

Reprint
as at 17 December 2015



Auditor Regulations 2012 (SR 2012/75)

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 23rd day of April 2012

Present:

His Excellency the Governor-General in Council

Pursuant to section 84 of the Auditor Regulation Act 2011, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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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.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

1 Title

These regulations are the Auditor Regulations 2012.

2 Commencement

These regulations come into force on 1 May 2012.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires, **Act** means the Auditor Regulation Act 2011.
- (2) Any term that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.
- (3) For the purposes of regulation 12 and the Schedule, individuals working for the FMA as contractors or secondees must be treated as if they are employees of the FMA.

Regulation 3(3): inserted, on 17 December 2015, by regulation 4 of the Auditor Amendment Regulations (No 2) 2015 (LI 2015/281).

4 Overseas auditors

The following countries, states, and territories are prescribed for the purposes of the definition of overseas auditor in section 6(1) of the Act:

- (a) Australia:

- (b) any country, state, or territory in the European Union;
- (c) Hong Kong Special Administrative Region of the People's Republic of China;
- (d) Singapore;
- (e) the United States of America.

5 Relevant changes that overseas auditors must notify to FMA

In addition to the relevant changes specified in section 13(2)(a) of the Act, every person who holds a licence under section 12 of the Act must give written notice to the FMA under section 13(1) of the Act of a change in any of the following:

- (a) the full name or business address of the overseas auditor (including email address and Internet site address, if any);
- (b) whether the overseas auditor is a partner or employee of an audit firm;
- (c) if the overseas auditor is a partner or employee of an audit firm, the name of the firm;
- (d) any limitations on the overseas auditor's ability to act in respect of an audit that are imposed by or in relation to any certificate, registration, licence, or other authorisation that entitles the overseas auditor to act as an auditor in the person's home jurisdiction (as defined in section 12(2) of the Act).

5A Prescribed requirements for authorisation of registration of corporate audit firms

- (1) The requirements set out in subclauses (2) to (4) are prescribed for the purposes of sections 25(1)(b)(iii) and 26(1)(ab)(iv) of the Act.
- (2) Qualified persons must control all, or the majority of, the voting rights in the company or overseas company.
- (3) All, or the majority of, the directors of the company or overseas company must be qualified persons.
- (4) The company or overseas company must hold professional indemnity insurance that can reasonably be regarded as adequate and appropriate for the scale and nature of the business of the company or overseas company.
- (5) In this regulation,—

approved association means an association of accountants that is approved for the time being by the Registrar under section 36(1)(c) of the Financial Reporting Act 2013

control, in relation to a voting right, means having, directly or indirectly, effective control of the voting right

qualified person means a natural person who—

- (a) is a member of a relevant body; and
- (b) holds a practising certificate issued by that relevant body

relevant body means the Institute, another accredited body, or an approved association

voting right means a currently exercisable right to cast a vote at meetings of members or shareholders of a company or overseas company.

Regulation 5A: inserted, on 1 July 2015, by regulation 4 of the Auditor Amendment Regulations 2015 (LI 2015/113).

6 **Reasons for refusing access to, or suspending operation of, register**

In addition to the reason given in section 39(3)(a) of the Act, the Registrar may refuse access to the register or otherwise suspend the operation of the register, in whole or in part,—

- (a) to enable the maintenance of the register; or
- (b) in response to technical difficulties in the maintenance or operation of the register; or
- (c) to ensure the security or integrity of the register.

7 **Contents of register**

- (1) In addition to the information specified in section 41(1)(a) to (h) of the Act, the register must contain the following information about each licensed auditor:
 - (a) the licensed auditor's business email address and Internet site address, if any;
 - (b) the country, state, or territory in which the licensed auditor is ordinarily resident and entitled to act as an auditor;
 - (c) whether the licensed auditor is a partner or employee of an audit firm and, if so, the name of that audit firm.
- (2) In addition to the information specified in section 41(2)(a) to (e) of the Act, the register must contain the following information about each registered audit firm:
 - (a) the firm's business email address and Internet site address;
 - (b) the country, state, or territory in which the firm has its head office or principal place of business.

8 **Prescribed changes that accredited bodies and FMA must notify to Registrar**

Every accredited body and the FMA must notify the Registrar, in accordance with section 42 of the Act, of a change in any of the following:

- (a) in respect of a licensed auditor whose licence was issued by the accredited body or the FMA (as the case may be),—

- (i) the full name or business address of the licensed auditor (including email address and Internet site address, if any):
 - (ii) whether the licensed auditor is a partner or employee of an audit firm:
 - (iii) if the licensed auditor is a partner or employee of an audit firm, the name of the firm:
 - (iv) the kinds of issuer audits in respect of which the licensed auditor is authorised to act under each licence:
 - (v) the conditions placed on each licence that is currently in force:
 - (vi) any suspension or cancellation of a licence that has been issued to the licensed auditor or any other action that has been taken on a disciplinary matter against the licensed auditor under the Act by an accredited body, a disciplinary body, or the FMA; and
- (b) in respect of a registered audit firm whose registration was authorised by the accredited body or the FMA (as the case may be),—
- (i) the full name or business address of the firm (including email address and Internet site address):
 - (ii) the conditions placed on the registration that are currently in force.

9 Prescribed requirements for documents received by Registrar

- (1) This regulation applies if the register is kept as an electronic register on an Internet site maintained by or on behalf of the Registrar.
- (2) In addition to the basis for refusal that is specified in section 45(a) of the Act, the Registrar may refuse to accept a document received by the Registrar under the Act if the document is not submitted electronically via the Internet site on which the register is kept.

10 Conditions of accreditation

In addition to the conditions specified in section 49(2)(a) and (b) of the Act, a person may be accredited as an accredited body subject to—

- (a) conditions relating to the accredited body's ongoing compliance with any minimum standards for accreditation prescribed by the FMA under section 32(1)(e) of the Act:
- (b) conditions relating to the resources, financial position, and financial stability of the accredited body:
- (c) conditions to ensure that the accredited body's governance and organisational structure is adequate and effective.

11 Contents of annual report of accredited bodies

In addition to the information specified in section 51(2)(b)(i) and (ii) of the Act, the annual report of an accredited body must contain—

- (a) the most recent audited financial statements of the accredited body; and
- (b) an assessment by the accredited body of—
 - (i) the extent to which its audit regulatory systems are adequate and effective; and
 - (ii) whether it has allocated sufficient resources to ensure that its audit regulatory systems are, and will continue to be, adequate and effective; and
- (c) information relating to any material changes to the accredited body's governance and organisational structure.

12 Fees

The fees set out in the table in Part 1 of the Schedule are payable for the matters to which they relate.

13 Payment of fees

- (1) A fee identified as an assessment fee in column 2 of a row of the table in Part 1 of the Schedule—
 - (a) is payable by the person specified in column 3 of that row; and
 - (b) is payable to the person specified in column 4 of that row; and
 - (c) is payable on an invoice issued by or on behalf of the FMA and within the time frame specified in that invoice.
- (2) Any other fee identified in column 2 of a row of the table in Part 1 of the Schedule—
 - (a) is payable by the person specified in column 3 of that row; and
 - (b) is payable to the person specified in column 4 of that row; and
 - (c) must accompany the application or annual confirmation (as the case may be) specified in column 1 of that row.

14 Fees inclusive of GST

The fees prescribed by these regulations are inclusive of goods and services tax.

15 FMA may recover costs incurred

- (1) This regulation applies to a person identified in column 3 of the table in Part 1 of the Schedule as liable to pay an assessment fee in respect of any of the following matters:
 - (a) an application for a licence under section 12 of the Act:

- (b) an application for the FMA to authorise the Registrar to register an overseas audit firm under section 26 of the Act:
 - (c) an annual confirmation by the FMA to the Registrar under section 43 of the Act:
 - (d) an application for accreditation under section 48 of the Act:
 - (e) a quality review under section 65 of the Act.
- (2) The FMA may recover from the person the costs incurred by the FMA in obtaining external advice or assistance in assessing the matter.
- (3) Costs recovered under subclause (2) are in addition to the assessment fee for the matter.
- (4) In this regulation, **assessment fee** means a fee identified as an assessment fee in column 2 of the table in Part 1 of the Schedule.

Transitional provisions

[Revoked]

Heading: revoked, on 1 July 2014, by regulation 19.

16 Certain auditors treated as holding licence

[Revoked]

Regulation 16: revoked, on 1 July 2014, by regulation 19.

17 Certain overseas auditors treated as holding licence

[Revoked]

Regulation 17: revoked, on 1 July 2014, by regulation 19.

18 Certain audit firms treated as registered

[Revoked]

Regulation 18: revoked, on 1 July 2014, by regulation 19.

19 Revocation of transitional provisions

[Revoked]

Regulation 19: revoked, on 1 July 2014, by regulation 19.

Schedule Fees				
Part 1 Schedule of fees				
Column 1	Column 2	Column 3	Column 4	Column 5
Matter in respect of which fees payable	Fee	Person liable for fee	Who fee payable to	Amount (\$)
Application for licence under section 11 of Act	Registration fee	Applicant	Accredited body	350
Application for licence under section 12 of Act	Fee for application Registration fee Assessment fee	Applicant Applicant Applicant	FMA FMA FMA	115 350 On hourly basis specified in Part 2
Application for accredited body to authorise Registrar to register audit firm under section 25 of Act	Registration fee	Applicant	Accredited body	350
Application for FMA to authorise Registrar to register overseas audit firm under section 26 of Act	Fee for application Registration fee Assessment fee	Applicant Applicant Applicant	FMA FMA FMA	115 350 On hourly basis specified in Part 2
Annual confirmation to Registrar under section 43 of Act	Annual confirmation fee	Person making annual confirmation (accredited body or FMA)	Registrar	110 for each licence and registration confirmed

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Column 1 Matter in respect of which fees payable	Column 2 Fee	Column 3 Person liable for fee	Column 4 Who fee payable to	Column 5 Amount (\$)
	Assessment fee	Person whose licence or registration information is confirmed by FMA in annual confirmation	FMA	110
Application for accreditation under section 48 of Act	Fee for application Assessment fee	Applicant Applicant	FMA FMA	115 On hourly basis specified in Part 2
Quality review under section 65 of Act	Assessment fee	Audit firm or licensed auditor subject to quality review	FMA	On hourly basis specified in Part 2

Part 2

Amounts calculated on hourly basis

Where Part 1 specifies an amount on an hourly basis, that amount must be calculated as follows for each hour spent on assessing the matter concerned:

- (a) \$230 for each hour of work on the matter by a member of the FMA; and
- (b) \$178.25 for each hour of work on the matter by an employee of the FMA who—
 - (i) is qualified in accountancy, auditing, business, commerce, economics, or law; or
 - (ii) the FMA is satisfied has a professional level of skills, training, or experience in matters of the kind to which the application relates.

Schedule Part 2 paragraph (b): replaced, on 1 April 2014, by regulation 4 of the Financial Markets Conduct (Changes to Financial Markets Authority Fees) Regulations 2014 (LI 2014/111).

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 26 April 2012.

Reprints notes

1 *General*

This is a reprint of the Auditor Regulations 2012 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

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*

Auditor Amendment Regulations (No 2) 2015 (LI 2015/281)

Auditor Amendment Regulations 2015 (LI 2015/113)

Financial Markets Conduct (Changes to Financial Markets Authority Fees) Regulations 2014 (LI 2014/111): Part 1

Auditor Regulations 2012 (SR 2012/75): regulation 19