





**PUBLIC  
ACCOUNTANTS'  
AND  
AUDITORS'  
ACTS**

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# PUBLIC ACCOUNTANTS' AND AUDITORS' ACT, 1991

## ACT 80 OF 1991

as amended by

Public Accountants' and Auditors' Amendment Act, No. 70 of 1993

Public Accountants' and Auditors' Amendment Act, No. 23 of 1995

Abolition of Restrictions on the Jurisdiction of Courts Act, No. 88 of 1996

Public Accountants' and Auditors' Amendment Act, No. 5 of 1997

Public Service Laws Amendment Act, No. 47 of 1997

*Superscripts refer to amendments to this Act  
in terms of the other acts which have  
been included in this Manual.*

## ACT

**To provide for the establishment of a public accountants' and auditors' board; for the registration of public accountants and auditors; and for the regulation of the training of public accountants and auditors; to repeal certain laws; and to provide for matters connected therewith.**

*(Afrikaans text signed by the State President.)*

*(Assented to 5 June 1991.)*

**Date of Commencement: 21 June 1991**

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

### 1. Definitions

In this Act, unless the context otherwise indicates –

“**board**” means the Public Accountants' and Auditors' Board mentioned in section 2;

“**firm**” means a public accountant and auditor, a number of public accountants and auditors in partnership or a company referred to in section 21(2);

“**Minister**” means the Minister of Finance;

“**neighbouring state of the Republic**” means a state the territory of which formerly formed part of the Republic, and the Republic of Namibia;

“**prescribed**” means prescribed by or under this Act;

“**public accountant**” means a person who is engaged in public practice;

“**public practice**” means the practice of a person who performs the functions of an

accountant and auditor, and for that purpose holds himself out as an accountant and auditor and places his services at the disposal of the public for reward;

**“society”** means any one of the following societies, which are in this Act collectively referred to as the four societies, namely;

- (a) The Transvaal Society of Chartered Accountants;
- (b) The Cape Society of Chartered Accountants;
- (c) The Natal Society of Chartered Accountants;
- (d) The Orange Free State Society of Chartered Accountants;

**“trainee accountant”** means a person who is serving under a training contract, and includes an articulated clerk in terms of the Public Accountants’ and Auditors’ Act, 1951 (Act No. 51 of 1951);

**“training contract”** means a written contract of training entered into in the prescribed form and registered with the board whereby a person is duly bound to serve a person or firm for a specified period and is entitled to receive training in the practice and profession of a public accountant and auditor, and includes articles of clerkship in terms of the Public Accountants’ and Auditors’ Act, 1951, existing at the commencement of this Act.

## **2. Continued existence of Public Accountants’ and Auditors’ Board**

(1) The Public Accountants’ and Auditors’ Board established by section 2 of the Public Accountants’ and Auditors’ Act, 1951 (Act No. 51 of 1951), shall, notwithstanding the repeal of that Act by this Act, continue to exist and to be a juristic person.

(2) The persons who immediately prior to the commencement of this Act were members of the Public Accountants’ and Auditors’ Board established by section 2 of the Public Accountants’ and Auditors’ Act, 1951, shall be deemed to have been appointed members of the board in terms of this Act, but the provisions of this subsection shall not be construed so as to lengthen the period of office of any such member to a longer period than that for which he was appointed.

## **3. Composition of board**

(1) The board shall consist of the following members, to be appointed by the Minister, namely –

- (a) the incumbent of the office of Auditor-General and four other persons selected by the Minister from among the persons for the time being holding office as –
  - (i) Commissioner for Inland Revenue;
  - (ii) Registrar of Co-operatives;
  - (iii) Executive Officer of the Financial Services Board;
  - (iv) Registrar of Companies;
  - (v) Registrar of Close Corporations;
  - (vi) Master of the Supreme Court,

or in any other capacities in the full-time service of the State where in the opinion of the Minister they are in the performance of their duties concerned to a considerable extent with certificates, reports or opinions furnished by accountants or auditors;

- (b) two persons who shall be lecturers in accounting or accountancy matters at any university in the Republic, and who shall be nominated by the Committee of University Principals established by section 6 of the Universities Act, 1955 (Act No. 61 of 1955);
- (c) one person who shall be nominated by each society and an additional person who shall be nominated by each society which has more than 250 members;
- (d) one person whom the Minister, after consultation with the persons appointed in terms of paragraphs (a), (b) and (c), deems fit to be a member of the board and who shall be a person engaged in public practice within a radius of 100 kilometres from the city hall of Johannesburg.

(2) Whenever any nomination in terms of subsection (1)(b) or (c) becomes necessary, the Minister shall call upon the Committee or society concerned, or cause it to be called upon, by notice in writing, to nominate, within a period specified in the notice, being not less than 30 days from the date thereof, the person or persons required to be nominated by that Committee or by the society concerned, as the case may be, for appointment to the board.

(3) If after having been called upon by notice under subsection (2) the said Committee or any such society fails to nominate within the period specified in that notice the person or persons required to be nominated in terms of such notice, the Minister may appoint such person or persons required as he may deem suitable, being a professor or professors or lecturer or lecturers or a member or members of the society concerned, as the case may be, up to the number required, to be a member or members of the board.

(4) For every member of the board appointed in terms of paragraph (b), (c) or (d) of subsection (1), there shall be an alternate member appointed in the same manner as such member, and any member of the board referred to in paragraph (a) of that subsection may, with the consent of the Minister, designate a person in the full-time service of the State to act in his stead as an alternate member on the board, and any alternate member so appointed or designated may attend and take part in the proceedings at any meeting of the board whenever the member to whom he has been appointed or designated as an alternate member is absent from such meeting.

- (5) (a) The Minister may, on the recommendation of the board, from time to time appoint a nominee of any body representing accountants and auditors in any of the neighbouring states of the Republic to be a member of the board, and any person so appointed shall hold office for such period, not exceeding one year, as the Minister may determine, and



shall have the right to attend meetings of the board and to take part in the proceedings thereat, but shall not have the right to vote.

(b) The Minister may, on the recommendation of the board, from time to time appoint another nominee of a body referred to in paragraph (a) as an alternate to a member appointed under that paragraph, and such alternate may, whenever the member to whom he has been appointed as an alternate is absent from a meeting of the board, attend such meeting and take part in the proceedings thereat, but shall not have the right to vote.

(6) The name of every person appointed as a member of the board, and of every person appointed as an alternate to any member, together with the date from which the appointment takes effect, shall be notified in the *Gazette*.

#### **4. Qualifications of members and circumstances under which they vacate office**

(1) No person shall be appointed as a member of the board in terms of subsection 1(c) or (d) of section 3, or as an alternate to any such member in terms of subsection (4) or (5)(b) of that section, unless he is registered as an accountant and auditor in terms of this Act.

(2) A member or alternate member of the board shall vacate his office –

(a) if he is an unrehabilitated insolvent;

<sup>(2)</sup>(b) if he has at any time been convicted (whether in the Republic or elsewhere) of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R300;

(c) if he is of unsound mind;

(d) if, in the case of a member appointed in terms of section 3(1)(b), he ceases to be a lecturer in accounting or accountancy matters at a university in the Republic;

(e) if, in the case of a member appointed in terms of section 3(1)(c) or (d) who at the date of his appointment was registered as an accountant and auditor in terms of this Act, he ceases to be so registered;

(f) if, in the case of a member appointed in terms of section 3(1)(d), he ceases to engage in public practice as contemplated in that paragraph; or

(g) if, in the case of a member, he has been absent from two consecutive meetings of the board without leave of the chairman of the board or if, in the case of an alternate member, he has been so absent during the absence of the member to whom he has been appointed as an alternate member.

#### **5. Tenure of office of members of board, and filling of vacancies**

(1) A member or an alternate member of the board (not being a member appointed in terms of section 3(1)(a) or his alternate, who shall hold office during the

Minister's pleasure) shall be appointed for a period of one year, but shall on termination of the period for which he was appointed, continue to hold office for a further period not exceeding three months until his successor has been appointed.

(2) Any person whose term of office as a member of the board has expired, including any person appointed under section 3(5), shall be eligible for re-appointment, but, subject to the provisions of subsection (1) of this section, no person shall hold office as a member of the board for more than six years during any period of nine years: Provided that in the computation of the total period for which any person has held office as a member of the board, any period during which he held office after the termination of a period for which he was appointed, but before the appointment of his successor, shall not be taken into consideration.

(3) Whenever the office of a member of the board becomes vacant before the expiration of the period for which he was appointed, the Minister may, subject to the applicable provisions of section 3, appoint a person to fill the vacancy for the unexpired portion of the period for which such member was appointed.

## **6. Chairman and vice-chairman of board**

(1) The members of the board shall at their first meeting and thereafter as occasion arises, from among themselves elect a chairman and a vice-chairman of the board, both of whom shall be public accountants, and any person so elected shall hold office as such until he ceases to be a member of the board on the expiration in terms of section 5(1) of his period of office, or by virtue of the provisions of section 4(2).

(2) A member of the board appointed in terms of subsection (1)(a) or (b) or under subsection (5) of section 3, shall not be elected as chairman or vice-chairman of the board or preside at any meeting thereof.

## **7. Meetings of board**

(1) The board shall meet at least twice in every year at such times and places as the board may from time to time determine.

(2) The chairman of the board may at any time convene an extraordinary meeting of the board to be held at a time and place determined by him, and shall, upon a written request signed by not less than three members of the board, convene an extraordinary meeting thereof to be held within two weeks after the date of receipt of such request, at a time and place determined by him.

## **8. Decisions of board**

(1) The quorum for a meeting of the board shall be a majority of all its members.

(2) If both the chairman and the vice-chairman are absent from any meeting of the board, the members present shall, subject to the provisions of section 6(2), from among themselves elect a person to preside at such meeting.

(3) The decision of a majority of the members of the board present at a meeting thereof shall constitute a decision of the board, and in the event of an equality of votes

on any matter the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.

(4) No decision taken by or act performed under the authority of the board shall be invalid by reason only of a casual vacancy on the board or of the fact that any person not entitled to sit as a member of the board, sat as such a member at the time the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the majority of the members of the board who were present at the time and entitled to sit as members.

## **9. Reports to Minister**

(1) The board shall in each year, within six months after the close of its financial year, submit to the Minister a report on its affairs and functions during that financial year, which shall, *inter alia*, include the following, namely –

- (a) a copy of the audited statement of income and expenditure and the balance sheet referred to in section 11(3) in respect of that financial year; and
- (b) a list of persons on the register of accountants and auditors on the last day of that financial year.

(2) The chairman of the board may from time to time submit to the Minister reports on matters connected with the activities of the board which in his opinion should be brought to the Minister's notice.

(3) Any three or more members of the board who are dissatisfied with a decision taken by the board on any matter within its purview in terms of the Act, may communicate to the Minister their dissent from such decision and the reasons therefor, and the Minister may upon receipt of any such communication, require the board to furnish him with its observations in regard to such matter, together with any information he may deem necessary.

(4) The board shall at the request of the Minister or any person in the service of the State who is charged with the administration of any law, furnish to the Minister or such person advice on questions in connection with the accountancy and auditing profession or cognate matters, and shall communicate to the Minister information acquired by it, in the course of its duties, on matters regarded by it as being of public import.

(5) The Minister shall lay copies of every report submitted to him in terms of subsection (1), together with the annexures thereto, upon the Table of Parliament within 14 days after receipt thereof if Parliament is then in session or, if Parliament is not then in session, within 14 days after the commencement of its next ensuing session.

## **10. Committees of board**

(1) The board may nominate one or more committees to assist it in the performance of its functions and duties.

(2) Such a committee shall consist of so many members of the board or so many other persons or so many members and other persons as the board may deem necessary, and the board may at any time dissolve or reconstitute such a committee.

(3) The board may assign to a committee so nominated such of its powers as it may deem fit, but shall not be divested of any power which it may have so assigned to any such committee, and may amend or withdraw any decision of any such committee: Provided that if the board has assigned to a committee the power to decide whether a person has passed an examination conducted in terms of section 19, or the power to determine whether or not any person shall be registered as an accountant and auditor, or the power to cancel the registration of any person as an accountant and auditor, or the power to inquire into any case of alleged improper conduct, and to impose a punishment in respect thereof, in accordance with the provisions of section 23, it shall not amend or withdraw any decision arrived at or anything done by such committee under the power so assigned.

(4) Any reference in this Act to the board in relation to the exercise of any power which it has assigned to a committee shall be construed as including a reference to that committee.

## **11. Funds of board and keeping and auditing of accounts**

(1) The funds of the board shall consist of the fees received by it pursuant to any provision made under section 13, and such other amounts, including advances referred to in subsection (4) of this section, as may in terms of this Act become payable to the board from time to time.

(2) The board shall cause full and correct account to be kept of all amounts received or expended by it.

(3) The board shall cause to be prepared in every year a statement of its income and expenditure during its last preceding financial year and a balance sheet showing its financial position at the end of that financial year, and shall, after such statement and balance sheet have been audited by an auditor appointed by the board, cause copies thereof to be transmitted to every member of the board and every society, and also to every person registered as an accountant and auditor in terms of this Act.

(4) (a) The Minister may, out of moneys appropriated by Parliament for that purpose, advance to the board such amounts as he may deem necessary to enable it to perform its functions.

(b) Any such advances shall be made on such conditions and shall be repayable at such times as the Minister may determine.

## **12. Remuneration and allowances of members of board and committees**

(1) A member of the board or a committee of the board, including any person appointed as an alternate to any such member (not being a member or person in the full-time service of the State), shall be paid such remuneration for services rendered by him in connection with the work of the board and such allowances to cover expenses reasonably incurred by him in the performance of his duties as a member of the board or of any such committee, as the board may determine.

<sup>(3)</sup>(2) A member of the board or any such committee who is in the full-time service of

the State may, in addition to his remuneration in respect of such service, receive such remuneration for special services rendered by him to the board as may be determined by the Minister in consultation with the Minister for the Public Service and Administration, but not exceeding an amount recommended by the board.

(3) Any remuneration or allowances which may become payable in terms of subsection (1) or (2), shall be paid out of the funds of the board.

<sup>(4)</sup> **13. General powers of board**

(1) The board may –

- (a) employ persons to assist it in the performance of its functions;
- (b) hire, purchase or otherwise acquire such movable or immovable property as the board may deem necessary for the effective performance of its functions, and let, sell or otherwise dispose of property so purchased or acquired;
- (b4) with or without security borrow or raise money in order to enable it to exercise any of the powers conferred upon it by this section;
- (c) determine the procedure at meetings of the board or any committee of the board;
- (d) regulate service under a training contract and prescribe the fees which shall be payable to the board in respect of the registration or transfer of any such training contract, or in respect of granting of exemption from service under a training contract or part thereof;
- (e)
  - (i) prescribe the fees which shall be payable to the board in respect of the registration of any person as an accountant and auditor, and the annual fees (which may differ in respect of a registered accountant and auditor who is engaged in public practice and a registered accountant and auditor who is not so engaged) which shall be payable to the board by any person so long as he remains registered as an accountant and auditor, and determine what portion of such annual fees shall be payable in respect of any part of a year and the date on which such annual fees or portion thereof shall become due and payable;
  - (ii) in its discretion prescribe such other fees and impose such other levies, which shall be payable by every person registered in terms of this Act as an accountant and auditor in order to enable it to finance the performance of its functions and the carrying out of its duties;
- (f) prescribe syllabuses in respect of examinations for trainee accountants or other persons, prescribe or conduct or make arrangements for the conduct of such examinations, and prescribe the fees which shall be payable to the board by such persons as the board may determine in respect of such syllabuses or examinations;

- (g) prescribe the degrees, diplomas and other qualifications which shall entitle any person to exemption from the requirements to be complied with by persons desiring to be registered as accountants and auditors, as well as the fees which shall be payable to the board in respect of such exemption;
- (h) (i) prescribe conduct constituting improper conduct by an accountant and auditor or other person registered in terms of this Act, the manner in which an allegation or a charge of improper conduct shall be investigated and, if necessary, heard, and the punishments, including a caution, a reprimand, a fine, suspension from practice for such period as the board may determine, removal from the register or qualified or temporary or permanent disqualification for registration, which may be imposed by the board after such an investigation or hearing;
- (ii) cause to be made known in a journal or other publication referred to in paragraph (i), or in the public press, the name of an accountant and auditor or other person (with or without the name of the firm with which he is associated) who has been heard as contemplated in subparagraph (i), together with the finding of the board or the committee holding the investigation or hearing, and the punishment, if any, imposed on the accountant and auditor or other person;
- (i) finance, print, circulate, administer the publication of and generally take any steps necessary to publish, a journal or any other publication relating to accounting and auditing and cognate matters;
- (j) invest its funds in such manner as it may deem fit;
- (k) assist in the provision of educational facilities for trainee accountants and other persons desiring to become registered as accountants and auditors;
- (l) (i) establish a fund for the purpose of compensating any person for loss or damage suffered by him as a result of dishonesty or negligence in the conduct of a public practice by any person registered as an accountant and auditor in terms of this Act;
- (ii) prescribe from time to time an amount which shall be payable to the board by way of contribution to such fund by any person so registered and engaged in public practice, and the times at which such amount shall be so payable;
- (iii) provide for the administration of such fund by a board of control consisting of the chairman of the board (who shall be chairman of such board of control) and such other persons appointed by the board as the board may deem fit; and
- (iv) prescribe or authorize such board of control to prescribe the circumstances under which and the conditions subject to which any payment may be made from such fund;

- (*m*) enter into an agreement with a body representing accountants and auditors in any of the neighbouring states of the Republic whereby the board undertakes to render assistance in connection with the performance by the said body of its functions, in such manner and on such conditions as may be agreed upon;
- (*n*) (i) prescribe that every person registered in terms of this Act as an accountant and auditor and engaged in public practice, shall be required to obtain professional indemnity insurance to cover any liability which he may incur as a result of negligence or dishonesty in the conduct of such practice;
- (ii) prescribe, in connection with the indemnity insurance referred to in subparagraph (i), the minimum cover requirements to be complied with, the contingencies to be covered by such insurance and the circumstances under which a person who would otherwise be required to obtain such insurance, shall be exempt therefrom;
- (*o*) take control or appoint a person to take control of the practice of any accountant and auditor in circumstances which the board deems to be in the public interest;
- (*p*) take any steps which it may consider expedient for the maintenance of the integrity, the enhancement of the status and the maintenance and improvement of the standards of professional qualifications and of the competence, of accountants and auditors, and encourage research in connection with problems relating to any matter affecting the accounting profession;
- (*q*) generally exercise the powers and perform the functions and duties specified in this Act.

(2) The board shall maintain separate registers in respect of trainee accountants and of accountants and auditors registered in terms of this Act, and such other registers as it may deem fit, and any such register shall at all reasonable times be open to inspection by any member of the public.

#### **14. Prohibition against practising as public accountant and auditor by unregistered person**

No person shall –

- (*a*) engage in public practice as an accountant or auditor or hold himself out as an accountant or auditor in public practice or use any designation or description likely to create the impression that he is an accountant or auditor in public practice; or
- (*b*) accept an appointment or act as an auditor where the appointment of an auditor or the performance of an audit is required by law,

unless he is registered as an accountant and auditor in terms of this Act and has paid, at the rate applicable to a registered accountant and auditor who is engaged in public practice, such annual fees as may be prescribed or such portion thereof as may be

determined by the board under section 13(1)(e): Provided that nothing in this section shall prohibit –

- (i) any person employed exclusively at a salary and not carrying on business on his own account, from describing himself as an accountant or internal auditor in relation to the undertaking in which he is employed; or
- (ii) any member of a club, institution or association which is not carried on with a view to profit, from acting as auditor of such club, institution or association if he receives no fee or other consideration for his services; or
- (iii) any Minister of State, Administrator or officer charged with the administration of any law, from appointing or authorizing or approving of the appointment of any person not registered as an accountant and auditor in terms of this Act, as auditor in respect of any undertaking regulated by that law where in the opinion of such Minister or Administrator or officer a person so registered is not readily available or by reason of the nature of the audit required or the amount of work involved therein or any other circumstances contemplated by such law, the appointment of a person so registered is not warranted; or
- (iv) the Auditor-General from appointing any person not registered as an accountant and auditor in terms of this Act as an auditor to carry out on his behalf any audit which he is in terms of any law required to undertake; or
- (v) a person who has been appointed or whose appointment has been authorized or approved under subparagraph (iii) or (iv) from carrying out any audit in respect of the undertaking in respect of which he has been so appointed or in respect of which his appointment has been so authorized or approved.

## **15. Registration of accountants and auditors**

(1) Any person who desires to be registered as an accountant and auditor shall in writing lodge with the board an application for such registration accompanied by the prescribed fee and such information as the board may require.

(2) If, after consideration of any such application, the board is satisfied that the applicant –

- (a) is not less than 21 years of age and is ordinarily resident in the Republic;
- (b) has, except to the extent to which he has been exempted therefrom in terms of this Act, served under a training contract for the prescribed period and passed the prescribed examinations;
- (c) has the necessary expertise to practise as an accountant and auditor in a case where a period of more than five years has elapsed between the date



<sup>(2)</sup>(d) of passing of the prescribed examinations and the date of the application; is a fit and proper person to be registered as an accountant and auditor, the board shall, subject to the provisions of subsection (4), register the applicant as an accountant and auditor and issue to him a certificate of registration in such form as it may prescribe.

(3) (a) Any person who desires to be registered as a non-resident accountant and auditor shall in writing lodge with the board an application for such registration accompanied by the prescribed fee and such information as the board may require.

(b) If, after consideration of such application, the board is satisfied that the applicant –

(i) is not less than 21 years of age and is not ordinarily resident in the Republic;

(ii) is a member of an organized body of accountants and auditors recognized by the board for the purposes of this subsection;

(iii) is a partner of a registered accountant and auditor ordinarily resident in and engaged in public practice in the Republic, or has furnished the board with a written undertaking approved by the board that upon or after registration he will be admitted into partnership with a registered accountant and auditor ordinarily resident in and engaged in public practice in the Republic,

the board shall, subject to the provisions of subsection (4), register the applicant as a non-resident accountant and auditor and issue to him a certificate of registration in such form as it may prescribe.

(c) Wherever in this Act the expression “accountant and auditor” is used, the expression shall, unless the context otherwise indicates, be deemed to refer also to a non-resident accountant and auditor.

(4) The board shall not register any person as an accountant and auditor in terms if this section –

(a) if he has at any time been removed from an office of trust on account of misconduct; or

(b) if he has at any time been convicted (whether in the Republic or elsewhere) of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992) or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R300; or

(c) if he is of unsound mind; or

(d) if he is disqualified for registration in terms of a punishment imposed under this Act,

and may refuse so to register any person who is an unrehabilitated insolvent or who has entered into an arrangement with his creditors or who by reason of his conduct is in the opinion of the board not a fit person to be registered.

(5) The board shall cancel the registration as an accountant and auditor of any person who subsequent to his registration becomes subject to any of the disqualifications mentioned in subsection (4)(a) or (b), and may cancel the registration of any person whose estate is sequestrated or who enters into an arrangement with his creditors or whose registration was made in error or on information subsequently proved to be false or who has prior to his registration been guilty of conduct by reason of which he is in the opinion of the board not a fit person to be registered.

(6) The board shall cancel the registration as a non-resident accountant and auditor of any person who –

- (i) subsequent to his registration becomes ordinarily resident in the Republic; or
- (ii) does not within six months after the date of his registration produce proof to the satisfaction of the board that he has been admitted into partnership with a registered accountant and auditor ordinarily resident in and engaged in public practice in the Republic; or
- (iii) ceases to be a partner of a registered accountant and auditor ordinarily resident in and engaged in public practice in the Republic, and does not within six months thereafter produce proof to the satisfaction of the board that he has been admitted into any other partnership with such a registered accountant and auditor; or
- (iv) is in partnership with a registered accountant and auditor who has ceased to engage in public practice in the Republic or with a person whose registration as an accountant and auditor has been cancelled or has lapsed under or by virtue of any of the provisions of this Act, unless he produces proof to the satisfaction of the board within six months thereafter that such partnership has been dissolved and that he has been admitted into partnership with another registered accountant and auditor ordinarily resident in and engaged in public practice in the Republic; or
- (v) becomes subject to any of the disqualifications referred to in this Act other than that set out in subsection (7)(a).

(7) The registration of any person as an accountant and auditor shall lapse if such person –

- (a) ceases permanently to reside in the Republic; or
- (b) fails to pay any annual fees or portion thereof prescribed or determined under section 13(1)(e) and payable by him within three months after such fees or portion thereof become due or within such further period as the board may in any particular case allow.

(8)(a) Subject to the provisions of subsection (4), the board shall on application to it register as an accountant and auditor any person who was previously registered as an accountant and auditor in terms of this Act, if he possesses the prescribed residential qualifications and has paid the prescribed registration fees and any arrear annual fees.

(b) Paragraph (a) shall not apply in respect of a non-resident accountant and auditor.

(9) The board shall, at the written request of any accountant and auditor registered as such in terms of this Act, remove his name from the register, but the removal shall not affect any liability incurred by such accountant and auditor prior to the date of such request.

(10) A person who is registered in terms of this section as an accountant and auditor, may describe himself as a registered accountant and auditor, and shall, if he has paid the annual fees (or portion thereof) prescribed or determined by the board under section 13(1)(e) at the rate applicable to a registered accountant and auditor engaged in public practice, be entitled to describe himself as a public accountant or a public accountant and auditor and to engage in public practice in any part of the Republic.

<sup>(2)</sup>(10A) Any person who is registered in terms of this section as an accountant and auditor may affix the abbreviation “RAA” after his or her name.

(11) Any person who immediately prior to the commencement of this Act was registered as an accountant and auditor in terms of the Public Accountants’ and Auditors’ Act, 1951 (Act No. 51 of 1951), shall be deemed to have been registered as an accountant and auditor in terms of this Act.

## **16. Restrictions in connection with non-resident accountants and auditors**

(1) No person –

(a) who is registered under this Act as a non-resident accountant and auditor shall become a member of a firm of which more than half of the members are persons registered as non-resident accountants and auditors or of which more than half of the members would be such persons if he became a member thereof;

(b) who is a member of a firm referred to in paragraph (a) shall permit a person registered as a non-resident accountant and auditor to become a member of that firm;

(c) shall be a member of a firm of which more than half of the members are persons registered as non-resident accountants and auditors.

(2) No person registered in terms of this Act as a non-resident accountant and auditor may, in that capacity of an accountant or auditor, in his own name or in the name of the firm of which he is a member, certify, or furnish a report or an opinion on, any financial statement (including any annexure thereto) or other document relating to the operations in the Republic of an undertaking registered or established in the Republic under any law or carrying on business in the Republic.

## **17. Exemption of certain non-resident accountants and auditors**

(1) The board may on such conditions as it may determine, exempt a person who is ordinarily resident in a neighbouring state of the Republic and is registered in terms of this Act as a non-resident accountant and auditor or desires to be registered as such, from any or all of the provisions of sections 15(3)(b)(ii) and (iii) and 6(ii), (iii) and (iv) and 16 in so far as such provisions apply to such person.

(2) An exemption referred to in subsection (1) may be withdrawn by the board by giving the exempted person six months' written notice of the withdrawal of his exemption: Provided that the exemption of a person who contravened or failed to comply with a condition of his exemption, may be withdrawn by the board summarily.

### **18. Training contracts**

(1) No service under a training contract entered into after the commencement of this Act shall be recognised for the purposes of this Act unless such training contract has been registered with the board, and no training contract shall be so registered unless the person with whom or firm with which service is to be performed thereunder has obtained the consent of the board to engage a trainee accountant.

(2) Service under a training contract shall be prescribed by the board from time to time.

### **19. Examinations**

(1) The examinations to be passed by persons desiring to qualify for registration as accountants and auditors shall be as prescribed by the board from time to time.

(2) The board may, instead of itself conducting any examination prescribed by it, make arrangements for such examination or any part thereof to be conducted on its behalf by any one or more universities or institutions approved by the Minister, and may determine the conditions subject to which such examination shall be so conducted.

(3) The board may require any person desiring to enter for any of the examinations prescribed by it, as a necessary prerequisite to so entering, to obtain from a university in the Republic such degree, diploma or certificate as it may determine or to pass such examinations conducted by a university in the Republic as the board may determine.

(4) Any person entering as a candidate for an examination referred to in this section shall indicate whether he wishes to write the examination in English or Afrikaans, and all examination papers shall be supplied to that person and may be answered by him in the language so indicated.

(5) The board may exempt from the obligation to pass any examination referred to in this section, any person who –

- (a) has passed outside the Republic any examination prescribed or approved by the board; or
- (b) has obtained a degree, other than an honorary degree, or a university diploma or a university certificate prescribed or approved by the board:

Provided that –

- (i) no such person shall be registered as an accountant and auditor until he has passed such examination in the law of the Republic as the board may determine;
- (ii) no person shall be allowed to sit for such examination unless he has furnished proof to the satisfaction of the board that he is permanently

resident in the Republic, the Republic of Bophuthatswana, the Republic of Ciskei, the Republic of Venda or the Republic of Namibia;

- (iii) exemption shall be given only in respect of such part or parts of the examinations as the board may deem fit.

## 20. Powers and duties of auditors

(1) No person acting in the capacity of auditor to any undertaking shall, without such qualification as may be appropriate in the circumstances, pursuant to any audit carried out by him in that capacity, certify or report or express an opinion to the effect that any financial statement, including any annexure thereto, which relates to such undertaking, presents fairly, or gives a true and fair view of, or reflects correctly, the affairs of such undertaking and the results of its operations, or the matters dealt with in such financial statement or annexure, as the circumstances may require, unless –

- (a) he has carried out such audit free of any restrictions whatsoever;
- (b) proper accounting records in one of the official languages of the Republic have been kept in connection with the undertaking in question, so as to reflect and explain all its transactions and record all its assets and liabilities correctly and adequately;
- (c) he has obtained all information, vouchers and other documents which in his opinion were necessary for the proper performance of his duties;
- (d) he has, in the case of an undertaking regulated by any law, complied with all the requirements of that law relating to the audit of that undertaking;
- (e) he has by means of such methods as are reasonably appropriate having regard to the nature of the undertaking in question, satisfied himself of the existence of all assets and liabilities shown on such financial statement or annexure;
- (f) he is satisfied, as far as is reasonably practicable having regard to the nature of the undertaking in question and of the audit carried out by him, as to the fairness or the truth or the correctness, as the case may be, of such financial statement or annexure;
- (g) any matter referred to in subsection (5) had, at the date on which he so certified or reported, or expressed such opinion, been adjusted to his satisfaction.

(2) No accountant or auditor shall, when acting otherwise than pursuant to an audit, certify or report, or express an opinion, without such qualification as may be appropriate in the circumstances, to the effect that any account, financial statement (including any annexure thereto) or other document relating to the business or financial affairs of any undertaking, presents fairly, or gives a true and fair view of, or reflects correctly, the matters dealt with therein, unless he has *mutatis mutandis* complied with the provisions of subsections (1)(a), (c) and (f).

(3) If any accountant or auditor or his partner or any person employed by him or

his partner or any person working under his supervision and control or under the supervision and control of his partner, was responsible for keeping the books, records or accounts of an undertaking, except to the extent of making closing entries or assisting with any adjusting entries or framing any balance sheet, account, statement or other document from existing records, such accountant or auditor shall, in certifying or reporting on anything in connection with the business or financial affairs of such undertaking, indicate that, as the case may be, he or his partner or a person employed by him or his partner or a person working under his supervision and control or under the supervision and control of his partner was responsible for keeping such books, records or accounts.

(4) Any certificate required to be given or report to be made or opinion to be expressed by an accountant or auditor in his capacity as accountant or auditor pursuant to any assignment carried out by him, shall be given or made or expressed within a period of four months after the date on which the assignment was completed, and if such accountant and auditor is unable to give an unqualified certificate or make an unqualified report or express an unqualified opinion, he shall within the said period give that certificate or make that report or express that opinion subject to such qualifications as he may deem necessary and may, if he considers it advisable, endorse on that certificate, report or opinion the reason for any such qualification.

(5) (a) If any person acting in the capacity of auditor to any undertaking is satisfied or has reason to believe that in the conduct of the affairs of such undertaking a material irregularity has taken place or is taking place which has caused or is likely to cause financial loss to the undertaking or to any of its members or creditors, he shall forthwith despatch a report in writing to the person in charge of that undertaking giving particulars of the irregularity, at the same time drawing the attention of such person in charge to the provisions in paragraphs (b) and (c) and requesting him to acknowledge receipt of such report in writing.

(b) Unless within 30 days after an auditor has despatched such a report, he has been satisfied that no such irregularity has taken place or is taking place or that adequate steps have been taken for the recovery of any such loss so caused or for the prevention of any such loss likely to be so caused, he shall forthwith furnish the board with copies of the report and of any acknowledgement of receipt thereof and reply thereto and such other particulars as he may deem fit.

<sup>(2)</sup>(c) The board may disclose any information supplied to it in terms of paragraph (b) to any attorney-general or the Registrar of Banks or any officer in the public service or any member or creditor of the undertaking concerned or any juristic person of whom the undertaking is a member or who has control over the undertaking or who has the power to take disciplinary steps against the undertaking, or to the committee of any stock exchange on which shares of the undertaking are listed, or, if the

board believes it to be in the best interests of the public, to any other person, institution or body.

(d) For the purpose of determining whether any irregularity contemplated by this subsection has taken place or is taking place, an auditor may carry out such investigation as he may deem fit.

(e) Nothing in this subsection contained shall be construed as conferring upon any person any right of action against an auditor which, but for the provisions of this subsection, he would not have had.

(6) (a) If any person who was acting in the capacity of auditor to any undertaking immediately prior to its sequestration or liquidation (whether provisional or final), is satisfied or has reason to believe that at or before the date of the sequestration or liquidation a material irregularity in the conduct of the affairs of such undertaking was taking place or had taken place which had caused or was likely to cause financial loss to the undertaking or to any of its members or creditors, and such person did not comply with the provisions of subsection (5)(a) in respect of such irregularity before the said date, he shall forthwith despatch a report in writing, giving particulars of such irregularity, to the person appointed as trustee or provisional trustee, or as liquidator or provisional liquidator, as the case may be, of such undertaking, and at the same time supply copies of such report to the person in charge of such undertaking and to the board.

(b) If any person who was acting in the capacity of auditor to any undertaking immediately prior to its sequestration or liquidation (whether provisional or final) and who has not taken action in terms of subsection (5)(a) or despatched a report in writing in terms of paragraph (a) of this subsection, is at any time requested in writing to do so by the person appointed as trustee or provisional trustee or as liquidator or provisional liquidator, as the case may be, of such undertaking, he shall forthwith inform the person so requesting whether or not a report in writing is required by paragraph (a) of this subsection, and in the event of his informing the person so requesting that such report is so required, he shall forthwith despatch the report to him, and at the same time supply copies of such report to the person in charge of such undertaking and to the board.

(c) The provisions of subsection (5)(c) shall *mutatis mutandis* apply with reference to any information supplied to the board in terms of paragraph (a) of this subsection, and the provisions of subsection (5)(e) shall *mutatis mutandis* apply with reference to any provision of this subsection.

(7) An auditor shall, in performing any duty referred to in subsections (5) and (6), have regard to all the information which comes to his knowledge in his capacity of auditor to any undertaking and all the information which comes to his knowledge from any other source.

(8) If a person who has been registered as an accountant and auditor in terms of this Act –

- (a) fails to perform any duties devolving upon him in the capacity of an auditor to any undertaking with such degree of care and skill as in the opinion of the board may reasonable be expected; or
- (b) is negligent in the performance of such duties,

the board may, whether or not such auditor is liable to be or has been criminally charged or has been convicted in respect of such failure or negligence, inquire into the circumstances, and if such failure or negligence is proved to its satisfaction, impose upon that person any of the punishments prescribed under section 13(1)(h) which it may deem fit: Provided that no such person shall incur liability to punishment by the board by reason of any opinion expressed by him in good faith as to the value or amount of any asset or liability appearing on the balance sheet in respect of the undertaking in connection with which the audit was carried out, or by reason of his having declined to express any opinion thereon, if the board is satisfied that, having regard to the nature of such asset or liability or any other circumstances, he could not reasonably have been expected to express an authoritative opinion.

(9) Any person registered as an accountant and auditor in terms of this Act shall, in respect of any opinion expressed or certificate given or report or statement made or statement, account or document certified by him in the ordinary course of his duties –

- (a) incur no liability to his client or any third party, unless it is proved that such opinion was expressed or such certificate was given or such report or statement was made or such statement, account or document was certified maliciously or pursuant to a negligent performance of his duties; and
- (b) where it is proved that such opinion was expressed or such certificate was given or such report or statement was made or such statement, account or document was certified pursuant to a negligent performance of his duties, be liable to any third party who has relied on such opinion, certificate, report, statement, account or document, for financial loss suffered as a result of having relied thereon, only if it is proved that the auditor or person so registered –

- (i) knew or could in the particular circumstances reasonably have been expected to know, at the time when the negligence occurred in the performance of the duties pursuant to which such opinion was expressed or such certificate was given or such report or statement was made or such statement, account or document was certified –

- (aa) that such opinion, certificate, report, statement, account or document would be used by his client to induce the third party to act or refrain from acting in some way or to enter into the specific transaction into which the third party entered, or any other transaction of a similar nature, with the client or any other person; or



(bb) that the third party would rely on such opinion, certificate, report, statement, account or document for the purpose of acting or refraining from acting in some way or of entering into the specific transaction into which the third party entered, or any other transaction of a similar nature, with the client or any other person; or

(ii) in any way represented, at any time after such opinion was expressed or such certificate was given or such report or statement was made or such statement, account or document was certified, to the third party that such opinion, certificate, report, statement, account or document was correct, while at such time he knew or could in the particular circumstances reasonably have been expected to know that the third party would rely on such representation for the purpose of acting or refraining from acting in some way or of entering into the specific transaction into which the third party entered, or any other transaction of a similar nature, with the client or any other person.

<sup>(1)</sup>(9A) Nothing in subsection (9) contained shall be construed as conferring upon any person any right of action against an auditor which, but for the provisions of that subsection, he would not have had.

(10) For the purposes of paragraph (b) of subsection (9) the fact that an auditor or a person referred to in that paragraph performed the functions of an accountant or auditor shall not in itself be proof that he could reasonably have been expected to know that –

(a) his client would act as contemplated in subparagraph (i)(aa) of the said paragraph (b); or

(b) the third party would act as contemplated in subparagraph (i)(bb) or (ii) of the said paragraph (b).

(11) The provisions of paragraph (b) of subsection (9) shall not affect –

(a) any liability of an auditor or a person referred to in that subsection which arises from –

(i) a contract between a third party and such auditor or person; or

(ii) any statutory provision; or

(b) any disclaimer of liability by an auditor or a person referred to in that subsection.

(12) For the purposes of subsection (9), (10) or (11) –

“client” means the person for whom an auditor or a person referred to in subsection (9), or his firm, has performed the duties concerned;

“third party” means any person other than the client concerned, and includes any member of a client which is a company or external company (as defined in section 1 of the Companies Act, 1973 (Act No. 61 of 1973)) or which is any other juristic person.

## **21. Carrying on of business**

(1) A public accountant may engage in public practice by himself or in partnership with other public accountants.

(2) Persons registered in terms of this Act as accountants and auditors and engaged in public practice may in terms of the Companies Act, 1973 (Act No. 61 of 1973) form a company to engage in public practice through its members, provided –

- (a) the company is incorporated and registered as a company in terms of the Companies Act, 1973, with a share capital, and its memorandum of association provides that its directors and past directors shall be liable jointly and severally, together with the company, for its debts and liabilities contracted during their periods of office;
- (b) only natural persons who are public accountants are members or shareholders of the company or have any interest in its shares;
- (c) every shareholder of the company is a public accountant and director thereof and only such a shareholder may be a director thereof;
- (d) in the case where a shareholder of the company or a person having any interest in its shares dies or ceases to conform to any requirement of paragraph (b), his estate or he, as the case may be, may continue to hold the relevant shares or interest for a period of six months as from the date of the death or on which he ceases to so conform or for such longer period as the board may approve;
- (e) no voting rights attach to any share contemplated in paragraph (d), and a shareholder therein mentioned does not act as a director of the company or receive, directly or indirectly, any director's fees or remuneration or participate in the income of or profits earned by the company in its business;
- (f) the company may, if its articles of association so provide and without confirmation by a court, purchase on such conditions as it may deem expedient any shares held in it without its authorized share capital being reduced thereby;
- (g) shares purchased under paragraph (f) are available for allotment in terms of the company's articles of association;
- (h) the company's articles of association provide, notwithstanding anything to the contrary contained in any other law, that a member of the company shall not appoint a person who is not a member of the company to attend, or speak or vote, in his stead at any meeting of the company;
- (i) the company ceases so to engage in public practice immediately when it ceases to conform to paragraphs (a) and (b): Provided that the provisions of this paragraph shall not, during the period referred to or contemplated in paragraph (d), apply to the company by reason only of the fact that a shareholder of the company or a person having an interest in the shares of the company has ceased to be a public accountant.

(3) The provisions of section 20(1)(b) of the Companies Act, 1973 (Act No. 61 of 1973), shall not apply in respect of a company referred to in subsection (2) of this section of this Act, if it is a private company.

## **22. Information to be furnished by accountants and auditors**

(1) Every person who is registered as an accountant and auditor in terms of this Act and is engaged in public practice shall, subject to the provisions of subsection (3) –

- (a) notify the board and every person for whom he or his firm acts as auditor of any change in the name, composition or address of such firm not later than 14 days after the date on which such change takes place: Provided that notice of a change in –
- (i) the name or address of any branch office of a firm; or
  - (ii) the composition of a firm particularly involving a partner assigned to a branch office of such firm,

need to be given only to the board and such persons to whom professional services are provided from such branch office; and

- (b) furnish the following information within 14 days after receiving a request therefor from any person for whom he or his firm acts as auditor or who proposes to appoint him or his firm as auditor, namely –
- (i) every firm name or title under which he practises;
  - (ii) the place or places of business of all partnerships in which he is in public practice as a partner;
  - (iii) the full names of all his partners; and
  - (iv) his nationality, his first names or the initials thereof, his surname and every surname which he may have borne previously and his ordinary business address and his residential address.

(2) When two or more such persons are practising in partnership the particulars referred to in subsection (1) may be furnished in a communication by or in the name of the firm, and any such communication shall be deemed to be a sufficient compliance by the individual partners of that firm with the provisions of that subsection.

(3) For the purposes of subsection (1) the expression “every surname which he may have borne previously” does not include –

- (a) in the case of a person adopted as a child, his surname before his adoption; or
- (b) in the case of any person, any surname previously borne by him which was changed or disused before he attained the age of 18 years or has been changed or disused for a period of not less than 20 years; or
- (c) in the case of a married or divorced woman or a widow, the surname borne by her before her marriage.

(4) Every person who is registered as an accountant and auditor in terms of this Act –

- (a) and who is not engaged in public practice shall notify the board forthwith if he commences public practice and of any change in his address;
- (b) and who engages in public practice, shall notify the board forthwith if he ceases to be engaged in public practice.

(5) The provisions of this section shall also apply, in so far as they can be applied, to a company referred to in section 21(2).

<sup>(1,4)</sup> **22A. Inspection by board**

(1) (a) For the purposes of section 13(p) the board, or a person from time to time authorized thereto by the board, may review the practice of an accountant and auditor and may inspect any book, document or thing in the possession or under the control of an accountant and auditor.

(b) The Board may recover the costs connected with a review referred to in paragraph (a) from the accountant and auditor whose practice has been reviewed.

(2) An accountant and auditor shall, at the request of the board, or a person authorized thereto by the board, produce a book, document or thing and shall not, subject to the provisions of any other law, refuse to produce such book, document or thing, even though he is of the opinion that that book, document or thing contains confidential information of his client.

(3) An accountant and auditor who acts in good faith during the review of his practice or such inspection, and who produces a book, document or thing under subsection (2), shall not be held liable criminally or under the civil law as a result thereof.

(4) Any person who is or was concerned in the performance of any function under this section, shall not disclose any information which he obtained in the performance of such function except –

(a) for the purposes of an investigation under section 23 or a hearing under section 24;

(b) to a person authorized thereto by the board and who of necessity requires it for the performance of his functions under this Act;

(c) if he is a person who of necessity supplies it in the performance of his functions under this Act;

(d) when required to do so by order of a court of law; or

(e) at the written request of an attorney-general, to any competent authority which requires it for the institution, or an investigation with a view to the institution, of any criminal prosecution.

(5) Any person who –

(a) refuses or fails to produce a book, document or thing under subsection (2);

(b) contravenes subsection (4); or

(c) obstructs or hinders any person in the performance of his functions under this section,

shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding one year.

**23. Disciplinary powers of board**

(1) The board may investigate or cause to be investigated and, if necessary, hear any allegation or charge of improper conduct, whether prescribed or not, of which a

person who is or was registered in terms of this Act is alleged to have been guilty while he was so registered, and impose any prescribed punishment in respect of such a charge: Provided that in the case of alleged improper conduct which forms or which the board has reason to believe is likely to form the subject of criminal or civil proceedings in a court of law, the board may postpone inquiry until such proceedings have been determined: Provided further that nothing in this section shall affect the right of any society or organized body of professional accountants from taking disciplinary or other action against any of its members in accordance with its constitution and rules.

(2) The board may order any person upon whom any punishment is imposed under subsection (1) to pay such reasonable costs as the board may have incurred in connection with the investigation or hearing of the charge in question, or such part thereof as the board may consider just: Provided that notwithstanding that any person whose conduct has been investigated under subsection (1) may not have been found guilty of improper conduct, or that no punishment may have been imposed on him, the board may nevertheless order him to defray such costs if his conduct in relation to the investigation or hearing, in the opinion of the board, was such as to cause the board to incur unnecessary cost.

(3) Whenever –

(a) any punishment imposed under subsection (1) consists of, or includes, any fine; or

(b) an order as to costs has been made under subsection (2),

the amount thereof shall be recoverable by the board from the person concerned, and any amount so recovered shall be paid into the funds of the board.

(4) Whenever in the course of any proceedings before a court of law it appears to the court that there is *prima facie* proof of improper conduct on the part of a person registered in terms of this Act, or of conduct on the part of such a person which, regard being had to the profession of an accountant and auditor, is improper, the court shall direct that a copy of the record of the proceedings or such part thereof as relates to such conduct, shall be sent to the board.

## **24. Hearing by board**

(1) For the purpose of an enquiry under section 23, the board may –

(a) summon any person who in its opinion may be able to give material information concerning the subject of the hearing or who is believed to have in his possession or custody or under his control any book, document or thing which has any bearing on the subject of the hearing, to appear before it at a time and place specified in the summons, to be interrogated or to produce that book, document or thing, and may retain for examination any book, document or thing so produced;

(b) call and, by its chairman or by any other person authorized thereto by it, administer an oath to, or accept an affirmation from, any person present

at the hearing who was or could have been summoned under paragraph (a) and interrogate him and require him to produce any book, document or thing in his possession or custody or under his control;

(c) appoint any person to advise the board at such hearing on matters pertaining to law, procedure or evidence, and who may, with the consent of the chairman of the board, interrogate any person present at the hearing.

(2) A summons for the attendance before the board of any person or for the production of any book, document or thing shall be in the form prescribed by the board, shall be signed by the chairman of the board or a person authorized thereto by it, and shall be served in the same manner as it would have been served if it had been a subpoena in a civil matter in a magistrate's court.

(3) If any person who has been duly summoned under this section fails, without sufficient cause, to attend at the time and place specified in the summons, or to remain in attendance until excused from further attendance by the chairman of the board, or if any person called under subsection (1)(b) refuses to be sworn or to affirm as a witness or fails without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him concerning the subject of the hearing or to produce any book, document or thing in his possession or custody or under his control which he has been required to produce, he shall be guilty of an offence: Provided that in connection with the interrogation of any such person or the production of any such book, document or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply.

(4) Any witness who, having been duly sworn or having made an affirmation, gives a false answer to any question lawfully put to him or makes a false statement on any matter, knowing such answer or statement to be false, shall be guilty of an offence.

(5) Any person who wilfully hinders the chairman or any member or official of the board in the exercise of any power conferred upon him by or under this section, shall be guilty of an offence.

(6) A person whose conduct is being inquired into by the board shall be informed of the nature of the complaint made against him and shall be entitled to appear by himself or to be represented by some other person duly authorized by him in writing on his behalf, and to produce evidence, call and examine witnesses on his behalf and cross-examine other witnesses.

(7) Any person convicted of an offence under this section shall be liable to a fine not exceeding R2 000.

## **25. Suspension from practising of registered accountants and auditors who are of unsound mind**

(1) Whenever it appears to the board from information on oath that any person registered as an accountant and auditor in terms of this Act has become of unsound

mind to such an extent that it would be contrary to the public welfare to allow him to continue to practise, the board may, if it deems fit, hold an inquiry *mutatis mutandis* in accordance with the provisions of section 24 in respect of such person.

(2) If the board finds that such person has so become of unsound mind, it may order the suspension of such person for a specified period from practising as a public accountant.

(3) The board may extend for any period determined by it the period of operation of, or withdraw, any order made under this section.

### <sup>(3)</sup>26. Privileges of board

The board or any member or official thereof shall not be liable in respect of any act or duty performed in good faith in accordance with the provisions of sections 13(1)(o), 20, 22, 23 or 24.

### 27. Offences and penalties

(1) No person who is registered as an accountant and auditor under this Act, shall –

(a) except with the consent of the board knowingly employ in connection with his practice –

(i) any person while such person is suspended from public practice under any provision of this Act; or

(ii) any person not registered as an accountant and auditor in terms of this Act who was previously so registered; or

(iii) any person not registered as an accountant and auditor in terms of this Act whom the board has refused to register by virtue of the provisions of section 15(4);

(b) make over to or share with any person (other than a person registered as an accountant and auditor in terms of this Act or practising as an accountant and auditor outside the Republic) any portion of professional fees earned by him in respect of work performed by him as an accountant and auditor;

(c) share profits derived from his practice as an accountant and auditor in the Republic, or practise in the Republic in partnership, with any person not registered as an accountant and auditor in terms of this Act;

(d) practise under a firm name or title unless on every letterhead bearing such firm name or title there appears –

(i) his present first names, or initials, and surname; or

(ii) in the case of a partnership –

(aa) at least the present first names, or initials, and surnames of the managing partners or, if there are no managing partners, of the active partners, or where such a letterhead is used only by a branch office of the partnership at least the present first names, or initials, and surnames of the managing partners at

that branch office or, if there are no such managing partners, of the resident partners at that branch office or, if there are no such resident partners, of the partners assigned to that branch office; and

- (bb)* if any partner referred to in subparagraph *(aa)* is not ordinarily resident in the Republic, a statement of that fact and the name of the country in which such partner is ordinarily resident;
- (e)* sign any account, statement, report or other document which purports to represent work performed by him, unless such work was performed by himself or under his personal supervision or direction or by or under the personal supervision or directions of one or more of his partners: Provided that the provisions of this paragraph shall not apply in respect of work performed on behalf of a person registered as an accountant and auditor in terms of this Act by another person so registered or in respect of work performed outside the Republic by a member of an organised body of professional accountants outside the Republic whose status, in the opinion of the board, is at least equal to that demanded by the board for the profession in the Republic: Provided further that nothing in this paragraph shall prevent any person registered as an accountant and auditor in terms of this Act from signing the firm name or title under which he practises;
- (f)* perform professional work in connection with any matter which is the subject of dispute or litigation on condition that payment for such work shall be made only if such dispute or litigation ends favourably for the party for whom such work is performed;
- (g)* engage in public practice during any period in respect of which he has been suspended from practice;
- (h)* engage in public practice without carrying such professional indemnity insurance as may be prescribed by the board.

(2) For the purposes of section 171 of the Companies Act, 1973 (Act No. 61 of 1973), in relation to a company referred to in section 21(2) of this Act, it shall be regarded as sufficient if a writing referred to in the former section which emanates from a branch office of any such company contains the required particulars in respect of directors attached to that branch office.

(3) Any person who contravenes or fails to comply with any provision of this Act, shall be guilty of an offence and, where no other penalty is prescribed, liable on conviction to a fine not exceeding R4 000.

## **28. Repeals of laws, and savings**

(1) Subject to the provisions of subsection (2), the laws specified in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

(2) Anything done under any provision of any law repealed by subsection (1),



and which could be done under a provision of this Act, shall be deemed to have been done under the last-mentioned provision.

(3) Any matter in connection with anything with which anything has been done under any law mentioned in subsection (1), except the Transvaal and Natal Societies of Chartered Accountants Act, 1968 (Act No. 66 of 1968), prior to the commencement of this Act or anything incidental to any such matter or which may be necessary to be done in connection with any such matter or which arises therefrom shall as from the said commencement be dealt with or further dealt with in terms of the relevant provisions of this Act.

## **29. Short title and commencement**

(1) This Act shall be called the Public Accountants' and Auditors' Act, 1991, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.

(3) Any reference in this Act to the commencement thereof shall be construed as a reference to the applicable date so fixed.

**SCHEDULE  
LAWS REPEALED**

<b>No. and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
Act No. 51 of 1951	Public Accountants' and Auditors' Act, 1951	The whole
Act No. 47 of 1956	Public Accountants' and Auditors' Amendment Act, 1956	The whole
Act No. 64 of 1957	Public Accountants' and Auditors' Amendment Act, 1957	The whole
Act No. 30 of 1962	Public Accountants' and Auditors' Amendment Act, 1962	The whole
Act No. 68 of 1965	Public Accountants' and Auditors' Amendment Act, 1965	The whole
Act No. 66 of 1968	Transvaal and Natal Societies of Chartered Accountants Act, 1968	The whole
Act No. 80 of 1971	General Law Amendment Act, 1971	Sections 15 & 16
Act No. 61 of 1973	Companies Act, 1973	Section 275(1)(e)
Act No. 53 of 1975	Public Accountants' and Auditors' Amendment Act, 1975	The whole
Act No. 91 of 1979	Public Accountants' and Auditors' Amendment Act, 1979	The whole
Act No. 42 of 1982	Public Accountants' and Auditors' Amendment Act, 1982	The whole
Act No. 12 of 1983	Public Accountants' and Auditors' Amendment Act, 1983	The whole
Act No. 48 of 1984	Public Accountants' and Auditors' Amendment Act, 1984	The whole
Act No. 51 of 1985	Public Accountants' and Auditors' Amendment Act, 1985	The whole
Act No. 45 of 1986	Public Accountants' and Auditors' Amendment Act, 1986	The whole
Act No. 9 of 1988	Public Accountants' and Auditors' Amendment Act, 1988	The whole
Act No. 92 of 1988	Accountants' and Auditors' and Financial Institutions' Amendment Act, 1988	Sections 1 & 2
Act No. 3 of 1990	Public Accountants' and Auditors' Amendment Act, 1990	The whole

<sup>(1)</sup>**PUBLIC ACCOUNTANTS' AND AUDITORS'  
AMENDMENT ACT, 1993  
ACT 70 OF 1993**

**To amend the Public Accountants' and Auditors' Act, 1991, so as to further regulate the general powers of the Public Accountants' and Auditors' Board; to make further provision for the limitation of liability of auditors; and to provide for a certain inspection by that Board; and to provide for matters connected therewith.**

*(Afrikaans text signed by the State President.)  
(Assented to 17 June 1993.)*

**Date of commencement: 25 June 1993**

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

**1. Amendment of section 13 of Act 80 of 1991**

Section 13 of the Public Accountants' and Auditors' Act, 1991, is hereby amended by the substitution of paragraph (p) of subsection (1) of the following paragraph:

“(p)take any steps which it may consider expedient for the maintenance of the integrity, the enhancement of the status, and the maintenance and improvement of the standards of professional qualifications and of the competence, of accountants and auditors, and encourage research in connection with problems relating to any matter affecting the accounting profession;”.

**2. Amendment of section 20 of Act 80 of 1991**

Section 20 of the Public Accountants' and Auditors' Act, 1991, is hereby amended by the insertion after subsection (9) of the following subsection:

“(9A) Nothing in subsection (9) contained shall be construed as conferring upon any person any right of action against an auditor which, but for the provisions of that subsection, he would not have had.”

**3. Insertion of section 22A in Act 80 of 1991**

The following section is hereby inserted in the Public Accountants' and Auditors' Act, 1991, after section 22:

## **“22A. Inspection by board**

(1) For the purposes of section 13(p) the board, or a person from time to time authorized thereto by the board, may review the practice of an accountant and auditor and may inspect any book, document or thing in the possession or under the control of an accountant and auditor.

(2) An accountant and auditor shall, at the request of the board, or a person authorized thereto by the board, produce a book, document or thing and shall not, subject to the provisions of any other law, refuse to produce such book, document or thing, even though he is of the opinion that that book, document or thing contains confidential information of his client.

(3) An accountant and auditor who acts in good faith during the review of his practice or such inspection, and who produces a book, document or thing under subsection (2), shall not be held liable criminally or under the civil law as a result thereof.

(4) Any person who is or was concerned in the performance of any function under this section, shall not disclose any information which he obtained in the performance of such function except –

- (a) for the purposes of an investigation under section 23 or a hearing under section 24;
- (b) to any person authorized thereto by the board and who of necessity requires it for the performance of his functions under this Act;
- (c) if he is a person who of necessity supplies it in the performance of his functions under this Act;
- (d) when required to do so by order of a court of law; or
- (e) at the written request of the attorney-general, to any competent authority which requires it for the institution, or an investigation with a view to the institution, of any criminal prosecution.

(5) Any person who –

- (a) refuses or fails to produce a book, document or thing under subsection (2);
- (b) contravenes subsection (4); or
- (c) obstructs or hinders any person in the performance of his functions under this section,

shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding one year.”

## **4. Short title**

This Act shall be called the Public Accountants’ and Auditors’ Amendment Act, 1993.

<sup>(2)</sup>**PUBLIC ACCOUNTANTS' AND AUDITORS'  
AMENDMENT ACT, 1995  
ACT 23 OF 1995**

To amend the Public Accountants' and Auditors' Act, 1991, so as to substitute certain obsolete expressions; to further regulate the requirements to be registered as an accountant and auditor; and to extend the power of the Public Accountants' and Auditors' Board to disclose certain information; to provide for the repeal of certain laws; to provide for the application of the Public Accountants' and Auditors' Act, 1991, throughout the Republic; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)  
(Assented to 10 July 1995.)*

**Date of commencement: 10 November 1995**

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**1. Amendment of section 4 of Act 80 of 1991**

Section 4 of the Public Accountants' and Auditors' Act, 1991 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) if he has at any time been convicted (whether in the Republic or elsewhere) of theft, fraud, forgery or uttering a forged document, perjury, an offence under the [**Prevention of Corruption Act, 1958 (Act No. 6 of 1958)**] Corruption Act, 1992 (Act No. 94 of 1992), or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R300;”

**2. Amendment of section 15 of Act 80 of 1991**

Section 15 of the principal Act is hereby amended —

(a) by the insertion in subsection (2) after paragraph (c) of the following paragraph:

“(d) is a fit and proper person to be registered as an accountant and auditor;” and

(b) by the insertion after subsection (10) of the following subsection:

“(10A) Any person who is registered in terms of this section as an accountant and auditor may affix the abbreviation ‘RAA’ after his or her name.”

**3. Amendment of section 20 of Act 80 of 1991, as amended by section 2 of Act 70 of 1993**

Section 20 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (5) of the following paragraph:

“(c) The board may disclose any information supplied to it in terms of paragraph (b) to any attorney-general or the Registrar of [**Deposit-taking Institutions**] Banks or any officer in the public service or any member or creditor of the undertaking concerned or any juristic person of whom the undertaking is a member or who has control over the undertaking or who has the power to take disciplinary steps against the undertaking, or to the committee of any stock exchange on which shares of the undertaking are listed, or, if the board believes it to be in the best interests of the public, to any other person, institution or body.”

**4. Repeal of laws, extension of application of Act 80 of 1991, and saving**

(1) Subject to section 5, the laws mentioned in the second column of the Schedule, as in force immediately prior to the commencement of the Constitution in the various areas of the national territory of the Republic shown in the fourth column of the Schedule, are hereby repealed to the extent shown in the third column of the Schedule.

(2) The principal Act, as in force immediately prior to the commencement of this Act in the national territory of the Republic excluding the areas which comprised the former Republics of Transkei, Bophuthatswana, Venda and Ciskei and the areas which comprised the territories declared under section 26 of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), to be self-governing territories, shall apply also in those areas.

(3) Anything done under a law repealed in terms of subsection (1) and which could have been done under a provision of the principal Act shall be deemed to have been done under the last-mentioned provision.

**5. Transfer of assets, liabilities, rights and obligations of the Transkei Public Accountants' and Auditors' Board**

All assets, liabilities, rights and obligations of the Public Accountants' and Auditors' Board established under section 2 of the Transkei Public Accountants' and Auditors' Act, 1980 (Act No. 30 of 1980), are hereby transferred to the Public Accountants' and Auditors' Board mentioned in section 2 of the principal Act.

**6. Short title and commencement**

This Act shall be called the Public Accountants' and Auditors' Amendment Act, 1995, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

**SCHEDULE**  
**LAWS REPEALED BY SECTION 4(1)**

Number and year of law	Short title	Extent of laws repealed	Area of national territory in respect of which law is repealed
<i>(a)</i> Act No. 51 of 1951	Public Accountants' and Auditors' Act, 1951	The whole	The territories of the former Republics of Bophuthatswana, Venda and Ciskei, and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
Act No. 47 of 1956	Public Accountants' and Auditors' Amendment Act, 1956	The whole	
Act No. 64 of 1957	Public Accountants' and Auditors' Amendment Act, 1957	The whole	
Act No. 30 of 1962	Public Accountants' and Auditors' Amendment Act, 1962	The whole	
Act No. 68 of 1965	Public Accountants' and Auditors' Amendment Act, 1965	The whole	
Act No. 66 of 1968	Transvaal and Natal Societies of Chartered Accountants Act, 1968	The whole	
Act No. 80 of 1971	General Law Amendment Act, 1971	Sections 15 and 16	
<i>(b)</i> Act No. 61 of 1973	Companies Act, 1973	Section 275(1)(e)	The territories of the former Republics of Transkei, Bophuthatswana and Venda, and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
<i>(c)</i> Act No. 61 of 1973 (Ciskei)	Companies Act, 1973 (Ciskei)	Sections 275(1) <i>(e)</i> <i>(h)</i> and <i>(j)</i> , and 282	The territory of the former Republic of Ciskei

**SCHEDULE**  
**LAWS REPEALED BY SECTION 4(1) (continued)**

Number and year of law	Short title	Extent of laws repealed	Area of national territory in respect of which law is repealed
<i>(d)</i> Act No. 53 of 1975	Public Accountants' and Auditors' Amendment Act, 1975	The whole	The territories of the former Republics of Bophuthatswana, Venda and Ciskei, and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
Act No. 91 of 1979	Public Accountants' and Auditors' Amendment Act, 1979	The whole	
<i>(e)</i> Act No. 29 of 1980 (Transkei)	Public Accountants' and Auditors' Act, 1980 (Transkei)	The whole	The territory of the former Republic of Transkei
<i>(f)</i> Act No. 22 of 1982 (Ciskei)	Licences Act, 1982 (Ciskei)	Schedule 1, item 1A	The territory of the former Republic of Ciskei
<i>(g)</i> Act No. 42 of 1982	Public Accountants' and Auditors' Amendment Act, 1982	The whole	The territory of the former self-governing territory of KaNgwane
Act No. 12 of 1983	Public Accountants' and Auditors' Amendment Act, 1983	The whole	
<i>(h)</i> Act No. 15 of 1983 (Transkei)	General Law Amendment Act, 1983 (Transkei)	Section 24	The territory of the former Republic of Transkei
<i>(i)</i> Act No. 48 of 1984	Public Accountants' and Auditors' Amendment Act, 1984	The whole	The territory of the former self-governing territory of KaNgwane
<i>(j)</i> Act No. 6 of 1986 (Ciskei)	Companies Amendment Act, 1986 (Ciskei)	Sections 8, 9 and 10	The territory of the former Republic of Ciskei



<sup>(3)</sup>**ABOLITION OF RESTRICTIONS ON THE  
JURISDICTION OF COURTS ACT, 1996  
ACT 88 OF 1996**

**To amend and repeal provisions which restrict the jurisdiction of the courts;  
and to provide for matters connected therewith.**

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

**107. Substitution of section 26 of Act 80 of 1991**

**“26. Privileges of board**

[No legal proceedings, whether criminal or civil, shall lie against] The board or any member or official thereof shall not be liable in respect of any act or duty performed in good faith in accordance with the provisions of sections 13(1)(o), 20, 22, 23 or 24.”.

<sup>(4)</sup>**PUBLIC ACCOUNTANTS' AND AUDITORS'  
AMENDMENT ACT, 1997**

**ACT 5 OF 1997**

**To amend the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991) so as to extend the powers of the Public Accountants' and Auditors' Board with regard to the prescribing of fees and the imposition of levies; to authorise that board to borrow or raise money with or without security; to authorise the board to recover the costs connected with the review by the board of an accountant and auditor's practice from that accountant and auditor; and to provide for matters connected therewith.**

*(Afrikaans text signed by the State President)  
(Assented to 5 April 1997)*

**Date of commencement: 11 April 1997**

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows: –

**1. Amendment of section 13 of Act 80 of 1991, as amended by section 1 of Act 70 of 1993**

Section 13 of the Public Accountants' and Auditor's Act, 1991 (hereinafter referred to as the principal Act), is hereby amended —

(a) by the insertion after paragraph (b) of subsection (1) of the following paragraph:

“(bA) with or without security borrow or raise money in order to enable it to exercise any of the powers conferred upon it by this section:”; and

(b) by the addition to paragraph (e) of subsection (1) of the following subparagraph, the existing paragraph (e) becoming subparagraph (i):

“(ii) in its discretion prescribe such other fees and impose such other levies, which shall be payable by every person registered in terms of this Act as an accountant and auditor in order to enable it to finance the performance of its functions and the carrying out of its duties:”.

**2. Amendment of section 22A of Act 80 of 1991, as inserted by section 3 of Act 70 of 1993**

Section 22A of the principal Act is hereby amended by the addition to subsection (1) of the following paragraph, the existing subsection becoming paragraph (a):—

“(b) The Board may recover the costs connected with a review referred to in paragraph (a) from the accountant and auditor whose practice has been reviewed.”

**3. Short title**

This Act shall be called the Public Accountants’ and Auditors’ Amendment Act, 1997.

<sup>(5)</sup>**PUBLIC SERVICE LAWS AMENDMENT ACT, 1997**  
**ACT 47 OF 1997**

**To amend other various laws relating to the public service so as to remove obsolete provisions or to effect certain consequential amendments arising from the re-adjustment of the functions of the said Commission; and to provide for incidental matters.**

BE IT ENACTED by Parliament of the Republic of South Africa, as follows:-

**35. Amendment of section 12(2) of Act 80 of 1991**

**12. Remuneration and allowances of members of board and committees**

(2) A member of the board or any such committee who is in the full-time service of the State may, in addition to his remuneration in respect of such service, receive such remuneration for special services rendered by him to the board as may be determined by the Minister in consultation with the Minister for the Public Service and Administration, but not exceeding an amount recommended by the board.