the Institute, accredited body, or approved association; and 5
- “(ii) a qualified auditor under **section 36(1)(a) to (d)** (in respect of all specified entities or 1 or more kinds of specified entities).
- “(2) Recognition may relate to all specified entities or to 1 or more kinds of specified entities. 10
- “36B Registrar of Companies may approve overseas countries and legal structures**
- “(1) The Registrar of Companies may, by notice in the *Gazette*, approve, for the purposes of **section 36(1)(g)**,—
- “(a) a country, State, or territory; and 15
- “(b) a specified legal structure of that country, State, or territory (for example, a company incorporated under the law of a particular overseas country).
- “(2) The Registrar must, before approving a country, State, or territory and a legal structure, be satisfied that— 20
- “(a) the law or the regulatory requirements of that country, State, or territory impose requirements relating to auditor independence that are equivalent to, or as satisfactory as, the requirements that apply to New Zealand auditors; and 25
- “(b) entities that have that legal structure are eligible to act as an auditor in that country, State, or territory.
- “(3) The Registrar may not approve as a legal structure any kind of overseas limited partnership (within the meaning of section 4 of the Limited Partnerships Act 2008). 30
- “36C Institute, accredited bodies, and approved associations must keep recognition under review**
- “(1) The Institute, any other accredited body, or an approved association that recognises any person for the purposes of **section 36(1)** must maintain adequate and effective systems for keeping under review the recognition of those persons. 35

- “(2) The purpose of the review is to provide reasonable assurance that the requirements and minimum standards for recognition continue to be satisfied.
- “(3) The systems must include an annual review of each person who is recognised (for example, by requiring the person to verify that the requirements and any minimum standards for recognition continue to be satisfied). 5
- “**36D Body corporate must ensure that engagement director is qualified auditor**
- “(1) If a body corporate (A) referred to in **section 36(1)(e), (f), or (g)** is appointed or is acting as the auditor of a specified entity or of its financial statements, A must ensure that each engagement director is a qualified auditor under **section 36(1)(a) to (d)**. 10
- “(2) In this section, **engagement director**, in respect of an audit where A is appointed or is acting, means the director or other person in A who is responsible for the audit and the performance of the audit and for the audit report that is issued on behalf of A. 15
- “**36E Recognised body corporate must not act if requirements no longer met** 20
- If a body corporate (A) that is recognised for the purposes of **section 36(1)(f) or (g)** becomes aware that A does not comply, or no longer complies, with the requirements or minimum standards for recognition under **section 36A**, A— 25
- “(a) must not act as the auditor of a specified entity or of its financial statements; and
- “(b) must, as soon as practicable, give written notice of that non-compliance to the Institute, the accredited body, or the approved association that recognised A. 30
- “**36F Offence relating to section 36D or 36E**
- “(1) If a body corporate (A) fails to comply with **section 36D or 36E**,—
- “(a) A commits an offence and is liable on conviction to a fine not exceeding \$150,000; and 35

- “(b) every director of A also commits an offence and is liable on conviction to a fine not exceeding \$50,000.
- “(2) It is a defence to a director charged with an offence in relation to the duty imposed under **section 36D or 36E** if the director proves that— 5
- “(a) A took all reasonable and proper steps to ensure that the duty would be complied with; or
- “(b) he or she took all reasonable steps to ensure that A complied with the duty; or
- “(c) in the circumstances, he or she could not reasonably have been expected to take steps to ensure that A complied with the duty. 10
- “36G Cancellation or suspension of recognition**
- “(1) The Institute or any other accredited body must, in accordance with its rules, cancel or suspend its recognition of a person for the purposes of **section 36(1)(a) or (ab)** if the Institute or body considers that the grounds for cancellation or suspension specified in its rules are satisfied. 15
- “(2) The Institute, any other accredited body, or an approved association— 20
- “(a) must cancel or suspend its recognition of a person for the purposes of **section 36(1)(f) or (g)** if the Institute, body, or association considers that the person does not, or no longer, satisfies the requirements or minimum standards prescribed for the purposes of **section 36A(1)(a) or (b)**: 25
- “(b) may also cancel its recognition of a person for the purposes of **section 36(1)** on the written request of the person.
- “(3) A suspension is for the period that the Institute, accredited body, or approved association thinks fit or until the person satisfies any requirements specified by the Institute, body, or association. 30
- “(4) If a person that has been recognised for the purposes of **section 36(1)(f) or (g)** no longer has at least 1 director of the kind referred to in **section 36A(1)(c)**, the recognition is treated as suspended until the person again has at least 1 director of that kind (or the recognition is sooner cancelled). 35

“36H Effect of cancellation or suspension of accreditation or approval on recognition under section 36

“(1) If the accreditation of the Institute or of an accredited body (A) is—

“(a) cancelled under section 59 of the Auditor Regulation Act 2011, any recognition given by A and referred to in **section 36(1)** is treated as cancelled: 5

“(b) suspended under section 59 of that Act, any recognition given by A and referred to in **section 36(1)** is treated as suspended during the period in which A’s accreditation is suspended. 10

“(2) If the approval of a person (A) as an approved association is cancelled by the Registrar of Companies (by notice in the *Gazette*) any recognition given by A and referred to in **section 36(1)(f) or (g)** is treated as cancelled. 15

“(3) **Subsection (1) or (2)** does not apply if the person who is recognised by A is also recognised by another accredited body or approved association for the purposes of **section 36(1)**.

“36I Registrar of Companies may authorise person to continue to act in respect of audit despite cancellation or suspension under section 36H 20

“(1) This section applies if—

“(a) a person’s recognition is cancelled or suspended under **section 36H**; and

“(b) the person is acting, or has been appointed to act, as the auditor in respect of an audit at the time that the recognition is cancelled or suspended. 25

“(2) The Registrar of Companies may authorise the person to act, or to continue to act, as the auditor in respect of the audit on the terms and conditions that the Registrar thinks fit. 30

“(3) The person may act, or continue to act, as the auditor in respect of the audit in accordance with the terms and conditions of the authorisation (and, for the purposes of that audit, the person’s recognition must be treated as continuing).

“36J Notification and records of recognised persons

- “(1) The Institute, any other accredited body, or an approved association must,—
- “(a) as soon as practicable after recognising a person (A) for the purposes of **section 36(1)**, give A written notice of the recognition: 5
 - “(b) as soon as practicable after cancelling or suspending such recognition, give A written notice of the cancellation or suspension.
- “(2) The Institute, any other accredited body, or an approved association must— 10
- “(a) keep a record of all persons that the Institute, accredited body, or approved association (as the case may be) has recognised for the purposes of **section 36(1)** and of all cancellations or suspensions of such recognition; and 15
 - “(b) keep available a record of the persons recognised by it, at all reasonable times, on an Internet site maintained by or on behalf of the Institute, body, or association.
- “(3) The purpose of **subsection (2)(b)** is to enable any person to determine whether a person is recognised for the purposes of section 36 and, if so, to obtain relevant information relating to the recognition. 20
- “(4) For the purposes of **subsection (2)(b)**,—
- “(a) the record must include the following information about each recognised person: 25
 - “(i) the full name of the person:
 - “(ii) the town or city in which the person’s principal place of business in New Zealand is located:
 - “(iii) the conditions or limitations on the recognition (if any); and 30
 - “(b) the record must be reasonably prominent on the Internet site or the Internet site must contain a reasonably prominent link to the record.
- “(5) A record under **subsection (2)** is required to include information relating to a suspension under **section 36G(4)** only if the Institute, accredited body, or approved association is aware of the suspension. 35

“(6) A person that fails to comply with **subsection (2) or (4)** commits an offence and is liable on conviction to a fine not exceeding \$50,000.

“**36K Appeals in respect of recognition matters**

“(1) A person may appeal to a District Court against any decision of the Institute, an accredited body, or an approved association— 5

“(a) to decline to recognise a person for the purposes of **section 36(1)**; or

“(b) to cancel or suspend that recognition.

“(2) **Subsection (1)** does not apply to a decision if the rules of the Institute, the accredited body, or the approved association 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). 10 15

“(3) An appeal to a 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. 20

“**36L False declarations and representations**

“(1) Every person commits an offence who, for the purpose of obtaining or maintaining recognition for the purposes of **section 36(1)** either on the person’s own behalf or on behalf of any other person,— 25

“(a) either orally or in writing, makes any declaration or representation to the Institute, another accredited body, or an approved association that, to the person’s knowledge, is false or misleading in any material particular; or 30

“(b) provides to the Institute, another accredited body, or an approved association any document knowing that the document— 35

“(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 5
“(ii) is not genuine.
“(2) A person who commits an offence under **subsection (1)** is liable on conviction to,—
“(a) in the case of an individual, a fine not exceeding \$50,000: 10
“(b) in the case of a body corporate, a fine not exceeding \$150,000.

“Appointment of partnership”

32 New sections 39A and 39B and cross-heading inserted

After section 39, insert:

15

“Offences concerning unqualified persons

“39A Offence for unqualified auditor to act

- “(1) A person who acts as the auditor of a specified entity or of its financial statements commits an offence if the person is not a qualified auditor in respect of the entity. 20
“(2) A person who commits an offence under **subsection (1)** is liable on conviction to,—
“(a) in the case of an individual, a fine not exceeding \$50,000:
“(b) in the case of a body corporate, a fine not exceeding 25
\$150,000.

“39B Offence to hold out as qualified auditor

- “(1) A person must not hold out that the person is—
“(a) recognised for the purposes of **section 36(1)(a), (ab), (f), or (g)** if the person is not so recognised; or 30
“(b) qualified to act as the auditor of a specified entity or of its financial statements if the person is not a qualified auditor in respect of the entity.
“(2) A person who commits an offence under **subsection (1)** is liable on conviction to,— 35

- “(a) in the case of an individual, a fine not exceeding \$50,000:
- “(b) in the case of a body corporate, a fine not exceeding \$150,000.”
- 33 Section 48 amended (Minister must regularly review amounts to take into account inflation)** 5
In section 48(1)(a), after “of this Act”, insert “, **section 42D** of the Charities Act 2005.”
- 34 Section 49 amended (Order may amend amounts)** 10
After section 49(c), insert:
“(ca) amending the amounts specified in **section 42D** of the Charities Act 2005.”
- 35 Section 50 amended (Regulations)**
(1) After section 50(1)(a), insert:
“(ab) prescribing matters that must be taken into account under **section 36A**: 15
“(ac) prescribing requirements for the purposes of **section 36A(1)(a)**, including (without limitation) requirements relating to a company’s or an overseas company’s—
“(i) ownership, including requirements relating to 20
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, an accredited body, or an approved association): 25
“(ii) governance, including requirements relating to 30
who may be a director or senior manager (for example, requiring all or a majority of directors to be members of the Institute, an accredited body, or an approved association):
“(iii) 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 audits: 35

- “(B) promoting compliance with auditing and assurance standards:
- “(C) promoting reasonable care, diligence, and skill in the carrying out of audits:
- “(iv) professional indemnity insurance: 5
- “(ad) prescribing minimum standards for the purposes of **section 36A(1)(b)**.”.
- (2) Replace section 50(2) with:
- “(2) Regulations made under **subsection (1)(ac)(iv)** may, without limitation,— 10
- “(a) specify the terms and conditions upon which insurance is to be available and any circumstances in which the insurance cover may be excluded or modified:
- “(b) specify the minimum terms and conditions that an insurance policy must satisfy: 15
- “(c) specify circumstances in which a body corporate or any class of bodies corporate are exempt from the requirements:
- “(d) require a body corporate to have arrangements in place that ensure that an accredited body or approved association can ascertain whether the insurance is being maintained in accordance with the regulations. 20
- “(3) Different requirements, dates, methods, or other matters may be prescribed under the regulations in respect of different classes of persons or different circumstances.” 25
- 36 Section 51 amended (Levies)**
Replace section 51(3)(a) with:
“(a) qualified statutory accountants; and”.
- 37 New subpart 1A of Part 3 inserted**
After section 53, insert: 30
“Subpart 1A—Unqualified person must not hold out as qualified statutory accountant
- “53A Offence to hold out as qualified statutory accountant**
“(1) If any enactment requires a qualified statutory accountant to act in respect of a matter, a person must not hold out that the 35

- person is qualified to act in respect of the matter if the person is not a qualified statutory accountant.
- “(2) A person who commits an offence under **subsection (1)** is liable on conviction to,—
- “(a) in the case of an individual, a fine not exceeding \$50,000: 5
- “(b) in the case of a body corporate, a fine not exceeding \$150,000.”
- 38 New section 62 inserted (Application, savings, and transitional provisions relating to amendments to Act) 10**
After section 61, insert:
- “**62 Application, savings, and transitional provisions relating to amendments to Act**
The application, savings, and transitional provisions set out in the Schedule, which relate to amendments made to this Act, 15 have effect for the purposes of this Act.”
- 39 New Schedule inserted**
After section 62 (as inserted by **section 38** of this Act), insert the **Schedule** set out in **Schedule 1** of this Act.
- Subpart 4—Amendments to New Zealand Institute of Chartered Accountants Act 1996 20
- 40 Principal Act**
This **subpart** amends the New Zealand Institute of Chartered Accountants Act 1996 (the **principal Act**).
- 41 Section 2 amended (Interpretation) 25**
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**” 30

42 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 mem- 5
 bers in New Zealand.”

43 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

10

- “(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 15
 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, 20
 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 25

“(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 30

“(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 35
 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)**. 5
- 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. 10
- “(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). 15
- “(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**.”
- 44 Section 6 amended (Rules of Institute)** 20
- (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 36A** of the Financial Reporting Act 2013, for keeping such recognition under review, and for the cancellation and suspension of such recognition; and 25
- “(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”.
- 45 Section 7 amended (Code of ethics)** 30
- (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).”
- 46 New section 7A inserted (Membership rules may require membership of specified association) 5**
 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: 10
- “(a) that a person may be admitted as a member of the Institute only if the person is a member of the specified association: 15
- “(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. 20
- “(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).” 25
- 47 Section 8 amended (Application of Part 3 of Legislation Act 2012 to certain rules and code of ethics) 30**
 In section 8(a), replace “(j)” with “**(jb)**”.
- 48 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. 5

“(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). 10

“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: 15

“(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). 20 25

“(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**.”

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

Repeal section 15. 30

50 Sections 21 to 24 and Schedules 3 to 5 repealed

Repeal sections 21 to 24 and Schedules 3 to 5.

51 Schedule 1 amended

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

Part 2

Amendments to other Acts

5

52 Amendments to other Acts

Amend the enactments specified in **Schedule 2** as set out in that schedule.

	Schedule 1	s 39
	New Schedule inserted	
	Schedule	s 62
	Application, savings, and transitional provisions relating to amendments made to this Act	5
1	Interpretation	
	In this schedule,—	
	2013 Amendment Act means subpart 3 of Part 1 and Part 2 of the Accounting Infrastructure Reform Act 2013	
	principal Act means the Financial Reporting Act 2013.	10
2	New requirements for recognition apply to accounting periods that commence on or after commencement of 2013 Amendment Act	
(1)	Section 36(1)(a) of the principal Act (as in force after the commencement of section 30(2) of the 2013 Amendment Act) applies to audits of financial statements for accounting periods that commence on or after the commencement of section 30(2) of the 2013 Amendment Act .	15
(2)	Section 36(1)(a) of the principal Act (as in force before the commencement of section 30(2) of the 2013 Amendment Act) continues to apply to audits of financial statements for accounting periods that commence before the commencement of section 30(2) of the 2013 Amendment Act .	20

Schedule 2**s 52****Amendments to other Acts****Companies Act 1993 (1993 No 105)**

In section 186(3)(b), delete “chartered”.

In section 192(4)(b), delete “chartered”.

5

In section 214(3), replace “chartered accountant” with “qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013)”.

Replace section 286(1)(f) with:

“(f) if the liquidator is a qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013), a member of the governing body of the association of accountants of which the qualified statutory accountant is a member.”

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Education Act 1989 (1989 No 80)

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In section 35P(b), replace “chartered accountant” with “qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

In section 158K(3), replace “chartered accountant” with “qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

20

In section 159YD(3), replace “an independent chartered accountant” with “a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

In section 159ZE(3), replace “an independent chartered accountant” with “a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

25

In section 234C(1), definition of **trustee**, replace “chartered accountant” with “qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013)”.

30

Financial Advisers Act 2008 (2008 No 91)

In section 5, repeal the definition of **chartered accountant**.

In section 5, insert in its appropriate alphabetical order:

“**qualified statutory accountant** has the same meaning as in section 5(1) of the Financial Reporting Act 2013”.

35

Financial Advisers Act 2008 (2008 No 91)—*continued*

In section 14(1)(d), replace “chartered accountant” with “qualified statutory accountant”.

In section 77C(1)(a), replace “chartered accountant” with “qualified statutory accountant”.

Financial Markets Conduct Act 2013 (2013 No 69) 5

In section 6(1), repeal the definition of **chartered accountant**.

In section 6(1), insert in its appropriate alphabetical order:

“**qualified statutory accountant** has the same meaning as in section 5(1) of the Financial Reporting Act 2013”.

In section 372(3)(c), replace “chartered accountant” with “qualified statutory accountant”.

In section 461E(3), after “registered audit firm”, insert “that is a partnership”.

In section 461E(4)(c), after “body corporate”, insert “that is not a registered audit firm”.

In clause 41(1)(c) of Schedule 1, replace “chartered accountant” with “qualified statutory accountant”.

In clause 42(2)(a) and (b) of Schedule 1, replace “chartered accountant” with “qualified statutory accountant”.

In clause 43(1) and (2) of Schedule 1, replace “chartered accountant” with “qualified statutory accountant”.

Financial Service Providers (Registration and Dispute Resolution) Act 2008 (2008 No 97)

In section 4, repeal the definition of **chartered accountant**.

In section 4, insert in its appropriate alphabetical order: 25

“**qualified statutory accountant** has the same meaning as in section 5(1) of the Financial Reporting Act 2013”.

In section 7(2)(a), replace “chartered accountant” with “qualified statutory accountant”.

Gambling Act 2003 (2003 No 51) 30

In section 212, replace “chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants

Gambling Act 2003 (2003 No 51)—continued

Act 1996)” with “qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

Lawyers and Conveyancers Act 2006 (2006 No 1)

In section 109(3)(b), replace “chartered accountant” with “qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013)”.

Replace section 150(f) with:

“(f) a qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013):”.

In section 188(2)(d)(iv), after “Accountants”, insert “or a disciplinary tribunal, committee, or other body of any other accredited body (within the meaning of section 6(1) of the Auditor Regulation Act 2011)”.

In section 309(2), replace “chartered accountant” with “qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

In section 310(2), replace “chartered accountant” with “qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

In Schedule 2, clause 6(d), after “Accountants”, insert “or to the governing body of any other accredited body (which in this schedule has the same meaning as in section 6(1) of the Auditor Regulation Act 2011)”.

In Schedule 2, replace clause 8 with:

“8 Restrictions on publication by Council of New Zealand Institute of Chartered Accountants or other accredited body

“(1) If any disclosure is made under clause 6(d), the Council or governing body referred to in that paragraph must consider the information given in private and not otherwise.

“(2) It is not lawful for any member of the Council or governing body or for any officer of the New Zealand Institute of Chartered Accountants or the accredited body to publish to any person any information so disclosed except in evidence in disciplinary proceedings under the New Zealand Institute of Char-

Lawyers and Conveyancers Act 2006 (2006 No 1)—*continued*

tered Accountants Act 1996 or under the rules of the accredited body.”

In Schedule 3, clause 10(2)(b)(iv), after “Accountants”, insert “or a disciplinary tribunal, committee, or other body of any other accredited body (within the meaning of section 6(1) of the Auditor Regulation Act 2011)”.

Limited Partnerships Act 2008 (2008 No 1)

In section 67(3)(b), delete “chartered”.

In section 70(4)(b), delete “chartered”.

In section 76(4), replace “chartered accountant” with “qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013)”.

Prisoners’ and Victims’ Claims Act 2005 (2005 No 74)

In section 54(5), replace “chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996)” with “qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

Private Schools Conditional Integration Act 1975 (1975 No 129)

In section 36(8), replace “chartered accountant” with “qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

In section 37(4), replace “chartered accountant” with “qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013)”.

Protection of Personal and Property Rights Act 1988 (1988 No 4)

In section 46(2), (4) to (6), and (8), replace “chartered accountant” with “qualified auditor” in each place.

After section 46(8), insert:

“(9) In this section, **qualified auditor** has the same meaning as in section 35 of the Financial Reporting Act 2013.”

Public Audit Act 2001 (2001 No 10)

Replace section 32(1A)(a) and (b) with:

- “(a) is a natural person who—
 - “(i) 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 5
 - “(ii) has the competence, qualifications, and experience that are equivalent to, or as satisfactory as, those standards; or
- “(b) is a body corporate that is a registered audit firm (within the meaning of the Auditor Regulation Act 2011).” 10

Racing Act 2003 (2003 No 3)

Replace section 13(1)(b) with:

- “(b) have those financial statements audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).” 15

In Schedule 3, clause 13(3), replace “chartered accountant (within the meaning of the New Zealand Institute of Chartered Accountants Act 1996)” with “qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).” 20

Real Estate Agents Act 2008 (2008 No 66)

In section 135(2)(b), replace “chartered accountant” with “qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013).”

Receiverships Act 1993 (1993 No 122)

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Replace section 37(1)(i) with:

- “(i) if the receiver is a qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013), a member of the governing body of the association of accountants of which the qualified statutory accountant is a member:” 30

Retirement Villages Act 2003 (2003 No 112)

In section 13(1), replace “chartered accountant” with “qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013)”.

In section 94(3)(b), delete “chartered”. 5

Trustee Act 1956 (1956 No 61)

In section 83B(1), replace “chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996)” with “qualified statutory accountant” in each place.

After section 83B(1), insert: 10

“(1A) In subsection (1), **qualified statutory accountant** has the same meaning as in section 5(1) of the Financial Reporting Act 2013.”

Unclaimed Money Act 1971 (1971 No 28)

Replace section 5(1)(j) with: 15

“(j) any qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013) in respect of money held on behalf of clients:”.