



## Financial Reporting Regulations 2015

Rt Hon Dame Sian Elias, Administrator of the Government

### Order in Council

At Wellington this 25th day of May 2015

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 50 of the Financial Reporting Act 2013, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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## Regulations

### 1 Title

These regulations are the Financial Reporting Regulations 2015.

### 2 Commencement

These regulations come into force on 1 July 2015.

### 3 Interpretation

In these regulations, **Act** means the Financial Reporting Act 2013.

### 4 Prescribed requirements for purposes of section 36A(1) of Act

- (1) The requirements set out in subclauses (2) to (6) are prescribed for the purposes of section 36A(1) of the Act.
- (2) The association of accountants (the **association**) must be constituted in a country, State, or territory outside New Zealand in which the eligibility of a person to act as an auditor is conditional on the person satisfying requirements and minimum standards that are equivalent to, or as satisfactory as, the recognition requirements of the Institute or another accredited body.
- (3) The association must be a member of the International Federation of Accountants.
- (4) The association must have—
  - (a) recognition requirements that are equivalent to, or as satisfactory as, the recognition requirements of the Institute or another accredited body; and
  - (b) rules for the purposes of section 36I(1) of the Act that are equivalent to, or as satisfactory as, the rules of the Institute or another accredited body for those purposes.
- (5) The association must have adequate and effective systems for—
  - (a) providing reasonable assurance that a person who must satisfy (or continue to satisfy) the association's recognition requirements does so (or continues to do so); and
  - (b) recording, in a timely way, which members of the association are acting as auditors in respect of specified entities.
- (6) The association must have—
  - (a) complaints rules, and professional indemnity insurance rules, that can reasonably be regarded as adequate and appropriate; and
  - (b) adequate and effective systems for providing reasonable assurance that those rules are properly applied and complied with.
- (7) In this regulation,—

**complaints rules** means rules for the investigation and hearing of complaints against, and disciplining of, members or former members of the association, including (without limitation) in connection with their activities as auditors in respect of specified entities

**member** includes a fellow or an associate (except in subclause (3))

**professional indemnity insurance rules** means rules requiring members of the association to have professional indemnity insurance, including (without limitation) in respect of their activities as auditors in respect of specified entities

**recognition requirements** means the requirements and minimum standards that the association, the Institute, or another accredited body (as the case may be) requires persons to satisfy in order to be recognised by the association, the Institute, or the other accredited body for the purposes of section 36(1) of the Act

**specified entity** has the meaning given in section 34(2) of the Act.

## 5 Prescribed requirements for purposes of section 36A(2)(a) of Act

- (1) The requirements set out in subclauses (2) to (6) are prescribed for the purposes of section 36A(2)(a) of the Act.
- (2) The eligibility of the natural person (the **overseas auditor**) to act as an auditor in the relevant overseas jurisdiction must be conditional on the overseas auditor satisfying requirements and minimum standards that are equivalent to, or as satisfactory as, the recognition requirements of the Institute or another accredited body.
- (3) The overseas auditor must have, or otherwise be subject to, adequate and effective systems for providing reasonable assurance that the overseas auditor's activities as an auditor in respect of specified entities are carried out in accordance with all relevant laws and other requirements and standards (including all applicable auditing and assurance standards).
- (4) The overseas auditor must be subject to—
  - (a) complaints rules that can reasonably be regarded as adequate and appropriate; and
  - (b) adequate and effective systems for providing reasonable assurance that those rules are properly applied and complied with.
- (5) The overseas auditor must have, in respect of the overseas auditor's activities as an auditor in respect of specified entities, professional indemnity insurance that can reasonably be regarded as adequate and appropriate.
- (6) The overseas auditor must not have any criminal convictions in New Zealand or elsewhere that can reasonably be regarded as showing that the overseas auditor is not a person fit for approval.
- (7) In this regulation,—

**complaints rules** means rules under the law of the relevant overseas jurisdiction, or rules of an association of accountants constituted in the relevant overseas jurisdiction, that—

- (a) provide for the investigation and hearing of complaints against, and disciplining of, auditors; and
- (b) cover (without limitation) the overseas auditor's activities as an auditor in respect of specified entities

**recognition requirements** means the requirements and minimum standards that the Institute or another accredited body (as the case may be) requires persons to satisfy in order to be recognised by the Institute or the other accredited body for the purposes of section 36(1)(a) or (ab) of the Act

**relevant overseas jurisdiction** means the country, State, or territory outside New Zealand in which the overseas auditor is eligible to act as an auditor

**specified entity** has the meaning given in section 34(2) of the Act.

## **6 Prescribed times and information for purposes of section 36B(1) of Act: approved associations**

- (1) This regulation applies for the purposes of section 36B(1) of the Act.
- (2) Every approved association must, during every relevant period, send to the Registrar a report that contains the information prescribed by subclause (3) (subject to subclause (4)).
- (3) The prescribed information is as follows:
  - (a) a statement that the approved association, to the best of its knowledge, complies with the requirements for approval under section 36A(1) of the Act as at the beginning of the relevant period:
  - (b) the details of any material change occurring before the relevant period in the way in which the approved association satisfies the requirements for approval under section 36A(1) of the Act (unless those details have been provided in a previous report):
  - (c) if no details are required to be provided under paragraph (b), a statement that that is the case.
- (4) If a statement cannot be given under subclause (3)(a), a statement that that is the case must be given instead.
- (5) In this regulation, **relevant period**, in relation to an approved association, means a period of 1 month ending with a relevant day.
- (6) In subclause (5), **relevant day** means—
  - (a) the day that is 5 years after the day on which the Registrar approves the association; or
  - (b) a day that is 5 years after a day that is a relevant day (whether by virtue of paragraph (a) or this paragraph).

- (7) In relation to an association of accountants to which clause 3 of the Schedule of the Act applies, in subclause (6)(a), the reference to the day on which the Registrar approves the association is to the day on which the Registrar re-approves it as referred to in clause 3(3) of that schedule.

**7 Prescribed times and information for purposes of section 36B(1) of Act: persons approved under section 36(1)(d) of Act**

- (1) This regulation applies for the purposes of section 36B(1) of the Act.
- (2) Every person who is approved under section 36(1)(d) of the Act must, during every relevant period, send to the Registrar a report that contains the information prescribed by subclause (3) (subject to subclause (4)).
- (3) The prescribed information is as follows:
- (a) a statement that the approved person, to the best of his or her knowledge, complies with the requirements for approval under section 36A(2)(a) of the Act as at the beginning of the relevant period:
  - (b) the details of any criminal convictions in New Zealand or elsewhere that the approved person incurs before the relevant period (unless those details have been previously provided to the Registrar in a previous report or otherwise):
  - (c) if no details are required to be provided under paragraph (b), a statement that that is the case:
  - (d) the details of any material change occurring before the relevant period in the way in which the approved person satisfies the requirements for approval under section 36A(2)(a) of the Act (unless those details have been provided in a previous report):
  - (e) if no details are required to be provided under paragraph (d), a statement that that is the case.
- (4) If a statement cannot be given under subclause (3)(a), a statement that that is the case must be given instead.
- (5) In this regulation, **relevant period**, in relation to an approved person, means a period of 1 month ending with a relevant day.
- (6) In subclause (5), **relevant day** means—
- (a) the day that is 1 year after the day on which the Registrar approves the person; or
  - (b) a day that is 1 year after a day that is a relevant day (whether by virtue of paragraph (a) or this paragraph).
- (7) In relation to a natural person to whom clause 3 of the Schedule of the Act applies, in subclause (6)(a), the reference to the day on which the Registrar approves the person is to the day on which the Registrar re-approves the person as referred to in clause 3(3) of that schedule.

## 8 Prescribed requirements for purposes of section 36C(1)(a) of Act

- (1) The requirements set out in subclauses (2) to (4) are prescribed for the purposes of section 36C(1)(a) 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,—

**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.

## 9 Prescribed form for purposes of section 45(3) of Act

The form set out in the Schedule is prescribed for the purposes of section 45(3) of the Act.

### Schedule Form

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#### Form

#### Declaration that entity was inactive

*Section 45(3), Financial Reporting Act 2013*

*The declaration in the format set out below must be made on behalf of the entity by 2 directors of the entity or, if the entity has only 1 director, by that director.*

I, [*name of director of entity*], of [*place, occupation*], solemnly and sincerely declare that—

- (a) I am a director of [*name of entity*]; and
- (b) the incorporation or registration number of [*name of entity*] is [*incorporation or registration number*]; and

- (c) *[name of entity]* was an inactive entity (as defined in section 45(4) of the Financial Reporting Act 2013) in respect of the accounting period ending on *[balance date]*.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Signature:

Declared at *[place]* this *[date]* day of *[month, year]*

Signature of person authorised to take statutory declaration:

Michael Webster,  
Clerk of the Executive Council.

### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 July 2015, prescribe various matters for the purposes of the Financial Reporting Act 2013 (the **Act**) (as amended by the Financial Reporting Amendment Act 2014 (the **Amendment Act**)). These regulations coincide with the making of the Financial Reporting Amendment Act 2014 Commencement Order 2015 that brings the Amendment Act into force on 1 July 2015.

*Regulation 4* prescribes requirements for the purposes of section 36A(1) of the Act (as inserted by section 8 of the Amendment Act). Section 36A(1) of the Act provides for the approval of an association of accountants constituted outside New Zealand for the purposes of section 36(1)(c) of the Act (as amended by section 7(3) and (4) of the Amendment Act) if the prescribed requirements are met. An approved overseas association has the function of recognising persons as qualified auditors under section 36(1) of the Act. The prescribed requirements relate to the following:

- the requirements and minimum standards that a person must meet to be an auditor in the jurisdiction in which the association is constituted:
- the association's membership of the International Federation of Accountants:
- the requirements and minimum standards that the association has for recognising persons as qualified auditors under section 36(1) of the Act:
- the association's rules about complaints against its members and about the professional indemnity insurance that its members must have:
- various systems that the association has.

*Regulation 5* prescribes requirements for the purposes of section 36A(2)(a) of the Act (as inserted by section 8 of the Amendment Act). Section 36A(2) of the Act provides

for auditors from jurisdictions outside New Zealand who meet the prescribed requirements to be approved for the purposes of section 36(1)(d) of the Act (as amended by section 7(5) of the Amendment Act) so that they can be qualified auditors under section 36(1) of the Act. The prescribed requirements relate to the following:

- the requirements and minimum standards that the overseas auditor must meet to be an auditor in his or her home jurisdiction:
- the overseas auditor's systems for quality assurance:
- the rules under which complaints may be made against the overseas auditor:
- the overseas auditor's professional indemnity insurance:
- the overseas auditor's criminal convictions (if any).

*Regulations 6 and 7* prescribe information for the purposes of section 36B(1) of the Act (as inserted by section 8 of the Amendment Act) that approved overseas associations and approved overseas auditors must provide to the Registrar of Companies at times that are also prescribed by *regulations 6 and 7*.

*Regulation 8* prescribes requirements for the purposes of section 36C(1)(a) of the Act (as inserted by section 8 of the Amendment Act). Section 36C of the Act provides for bodies corporate that meet the prescribed requirements to be recognised for the purposes of section 36(1)(f) or (g) of the Act (as inserted by section 7(6) of the Amendment Act) so that they can be qualified auditors under section 36(1) of the Act. The prescribed requirements relate to the persons who control voting rights in the body corporate, the persons who are the directors of the body corporate, and the professional indemnity insurance held by the body corporate.

*Regulation 9* prescribes the form of declaration for the purposes of section 45(3) of the Act (as replaced by section 10 of the Amendment Act), which is set out in the *Schedule*. Section 45 of the Act defines when an entity is to be regarded as large in respect of an accounting period for the purposes of an enactment that refers to section 45. Section 45(3) provides that an inactive entity (as defined in section 45(4)) is not to be regarded as large in respect of an accounting period if a declaration in the prescribed form is given to the Registrar of Companies that states that the entity was an inactive entity in respect of the accounting period.

*Regulations 5(6) and 7(3)(b)*, which relate to the criminal convictions of an overseas auditor, must be interpreted subject to the Criminal Records (Clean Slate) Act 2004 in the case of an overseas auditor who is an eligible individual for the purposes of that Act (*see*, in particular, section 21 of that Act).

### **Regulatory impact statement**

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at <http://www.treasury.govt.nz/publications/informationreleases/ris/pdfs/ris-mbie-afi-nov13.pdf>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 28 May 2015.

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