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GOVERNMENT GAZETTE

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1339.

12 June 1991

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 80 of 1991: Public Account's and Auditors' Act, 1991

No. 1339.

12 Junie 1991

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 80 van 1991: Wet op Openbare Rekenmeesters en Ouditeurs, 1991

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.)*

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

Definitions

1. In this Act, unless the context otherwise indicates—
 - (i) "board" means the Public Accountants' and Auditors' Board mentioned in section 2; (ix) 5
 - (ii) "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); (ii)
 - (iii) "Minister" means the Minister of Finance; (v) 10
 - (iv) "neighbouring state of the Republic" means a state the territory of which formerly formed part of the Republic, and the Republic of Namibia; (i)
 - (v) "prescribed" means prescribed by or under this Act; (x)
 - (vi) "public accountant" means a person who is engaged in public practice; (vii) 15
 - (vii) "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; (vi)
 - (viii) "society" means any one of the following societies, which are in this Act collectively referred to as the four societies, namely; 20
 - (a) The Transvaal Society of Chartered Accountants;
 - (b) The Cape Society of Chartered Accountants;
 - (c) The Natal Society of Chartered Accountants; and
 - (d) The Orange Free State Society of Chartered Accountants; (iii) 25
 - (ix) "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); (iv)
 - (x) "training contract" means a written contract of training entered into in the prescribed form and registered with the board whereby a person is 30
 - 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. (viii) 35

Continued existence of Public Accountants' and Auditors' Board

2. (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. 40

WET

Om voorsiening te maak vir die instelling van 'n openbare rekenmeesters- en ouditeursraad; vir die registrasie van openbare rekenmeesters en ouditeurs; en vir die reëling van die opleiding van openbare rekenmeesters en ouditeurs; om sekere wette te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 5 Junie 1991.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- 5 (i) “buurstaat van die Republiek” ’n staat waarvan die grondgebied voorheen deel van die Republiek uitgemaak het, en die Republiek van Namibië; (iv)
 - (ii) “firma” ’n openbare rekenmeester en ouditeur, ’n aantal openbare rekenmeesters en ouditeurs in vennootskap of ’n maatskappy in artikel 21(2) bedoel; (ii)
 - 10 (iii) “genootskap” enigeen van die volgende genootskappe, in hierdie Wet gesamentlik die vier genootskappe genoem, naamlik:
 - (a) Die Transvaalse Genootskap van Geoktrooieerde Rekenmeesters;
 - 15 (b) Die Kaapse Genootskap van Geoktrooieerde Rekenmeesters;
 - (c) Die Natalse Genootskap van Geoktrooieerde Rekenmeesters;
 - (d) Die Oranje-Vrystaatse Genootskap van Geoktrooieerde Rekenmeesters; (viii)
 - (iv) “leerlingrekenmeester” iemand wat onder ’n opleidingskontrak dien, en ook ’n klerk onder leerkontrak ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951); (ix)
 - 20 (v) “Minister” die Minister van Finansies; (iii)
 - (vi) “openbare praktyk” die praktyk van ’n persoon wat die werksaamhede van ’n rekenmeester en ouditeur verrig en homself vir daardie doel as ’n rekenmeester en ouditeur voordoet en sy dienste teen vergoeding aan die publiek beskikbaar stel; (vii)
 - 25 (vii) “openbare rekenmeester” ’n persoon wat openbare praktyk beoefen; (vi)
 - (viii) “opleidingskontrak” ’n skriftelike kontrak van opleiding wat op die voorgeskrewe wyse aangegaan is en wat by die raad geregistreer is en waaronder ’n persoon behoorlik verbind is om ’n persoon of ’n firma vir ’n bepaalde tydperk te dien en geregtig is om opleiding in die praktyk en die beroep van ’n openbare rekenmeester en ouditeur te ontvang, en ook ’n leerkontrak ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, 1951, wat by die inwerkingtreding van hierdie Wet bestaan; (x)
 - 30 (ix) “raad” die Openbare Rekenmeesters- en Ouditeursraad in artikel 2 vermeld; (i)
 - 35 (x) “voorgeskryf” deur of kragtens hierdie Wet voorgeskryf. (v)

40 Voortbestaan van Openbare Rekenmeesters- en Ouditeursraad

2. (1) Die Openbare Rekenmeesters- en Ouditeursraad ingestel by artikel 2 van die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), bly ondanks die herroeping van daardie Wet deur hierdie Wet, voortbestaan en bly ’n regspersoon.

(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. 5

Composition of board

3. (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— 10
 - (i) Commissioner for Inland Revenue;
 - (ii) Registrar of Co-operatives;
 - (iii) Executive Officer of the Financial Services Board; 15
 - (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; 20
- (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); 25
- (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. 30

(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. 40

(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 a 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. 45

(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. 55

(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 60

(2) Die persone wat onmiddellik voor die inwerkingtreding van hierdie Wet lede was van die Openbare Rekenmeesters- en Ouditeursraad ingestel by artikel 2 van die Wet op Openbare Rekenmeesters en Ouditeurs, 1951, word geag ingevolge hierdie Wet as lede van die raad aangestel te gewees het, maar die 5 bepalings van hierdie subartikel word nie so uitgelê nie dat dit die ampstermyn van so 'n lid verleng na 'n langer tydperk as dié waarvoor hy aangestel was.

Samestelling van raad

3. (1) Die raad bestaan uit die volgende lede, wat deur die Minister aangestel moet word, naamlik—

- 10 (a) die bekleër van die amp van Ouditeur-generaal en vier ander persone deur die Minister gekies uit die persone wat dan diens doen in die amp van—
 - (i) Kommissaris van Binnelandse Inkomste;
 - (ii) Registrateur van Koöperasies;
 - 15 (iii) Uitvoerende Beampte van die Raad op Finansiële Dienste;
 - (iv) Registrateur van Maatskappye;
 - (v) Registrateur van Beslote Korporasies;
 - (vi) Meester van die Hooggeregshof,
 - 20 of in enige ander hoedanigheid in die heelydse diens van die Staat waar hulle volgens die Minister se oordeel by die verrigting van hulle pligte in aansienlike mate belang het by sertifikate, verslae of menings wat deur rekenmeesters of ouditeurs verstrek word;
- (b) twee persone wat dosente in die rekeningkunde of in rekeningkundige aangeleenthede aan 'n universiteit in die Republiek moet wees en wat 25 deur die Komitee van Universiteitshoofde ingestel by artikel 6 van die Wet op Universiteite, 1955 (Wet No. 61 van 1955), benoem moet word;
- (c) een persoon wat deur elke genootskap benoem moet word en 'n bykomende persoon wat deur elke genootskap wat meer as 250 lede 30 het, benoem moet word;
- (d) een persoon wat die Minister, na raadpleging met die ingevolge paragrafe (a), (b) en (c) aangestelde persone, geskik ag om lid van die raad te wees en wat iemand moet wees wat binne 'n straal van 100 35 kilometer van die stadsaal van Johannesburg openbare praktyk beoefen.

(2) Wanneer 'n benoeming ingevolge subartikel (1)(b) of (c) nodig word, moet die Minister die betrokke Komitee of genootskap by skriftelike kennisgewing aansê of laat aansê om binne 'n tydperk in die kennisgewing vermeld maar minstens 30 dae vanaf die datum van die kennisgewing die persoon of persone 40 te benoem wat deur daardie Komitee of, na gelang van die geval, deur die betrokke genootskap vir aanstelling in die raad benoem moet word.

(3) Indien genoemde Komitee of so 'n genootskap in gebreke bly om, na aansegging by kennisgewing soos in subartikel (2) bepaal, binne die tydperk in die kennisgewing vermeld die persoon of persone te benoem wat ingevolge die 45 kennisgewing genomineer moes word, kan die Minister die vereiste persoon of persone wat hy geskik ag en wat 'n professor of professore of lektor of lektore of, na gelang van die geval, 'n lid of lede van die betrokke genootskap is, tot die vereiste getal aanstel om lid of lede van die raad te wees.

(4) Vir elke lid van die raad ingevolge paragraaf (b), (c) of (d) van subartikel 50 (1) aangestel, moet daar 'n plaasvervangende lid op dieselfde wyse as bedoelde lid aangestel word, en 'n in paragraaf (a) van daardie subartikel bedoelde lid van die raad kan met toestemming van die Minister 'n persoon in die heelydse diens van die Staat aanwys om in sy plek as 'n plaasvervangende lid van die raad op te tree, en 'n plaasvervangende lid aldus aangestel of aangewys, kan 'n 55 vergadering van die raad bywoon en aan die verrigtings aldaar deelneem wanneer die lid vir wie hy as plaasvervangende lid aangestel of aangewys is, van bedoelde vergadering afwesig is.

(5) (a) Die Minister kan op aanbeveling van die raad van tyd tot tyd 'n benoemde van 'n liggaam wat rekenmeesters en ouditeurs in enige van die 60 Republiek se buurstate verteenwoordig as lid van die raad aanstel, en 'n aldus aangestelde persoon beklee sy amp vir die tydperk, maar hoogstens een jaar,

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*.

Qualifications of members and circumstances under which they vacate office

4. (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;
- (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), 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 for 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.

Tenure of office of members of board, and filling of vacancies

5. (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

wat die Minister bepaal, en het die reg om vergaderings van die raad by te woon en aan die verrigtings aldaar deel te neem, maar het nie die reg om te stem nie.

(b) Die Minister kan op aanbeveling van die raad van tyd tot tyd 'n ander benoemde van 'n liggaam in paragraaf (a) bedoel, aanstel as plaasvervanger van 'n lid kragtens daardie paragraaf aangestel, en so 'n plaasvervanger kan, wanneer die lid vir wie hy as plaasvervanger aangestel is van 'n vergadering van die raad afwesig is, dié vergadering bywoon en aan die verrigtings aldaar deelneem, maar het nie die reg om te stem nie.

(6) Die naam van elke persoon as lid van die raad aangestel, en van elke persoon as plaasvervanger van 'n lid aangestel, en die datum vanaf wanneer die aanstelling geld, moet in die *Staatskoerant* afgekondig word.

Kwalifikasies van lede en omstandighede waaronder hulle hul amp ontruim

4. (1) Niemand word ingevolge subartikel (1)(c) of (d) van artikel 3 as lid van die raad, of ingevolge subartikel (4) of (5)(b) van daardie artikel as plaasvervanger van so 'n lid aangestel nie, tensy hy ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is.

(2) 'n Lid of 'n plaasvervangende lid van die raad ontruim sy amp—

(a) indien hy 'n ongerehabiliteerde insolvent is;

(b) indien hy te eniger tyd (in die Republiek of elders) skuldig bevind is aan diefstal, bedrog, vervalsing of die uitgifte van 'n vervalste stuk, meened, 'n misdryf kragtens die Wet op Voorkoming van Korruptsie, 1958 (Wet No. 6 van 1958), of 'n misdryf waarby oneerlikheid betrokke is, en daarvoor gestraf is met gevangenisstraf sonder die keuse van 'n boete of met 'n boete van meer as R300; of

(c) indien hy geestelik versteurd is;

(d) indien hy, in die geval van 'n ingevolge artikel 3(1)(b) aangestelde lid, ophou om 'n dosent in die rekeningkunde of in rekeningkundige aangeleenthede aan 'n universiteit in die Republiek te wees;

(e) indien hy, in die geval van 'n ingevolge artikel 3(1)(c) of (d) aangestelde lid wat op die datum van sy aanstelling ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer was, ophou om aldus geregistreer te wees;

(f) indien hy, in die geval van 'n ingevolge artikel 3(1)(d) aangestelde lid, ophou om openbare praktyk soos in daardie paragraaf beoog, te beoefen; of

(g) indien, in die geval van 'n lid, hy sonder verlof van die voorsitter van die raad van twee agtereenvolgende vergaderings van die raad afwesig is of indien, in die geval van 'n plaasvervangende lid, hy aldus afwesig is tydens die afwesigheid van die lid vir wie hy as plaasvervangende lid aangestel is.

Ampstermyn van lede van raad, en vul van vakatures

5. (1) 'n Lid of 'n plaasvervangende lid van die raad (uitgesonderd 'n ingevolge artikel 3(1)(a) aangestelde lid of sy plaasvervanger, wat sy amp bekleed solank dit die Minister behaag) word aangestel vir 'n tydperk van een jaar, maar behou na verstryking van die tydperk waarvoor hy aangestel is sy amp vir 'n verdere tydperk van hoogstens drie maande totdat sy opvolger aangestel is.

(2) Iemand wie se ampstermyn as lid van die raad verstryk het, met inbegrip van 'n kragtens artikel 3(5) aangestelde persoon, kan weer aangestel word, maar behoudens die bepalinge van subartikel (1) van hierdie artikel kan niemand vir meer as ses jaar gedurende enige tydperk van nege jaar die amp van lid van die raad bekleed nie: Met dien verstande dat, by die berekening van die totale tydperk wat 'n persoon die amp van lid van die raad bekleed het, enige tydperk waartydens hy daardie amp bekleed het na die beëindiging van 'n tydperk waarvoor hy aangestel was, maar voor die aanstelling van sy opvolger, nie in aanmerking geneem word nie.

(3) Wanneer die amp van 'n lid van die raad vakant raak voor die verstryking van die tydperk waarvoor hy aangestel is, kan die Minister, met inagneming van die toepaslike bepalinge van artikel 3, 'n persoon aanstel om die vakature te vul

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.

Chairman and vice-chairman of board

6. (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). 5

(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. 10

Meetings of board

7. (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. 15

(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. 20

Decisions of board

8. (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. 25

(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. 30

(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. 35

Reports to Minister

9. (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— 40

(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. 45

(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 this 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 50

vir die onverstreke gedeelte van die tydperk waarvoor bedoelde lid aangestel was.

Voorsitter en ondervoorsitter van raad

6. (1) Die lede van die raad kies op hulle eerste vergadering en daarna
5 wanneer dit nodig word, uit hul geledere 'n voorsitter en 'n ondervoorsitter van die raad, wat albei openbare rekenmeesters moet wees, en 'n aldus gekose persoon beklee sy amp as sodanig totdat hy, by die verstryking ingevolge artikel 5(1) van sy ampstermyn, of uit hoofde van die bepalings van artikel 4(2), ophou om lid van die raad te wees.
- 10 (2) 'n Lid van die raad aangestel ingevolge subartikel (1)(a) of (b) of kragtens subartikel (5) van artikel 3 kan nie tot voorsitter of ondervoorsitter van die raad gekies word of op 'n vergadering van die raad voorsit nie.

Vergaderings van raad

7. (1) Die raad moet minstens twee maal elke jaar vergader op die tye en
15 plekke wat die raad van tyd tot tyd bepaal.
- (2) Die voorsitter van die raad kan te eniger tyd 'n buitengewone vergadering van die raad belê, wat gehou moet word op die tyd en plek wat hy bepaal, en moet op skriftelike versoek wat deur minstens drie lede van die raad onderteken is, 'n buitengewone vergadering van die raad belê wat binne twee weke vanaf die
20 datum van ontvangs van bedoelde versoek gehou moet word op die tyd en plek wat hy bepaal.

Besluite van raad

8. (1) Die meerderheid van al die lede van die raad vorm 'n kworum vir enige vergadering van die raad.
- 25 (2) Indien sowel die voorsitter as die ondervoorsitter van 'n vergadering van die raad afwesig is, kies die aanwesige lede, behoudens die bepalings van artikel 6(2), iemand uit hul geledere om op daardie vergadering voor te sit.
- (3) Die beslissing van 'n meerderheid van die lede van die raad wat op 'n vergadering van die raad aanwesig is, maak 'n besluit van die raad uit, en by 'n
30 staking van stemme oor 'n aangeleentheid het die persoon wat op die betrokke vergadering voorsit, benewens sy beraadslagende stem 'n beslissende stem.
- (4) Geen besluit geneem of handeling verrig op gesag van die raad is ongeldig nie bloot vanweë 'n toevallige vakature in die raad of omdat iemand wat nie geregtig was om as 'n lid van die raad sitting te neem nie, as so 'n lid sitting
35 geneem het op die tydstip waarop die besluit geneem of handeling gemagtig is, indien die besluit geneem of handeling gemagtig is deur die meerderheid van die lede van die raad wat toe aanwesig was en geregtig was om as lede sitting te neem.

Verslae aan Minister

- 40 9. (1) Die raad lê elke jaar, binne ses maande na afsluiting van sy boekjaar, aan die Minister 'n verslag voor oor die raad se sake en werksaamhede gedurende daardie boekjaar, wat onder meer die volgende insluit, naamlik—
- (a) 'n afskrif van die in artikel 11(3) bedoelde geouditeerde staat van inkomste en uitgawes en balansstaat ten opsigte van daardie boekjaar;
45 en
- (b) 'n lys van persone wat op die laaste dag van daardie boekjaar op die register van rekenmeesters en ouditeurs verskyn.
- (2) Die voorsitter van die raad kan van tyd tot tyd verslae aan die Minister voorlê oor aangeleenthede wat verband hou met die bedrywigheide van die raad
50 wat na sy oordeel onder die aandag van die Minister behoort te kom.
- (3) Drie of meer lede van die raad wat ontevrede is met 'n besluit van die raad oor 'n aangeleentheid wat ingevolge hierdie Wet binne die raad se regsbevoegdheid val, kan met vermelding van hul redes die Minister in kennis stel dat hulle dit nie met bedoelde besluit eens is nie, en die Minister kan, by ontvangs van so

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

(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 in 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

10. (1) The board may nominate one or more committees to assist it in the performance of its functions and duties. 15

(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. 20

(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. 25 30

(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.

Funds of board and keeping and auditing of accounts 35

11. (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. 40

(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 to every society, and also to every person registered as an accountant and auditor in terms of this Act. 45

(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. 50

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

Remuneration and allowances of members of board and committees

12. (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 55

'n kennisgewing, van die raad sy opmerkings in verband met die aangeleentheid eis, asook enige inligting wat die Minister nodig ag.

(4) Die raad moet, op versoek van die Minister of 'n persoon in diens van die Staat wat met die uitvoering van die een of ander wet belas is, aan die Minister of bedoelde persoon advies verstrek oor vraagstukke in verband met die rekenmeesters- en ouditeursberoep of verwante aangeleenthede, en moet inligting wat die raad tydens die verrigting van sy pligte bekom omtrent aangeleenthede wat hy van openbare belang ag, aan die Minister mededeel.

(5) Die Minister moet afskrifte van elke verslag wat ingevolge subartikel (1) aan hom voorgelê word, tesame met die aanhangsels daarby, in die Parlement ter Tafel lê binne 14 dae na ontvangs daarvan indien die Parlement dan in sitting is, of, indien die Parlement nie dan in sitting is nie, binne 14 dae na die aanvang van sy eersvolgende sitting.

Komitees van raad

10. (1) Die raad kan een of meer komitees benoem om hom by die verrigting van sy werksaamhede en pligte by te staan.

(2) So 'n komitee bestaan uit soveel lede van die raad of soveel ander persone of soveel lede en ander persone as wat die raad nodig ag, en die raad kan te eniger tyd so 'n komitee ontbind of hersaamstel.

(3) Die raad kan na goeddunke van sy bevoegdheide aan 'n aldus benoemde komitee oordra, maar word nie onthef nie van 'n bevoegdheid wat hy aan so 'n komitee aldus oorgedra het, en kan 'n besluit van so 'n komitee wysig of intrek: Met dien verstande dat indien die raad aan 'n komitee die bevoegdheid oorgedra het om te besluit of iemand in 'n eksamen geslaag het wat kragtens artikel 19 afgeneem is, of die bevoegdheid oorgedra het om te bepaal of iemand as 'n rekenmeester en ouditeur geregistreer moet word al dan nie, of die bevoegdheid oorgedra het om die registrasie van enigiemand as rekenmeester en ouditeur te kanselleer, of die bevoegdheid oorgedra het om ooreenkomstig die bepalings van artikel 23 'n geval van beweerde onbehoorlike gedrag te ondersoek en ten opsigte daarvan 'n straf op te lê, die raad nie 'n besluit of iets wat kragtens die bevoegdheid aldus oorgedra, deur so 'n komitee geneem of gedoen is, wysig of intrek nie.

(4) 'n Verwysing in hierdie Wet na die raad met betrekking tot die uitoefening van 'n bevoegdheid wat die raad aan 'n komitee oorgedra het, word uitgelê ook as 'n verwysing na daardie komitee.

Fondse van raad en hou en ouditering van rekenings

11. (1) Die fondse van die raad bestaan uit die gelde deur hom ontvang na aanleiding van enige voorsiening kragtens artikel 13 gedoen, en die ander bedrae, met inbegrip van voorskotte in subartikel (4) van hierdie artikel bedoel, wat van tyd tot tyd ingevolge hierdie Wet aan die raad betaalbaar word.

(2) Die raad laat volledige en juiste rekening hou van alle geld wat hy ontvang of uitgee.

(3) Die raad moet elke jaar 'n staat van sy inkomste en uitgawe vir sy jongste voorafgaande boekjaar en 'n balansstaat wat sy geldelike toestand aan die einde van daardie boekjaar aantoon, laat opstel, en moet, nadat bedoelde staat en balansstaat geouditeer is deur 'n ouditeur wat die raad aanstel, afskrifte daarvan laat stuur aan elke lid van die raad en aan elke genootskap, asook aan elke persoon wat ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is.

(4) (a) Die Minister kan, uit geld deur die Parlement vir dié doel bewillig, die bedrae aan die raad voorskiet wat hy nodig ag om die raad in staat te stel om sy werksaamhede te verrig.

(b) So 'n voorskot word toegestaan op die voorwaardes en is terugbetaalbaar op die tye wat die Minister bepaal.

Besoldiging en toelaes van lede van raad en komitees

12. (1) Daar word aan 'n lid van die raad of 'n komitee van die raad, met inbegrip van 'n persoon wat as plaasvervanger van so 'n lid aangestel is, maar nie

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.

(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 on the recommendation of the Commission for 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.

General powers of board

13. (1) The board may—

- (a) employ persons to assist it in the performance of its functions; 15
- (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;
- (c) determine the procedure at meetings of the board or any committee of the board; 20
- (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; 25
- (e) 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; 30
- (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; 35
- (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; 40
- (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; 45
- (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 punish- 50 55

so 'n lid of persoon wat in die heeltidse diens van die Staat is nie, die besoldiging vir dienste in verband met die werk van die raad deur hom gelewer en die toelaes om uitgawes te dek wat redelikerwys deur hom aangegaan is in verband met die verrigting van sy pligte as lid van die raad of van so 'n komitee, betaal wat die
5 raad bepaal.

(2) 'n Lid van die raad of so 'n komitee wat in die heeltidse diens van die Staat is, kan benewens sy besoldiging ten opsigte van daardie diens, die besoldiging ontvang vir spesiale dienste deur hom aan die raad gelewer wat die Minister op aanbeveling van die Kommissie vir Administrasie mag bepaal, maar wat nie 'n
10 hoër bedrag is as wat die raad aanbeveel nie.

(3) Enige besoldiging of toelaes wat ingevolge subartikel (1) of (2) betaalbaar mag word, moet uit die fondse van die raad betaal word.

Algemene bevoegdhede van raad

13. (1) Die raad kan—
- 15 (a) persone in diens neem om hom by die verrigting van sy werksaamhede by te staan;
- (b) die roerende of onroerende goed wat die raad vir die verrigting van sy werksaamhede nodig ag, huur, koop of andersins verkry, en goed wat aldus gekoop of verkry is, verhuur of verkoop of andersins daarvoor
20 beskik;
- (c) die prosedure op vergaderings van die raad of 'n komitee van die raad bepaal;
- (d) diens onder 'n opleidingskontrak reël en die gelde wat ten opsigte van registrasie of oordrag van so 'n opleidingskontrak, of ten opsigte van verlening van vrystelling van diens onder 'n opleidingskontrak of 'n gedeelte daarvan, aan die raad betaal moet word, voorskryf;
- 25 (e) die gelde wat ten opsigte van die registrasie van enigiemand as 'n rekenmeester en ouditeur aan die raad betaal moet word, en die jaargelde (wat ten opsigte van 'n geregistreerde rekenmeester en ouditeur wat openbare praktyk beoefen en 'n geregistreerde rekenmeester en ouditeur wat nie openbare praktyk beoefen nie, kan verskil) wat deur enigiemand aan die raad betaal moet word solank hy as 'n rekenmeester en ouditeur geregistreer bly, voorskryf, en die gedeelte van bedoelde jaargelde wat ten opsigte van 'n deel van 'n jaar betaalbaar is en die datum waarop bedoelde jaargelde of gedeelte daarvan betaalbaar word, bepaal;
- 30 (f) leerplanne ten opsigte van eksamens vir leerlingrekenmeesters onder opleidingskontrak of ander persone voorskryf, sodanige eksamens voorskryf of afneem of vir die afneem daarvan reëlins tref, en die gelde voorskryf wat deur die persone wat die raad bepaal ten opsigte van sodanige leerplanne of eksamens aan die raad betaal moet word;
- 35 (g) die grade, diplomas en ander kwalifikasies voorskryf waarvolgens enigiemand geregtig is op vrystelling van die vereistes waaraan persone wat verlang om as rekenmeesters en ouditeurs geregistreer te word, moet voldoen, asook die gelde wat ten opsigte van sodanige vrystelling aan die raad betaal moet word;
- 40 (h) (i) gedrag wat onbehoorlike gedrag deur 'n rekenmeester en ouditeur of ander persoon wat ingevolge hierdie Wet geregistreer is, uitmaak, die wyse waarop 'n aantyging of klagte van onbehoorlike gedrag ondersoek en, indien nodig, verhoor moet word, en die strawwe, met inbegrip van 'n waarskuwing, 'n berisping, 'n boete, skorsing van praktyk vir die tydperk wat die raad mag bepaal, skrapping uit die register, of beperkte, tydelike of permanente onbevoegdverklaring vir registrasie, wat na so 'n ondersoek of verhoor deur die raad opgelê kan word, voorskryf;
- 50 (ii) in 'n tydskrif of ander publikasie in paragraaf (i) vermeld, of in die openbare pers, die naam bekend laat maak van 'n rekenmeester en ouditeur of ander persoon (met of sonder die naam van die firma waaraan hy verbonde is) wat soos in subparagraaf (i) bedoel, verhoor is, tesame met die bevindinge van die raad of die komitee
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- ment, 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; 5
 - (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; 10
 - (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; 15
 - (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 20
 - (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; 25
 - (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; 30
 - (ii) prescribe, in connection with 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; 35
 - (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; 40
 - (p) take any steps which it may consider expedient for the maintenance of the integrity, the enhancement of the status and the improvement of the standards of professional qualifications of accountants and auditors, and encourage research in connection with problems relating to any matter affecting the accounting profession; 45
 - (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. 50

Prohibition against practising as public accountant and auditor by unregistered person 55

14. No person shall—

- (a) engage in public practice as an accountant or auditor or hold himself out

wat die ondersoek of verhoor gehou het, en die straf, as daar is, wat die rekenmeester en ouditeur of ander persoon opgelê is;

- (i) 'n tydskrif of enige ander publikasie met betrekking tot rekeningkunde en auditkunde en verwante aangeleenthede finansier, druk en versprei en die publikasie daarvan administreer, en oor die algemeen die stappe doen wat nodig is om dit te publiseer;
 - (j) sy fondse belê op die wyse wat hy goedvind;
 - (k) hulp verleen in verband met die voorsiening van opvoedkundige fasiliteite vir leerlingrekenmeesters en ander persone wat verlang om as rekenmeesters en ouditeurs geregistreer te word;
 - (l) (i) 'n fonds instel met die doel om enigiemand te vergoed vir verlies of skade deur hom gelyk as gevolg van oneerlikheid of nalatigheid by die uitoefening van 'n openbare praktyk deur iemand wat ingevolge hierdie Wet as rekenmeester en ouditeur geregistreer is;
 - (ii) van tyd tot tyd 'n bedrag wat by wyse van bydrae tot bedoelde fonds deur enigiemand wat aldus geregistreer is en openbare praktyk beoefen aan die raad betaal moet word, en die tye waarop bedoelde bedrag aldus betaalbaar is, voorskryf;
 - (iii) voorsiening maak vir die administrasie van bedoelde fonds deur 'n beheerraad wat uit die voorsitter van die raad (wat voorsitter van bedoelde beheerraad moet wees) en die ander deur die raad aangestelde persone wat die raad goedvind, bestaan; en
 - (iv) die omstandighede waaronder en die voorwaardes onderworpe waaraan enige betaling uit bedoelde fonds gedoen kan word, voorskryf of bedoelde beheerraad magtig om dit voor te skryf;
 - (m) met 'n liggaam wat rekenmeesters en ouditeurs in enige van die Republiek se buurstate verteenwoordig, 'n ooreenkoms aangaan waarin die raad onderneem om hulp in verband met die verrigting deur bedoelde liggaam van sy werksaamhede, op dié wyse en dié voorwaardes waarop daar ooreengekom word, te verleen;
 - (n) (i) voorskryf dat elke persoon wat ingevolge hierdie Wet as rekenmeester en ouditeur geregistreer is en openbare praktyk beoefen, verplig is om professionele skadeloosstellingsversekering te verkry ter dekking van enige aanspreeklikheid wat hy mag oploep as gevolg van nalatigheid of oneerlikheid in die beoefening van sodanige praktyk;
 - (ii) in verband met skadeloosstellingsversekering in subparagraaf (i) bedoel, die minimum dekkingsvereistes waaraan voldoen moet word, die gebeurlikhede wat deur sodanige versekering gedek moet word en die omstandighede waaronder 'n persoon wat andersins verplig sou wees om sodanige versekering te verkry, daarvan vrygestel is, voorskryf;
 - (o) die bestuur van 'n praktyk van 'n rekenmeester en ouditeur oorneem, of iemand aanstel om die bestuur van so 'n praktyk oor te neem, onder omstandighede wat die raad in die openbare belang ag;
 - (p) stappe doen wat die raad dienstig ag vir die handhawing van die integriteit, die verhoging van die status en die verbetering van die standaard van professionele kwalifikasies van rekenmeesters en ouditeurs, en navorsing aangaande vraagstukke in verband met enige aangeleentheid wat op die beroep van rekeningkunde betrekking het, aanmoedig;
 - (q) oor die algemeen die bevoegdhede uitoefen en die werksaamhede en pligte verrig wat in hierdie Wet vermeld word.
- (2) Die raad hou aparte registers ten opsigte van leerlingrekenmeesters en van rekenmeesters en ouditeurs wat ingevolge hierdie Wet geregistreer is, en die ander registers wat die raad goedvind, en so 'n register moet op alle redelike tye beskikbaar wees vir insae deur enige lid van die publiek.

Verbod op praktyk as openbare rekenmeester en ouditeur deur ongeregisteerde persoon

60 14. Niemand mag—

- (a) openbare praktyk as 'n rekenmeester of ouditeur beoefen of homself

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.

Registration of accountants and auditors

15. (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 of passing of the prescribed examinations and the date of the application,
- 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 any such application, the board is satisfied that the applicant—

- as 'n rekenmeester of ouditeur in openbare praktyk voordoën of enige benaming of beskrywing gebruik wat waarskynlik die indruk sal wek dat hy 'n rekenmeester of ouditeur in openbare praktyk is nie; of
- (b) 'n aanstelling as ouditeur aanvaar of as ouditeur optree waar die aanstelling van 'n ouditeur of die uitvoering van 'n audit by wet vereis word nie,
- tensy hy as 'n rekenmeester en ouditeur ingevolge hierdie Wet geregistreer is en teen die tarief van toepassing op 'n geregistreerde rekenmeester en ouditeur wat 'n openbare praktyk beoefen, die jaargelde of gedeelte daarvan deur die raad kragtens artikel 13(1)(e) voorgeskryf of bepaal, betaal het: Met dien verstande dat die bepalings van hierdie artikel nie belet dat—
- (i) 'n persoon wat in diens is uitsluitlik teen 'n salaris en wat nie vir eie rekening sake doen nie, homself as rekenmeester of interne ouditeur beskryf in verband met die onderneming waarin hy in diens is nie; of
- (ii) 'n lid van 'n klub, inrigting of vereniging wat nie met die oog op wins gedryf word nie, as ouditeur van bedoelde klub, inrigting of vereniging optree nie, mits hy geen gelde of ander vergoeding vir sy dienste ontvang nie; of
- (iii) 'n Staatsminister, Administrateur of beamppte belas met die uitvoering van 'n wet, iemand wat nie ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is nie, as ouditeur ten opsigte van 'n onderneming wat deur daardie wet gereël word, aanstel, of sy aanstelling as sodanig magtig of goedkeur nie, indien volgens die oordeel van daardie Minister of Administrateur of beamppte 'n aldus geregistreerde persoon nie gereedelik beskikbaar is nie of, weens die aard van die vereiste ouditering of die hoeveelheid werk daarby betrokke of ander omstandighede in bedoelde wet beoog, die aanstelling van 'n aldus geregistreerde persoon nie geregverdig is nie; of
- (iv) die Ouditeur-generaal 'n persoon wat nie ingevolge hierdie Wet as rekenmeester en ouditeur geregistreer is nie, as ouditeur aanstel om namens hom 'n ouditering wat hy ingevolge enige wet moet onderneem, uit te voer nie; of
- (v) 'n persoon wat kragtens subparagraaf (iii) of (iv) aangestel is of wie se aanstelling daarkragtens gemagtig of goedgekeur is, 'n ouditering uitvoer ten opsigte van die onderneming ten opsigte waarvan hy aldus aangestel is of ten opsigte waarvan sy aanstelling aldus gemagtig of goedgekeur is nie.

Registrasie van rekenmeesters en ouditeurs

15. (1) Iemand wat begerig is om as rekenmeester en ouditeur geregistreer te word, moet 'n skriftelike aansoek om sodanige registrasie, vergesel van die voorgeskrewe gelde en die inligting wat die raad verlang, by die raad indien.

(2) Indien die raad na oorweging van so 'n aansoek oortuig is dat die aansoeker—

- (a) minstens 21 jaar oud en gewoonlik in die Republiek woonagtig is;
- (b) behalwe vir sover hy kragtens hierdie Wet daarvan vrygestel is, vir die voorgeskrewe tydperk onder opleidingskontrak gedien en in die voorgeskrewe eksamens geslaag het;
- (c) oor die vereiste kundigheid beskik om as 'n rekenmeester en ouditeur te praktiseer in 'n geval waar meer as vyf jaar verstryk het tussen die datum waarop die aansoeker die voorgeskrewe eksamen geslaag het en die datum van die aansoek,

moet die raad, behoudens die bepalings van subartikel (4), die aansoeker as 'n rekenmeester en ouditeur registreer en aan hom 'n registrasiesertifikaat in die vorm wat die raad voorskryf, uitreik.

(3) (a) Iemand wat begerig is om as buitelandse rekenmeester en ouditeur geregistreer te word, moet 'n skriftelike aansoek om sodanige registrasie, vergesel van die voorgeskrewe gelde en die inligting wat die raad verlang, by die raad indien.

(b) Indien die raad na oorweging van so 'n aansoek oortuig is dat die aansoeker—

- (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 of 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 Prevention of Corruption Act, 1958 (Act No. 6 of 1958), 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

- (i) minstens 21 jaar oud is en nie gewoonlik in die Republiek woonagtig is nie;
- (ii) 'n lid is van 'n georganiseerde liggaam van rekenmeesters en ouditeurs wat deur die raad vir die doeleindes van hierdie subartikel erken word;
- 5 (iii) 'n vennoot is van 'n geregistreerde rekenmeester en ouditeur wat gewoonlik in die Republiek woonagtig is en wat openbare praktyk daarin beoefen of aan die raad 'n skriftelike deur die raad goedgekeurde onderneming verskaf het dat hy by of na registrasie toegelaat sal word tot 'n vennootskap met 'n geregistreerde rekenmeester en ouditeur wat
- 10 in die Republiek gewoonlik woonagtig is en openbare praktyk beoefen, moet die raad, behoudens dié bepalings van subartikel (4), die aansoeker as 'n buitelandse rekenmeester en ouditeur registreer en aan hom 'n registrasiesertifikaat in die vorm wat die raad voorskryf, uitreik.
- (c) Oral waar in hierdie Wet die uitdrukking "rekenmeester en ouditeur"
- 15 gebesig word, word die uitdrukking geag ook na 'n buitelandse rekenmeester en ouditeur te verwys, tensy uit die samehang anders blyk.
- (4) Die raad registreer nie 'n persoon ingevolge hierdie artikel as 'n rekenmeester en ouditeur nie—
- (a) indien hy te eniger tyd weens wangedrag van 'n vertrouensamp onthef
- 20 is; of
- (b) indien hy te eniger tyd (in die Republiek of elders) skuldig bevind is aan diefstal, bedrog, vervalsing of die uitgifte van 'n vervalste stuk, meened, 'n misdryf kragtens die Wet op Voorkoming van Korruptsie, 1958 (Wet No. 6 van 1958), of 'n misdryf waarby oneerlikheid betrokke
- 25 is, en daarvoor gestraf is met gevangenisstraf sonder die keuse van 'n boete of met 'n boete van meer as R300; of
- (c) indien hy geestelik versteurd is; of
- (d) indien hy ingevolge 'n kragtens hierdie Wet opgelegde straf onbevoeg is om geregistreer te word,
- 30 en kan weier om iemand wat 'n ongerehabiliteerde insolvente persoon is of wat met sy skuldeisers 'n ooreenkoms aangegaan het, of wat weens sy gedrag na die oordeel van die raad nie 'n geskikte persoon is om geregistreer te word nie, aldus te registreer.
- (5) Die raad moet registrasie as 'n rekenmeester en ouditeur kanselleer in die
- 35 geval van 'n persoon wat na sy registrasie aan 'n diskwalifikasie vermeld in subartikel (4)(a) of (b) onderhewig word, en kan die registrasie kanselleer van 'n persoon wie se boedel gesekwestreer word of wat 'n ooreenkoms met sy skuldeisers aangaan of wat per abuis geregistreer is of geregistreer is op grond van inligting wat daarna bewys word vals te wees, of wat voor sy registrasie hom
- 40 skuldig gemaak het aan gedrag as gevolg waarvan hy na die oordeel van die raad nie 'n geskikte persoon is om geregistreer te wees nie.
- (6) Die raad moet die registrasie as 'n buitelandse rekenmeester en ouditeur kanselleer in die geval van 'n persoon wat—
- (i) na sy registrasie gewoonlik in die Republiek woonagtig word; of
- 45 (ii) nie binne ses maande na die datum van sy registrasie bewys ten genoeë van die raad lewer nie dat hy toegelaat is tot 'n vennootskap met 'n geregistreerde rekenmeester en ouditeur wat gewoonlik in die Republiek woonagtig is en wat openbare praktyk daarin beoefen; of
- (iii) ophou om 'n vennoot te wees van 'n geregistreerde rekenmeester en
- 50 ouditeur wat gewoonlik in die Republiek woonagtig is en wat openbare praktyk daarin beoefen en nie binne ses maande daarna bewys ten genoeë van die raad lewer nie dat hy tot 'n ander vennootskap met so 'n geregistreerde rekenmeester en ouditeur toegelaat is; of
- (iv) in vennootskap is met 'n geregistreerde rekenmeester en ouditeur wat
- 55 opgehou het om openbare praktyk in die Republiek te beoefen of met 'n persoon wie se registrasie as rekenmeester en ouditeur gekanselleer is of verval het kragtens of uit hoofde van enigeen van die bepalings van hierdie Wet, tensy hy binne ses maande daarna bewys ten genoeë van die raad lewer dat sodanige vennootskap ontbind is en dat hy toegelaat
- 60 is tot vennootskap met 'n ander geregistreerde rekenmeester en ouditeur wat gewoonlik in die Republiek woonagtig is en wat openbare praktyk daarin beoefen; of
- (v) onderhewig word aan een of ander van die in hierdie Wet bedoelde

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. 5

(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. 10

(b) Paragraph (a) shall not apply in respect of a non-resident accountant and auditor. 15

(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. 20 25

(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. 30

Restrictions in connection with non-resident accountants and auditors

16. (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; 35
- (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; 40
- (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 the 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. 45

Exemption of certain non-resident accountants and auditors

17. (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 50

diskwalifikasies, behalwe dié wat in subartikel (7)(a) uiteengesit word.

(7) Die registrasie van enigiemand as 'n rekenmeester en ouditeur verval as so iemand—

- (a) ophou om permanent in die Republiek te woon; of
- 5 (b) in gebreke bly om enige jaargelde of gedeelte daarvan kragtens artikel 13(1)(e) voorgeskryf of bepaal en deur hom betaalbaar, te betaal binne drie maande nadat bedoelde gelde of gedeelte daarvan betaalbaar word of binne die langer tydperk wat die raad in 'n besondere geval toelaat.
- 10 (8) (a) Behoudens die bepalings van subartikel (4) moet die raad op aansoek by hom iemand wat voorheen as rekenmeester en ouditeur ingevolge hierdie Wet geregistreer was, as rekenmeester en ouditeur registreer, indien hy die voorgeskrewe woonkwalifikasies besit en die voorgeskrewe registrasiegelde en enige agterstallige jaargelde betaal het.
- 15 (b) Paragraaf (a) is nie ten opsigte van 'n buitelandse rekenmeester en ouditeur van toepassing nie.
- (9) Die raad moet, op skriftelike versoek van 'n rekenmeester en ouditeur wat as sodanig ingevolge hierdie Wet geregistreer is, sy naam in die register skrap, maar die skraping het geen uitwerking op enige aanspreeklikheid wat so 'n
- 20 rekenmeester en ouditeur voor die datum van bedoelde versoek opgeloop het nie.
- (10) Iemand wat ingevolge hierdie artikel as 'n rekenmeester en ouditeur geregistreer is, kan homself as 'n geregistreerde rekenmeester en ouditeur beskryf en is, mits hy die jaargelde (of gedeelte daarvan) deur die raad kragtens
- 25 artikel 13(1)(e) voorgeskryf of bepaal, betaal het teen die tarief van toepassing op 'n geregistreerde rekenmeester en ouditeur wat openbare praktyk beoefen, geregtig om homself as 'n openbare rekenmeester of 'n openbare rekenmeester en ouditeur te beskryf en om in enige deel van die Republiek openbare praktyk te beoefen.
- 30 (11) Iemand wat onmiddellik voor die inwerkingtreding van hierdie Wet ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), as 'n rekenmeester en ouditeur geregistreer was, word geag ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer te gewees het.

Beperkings in verband met buitelandse rekenmeesters en ouditeurs

- 35 16. (1) Niemand—
- (a) wat ingevolge hierdie Wet as 'n buitelandse rekenmeester en ouditeur geregistreer is, mag 'n lid word nie van 'n firma waarvan meer as die helfte van die lede persone is wat as buitelandse rekenmeesters en
- 40 ouditeurs geregistreer is of waarvan meer as die helfte van die lede sodanige persone sal wees indien hy lid daarvan word;
- (b) wat 'n lid van 'n in paragraaf (a) bedoelde firma is, mag 'n persoon wat as 'n buitelandse rekenmeester en ouditeur geregistreer is, toelaat om 'n lid van daardie firma te word nie;
- 45 (c) mag 'n lid wees nie van 'n firma waarvan meer as die helfte van die lede persone is wat as buitelandse rekenmeesters en ouditeurs geregistreer is.
- (2) Niemand wat ingevolge hierdie Wet as 'n buitelandse rekenmeester en ouditeur geregistreer is, mag, in die hoedanigheid van 'n rekenmeester of ouditeur, uit eie naam of namens die firma waarvan hy 'n lid is, 'n finansiële staat
- 50 (met inbegrip van 'n bylae daarby) of ander stuk wat betrekking het op die werksaamhede in die Republiek van 'n onderneming wat kragtens die een of ander wet in die Republiek geregistreer of ingestel is of wat besigheid in die Republiek dryf, sertifiseer nie of 'n verslag of mening daarvoor verstrek nie.

Vrystelling van sekere buitelandse rekenmeesters en ouditeurs

- 55 17. (1) Die raad kan op die voorwaardes wat hy bepaal iemand wat gewoonlik woonagtig is in 'n buurstaat van die Republiek en ingevolge hierdie Wet as 'n buitelandse rekenmeester en ouditeur geregistreer is of begerig is om as sodanig geregistreer te word, onthef van enige van of al die bepalings van artikels

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. 5

Training contracts

18. (1) No service under a training contract entered into after the commencement of this Act shall be recognized 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. 10

(2) Service under a training contract shall be as prescribed by the board from time to time. 15

Examinations

19. (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. 20

(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. 25

(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. 30

(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— 35

(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: 40

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; 45

(iii) exemption shall be given only in respect of such part or parts of the examinations as the board may deem fit. 50

Powers and duties of auditors

20. (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

15(3)(b)(ii) en (iii) en (6)(ii), (iii) en (iv) en 16 vir sover sodanige bepalings op so iemand van toepassing is.

(2) 'n Vrystelling in subartikel (1) bedoel, kan deur die raad ingetrek word deur die vrygestelde persoon ses maande skriftelike kennis van die intrekking 5 van sy vrystelling te gee: Met dien verstande dat die vrystelling van iemand wat 'n voorwaarde van sy vrystelling oortree het of versuim het om daaraan te voldoen summier deur die raad ingetrek kan word.

Opleidingskontrakte

18. (1) Geen diens onder opleidingskontrak aangegaan na die inwerkingtre-
10 ding van hierdie Wet word vir die doeleindes van hierdie Wet erken nie tensy sodanige opleidingskontrak by die raad geregistreer is, en geen opleidingskontrak word aldus geregistreer nie tensy die persoon of firma by wie diens daaronder verrig moet word die toestemming van die raad verkry het om 'n leerlingrekenmeester in diens te neem.

15 (2) Diens onder 'n opleidingskontrak word van tyd tot tyd deur die raad voorgeskryf.

Eksamens

19. (1) Die eksamens waarin persone moet slaag ten einde as rekenmeesters en ouditeurs geregistreer te kan word, moet van tyd tot tyd deur die raad 20 voorgeskryf word.

(2) Die raad kan, in plaas van self 'n eksamen af te neem wat deur hom voorgeskryf is, reëlins tref om so 'n eksamen of enige deel daarvan deur een of meer universiteite of inrigtings wat die Minister goedkeur namens die raad te laat afneem, en kan die voorwaardes bepaal waarop bedoelde eksamen aldus 25 afgeneem moet word.

(3) Die raad kan van enige persoon wat begerig is om vir een of ander van die eksamens wat deur die raad voorgeskryf is, in te skryf, verlang om, as 'n voorvereiste voordat hy aldus inskryf, aan 'n universiteit in die Republiek die graad, diploma of sertifikaat te verwerf wat die raad bepaal of in die eksamens 30 wat deur 'n universiteit in die Republiek afgeneem word, te slaag wat die raad bepaal.

(4) Iemand wat inskryf as kandidaat vir 'n eksamen in hierdie artikel bedoel, moet aandui of hy die eksamen in Engels of Afrikaans wil ondergaan, en alle eksamenvraestelle moet in die taal aldus aangedui aan so iemand verskaf en kan 35 daarin deur hom beantwoord word.

(5) Die raad kan vrystelling verleen van die verpligting om in 'n eksamen wat in hierdie artikel bedoel word, te slaag, aan iemand wat—

(a) buite die Republiek geslaag het in 'n eksamen wat deur die raad voorgeskryf of goedgekeur is;

40 (b) 'n graad, uitgesonderd 'n eregraad, universiteitsdiploma of universiteit-sertifikaat wat deur die raad voorgeskryf of goedgekeur is, verwerf het: Met dien verstande dat—

(i) so 'n persoon nie as 'n rekenmeester en ouditeur geregistreer word nie totdat hy in die eksamen in die regte van die Republiek geslaag het wat 45 die raad bepaal;

(ii) niemand toegelaat word om sodanige eksamen af te lê nie tensy hy bewys ten genoeë van die raad verstrekket dat hy permanent woonagtig is in die Republiek, die Republiek van Bophuthatswana, die Republiek van Ciskei, die Republiek van Venda of die Republiek van 50 Namibië;

(iii) vrystelling verleen word slegs ten opsigte van die gedeelte of gedeeltes van die eksamens wat die raad goedgevind.

Bevoegdhede en pligte van ouditeurs

20. (1) Niemand wat in die hoedanigheid van ouditeur van enige onderneming 55 optree, mag, sonder die voorbehoud wat na gelang van omstandighede gepas is, na aanleiding van 'n ouditering deur hom in daardie hoedanigheid uitgevoer,

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 subsection (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 reasons 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

sertifiseer of verslag doen of 'n mening uitspreek nie ten effekte dat 'n finansiële staat, met inbegrip van 'n bylae daarby, wat op daardie onderneming betrekking het, 'n redelike voorstelling is, of 'n ware en redelike uiteensetting bied, of 'n juiste weergawe is, van die sake van daardie onderneming en die resultate van sy bedryf, of van die aangeleenthede wat in bedoelde finansiële staat of bylae behandel word, na gelang die omstandighede vereis, tensy—

- (a) hy bedoelde ouditering uitgevoer het sonder enige beperkings hoe-genaamd;
- (b) behoorlike rekeningkundige aantekeninge in een van die amptelike tale van die Republiek in verband met die betrokke onderneming gehou is wat al sy transaksies korrek en op afdoende wyse weergee en verduidelik en al sy bates en laste aldus vermeld;
- (c) hy al die inligting, bewysstukke en ander dokumente wat volgens sy oordeel nodig was vir die behoorlike verrigting van sy pligte verkry het;
- (d) in die geval van 'n onderneming wat deur 'n wet gereël word, hy aan al die vereistes van daardie wet met betrekking tot die ouditering van daardie onderneming voldoen het;
- (e) hy homself, deur middel van metodes wat met inagneming van die aard van die betrokke onderneming redelikerwys gepas is, daarvan vergewis het dat al die bates en laste wat op daardie finansiële staat of bylae getoon word, wel bestaan;
- (f) hy homself, vir sover redelikerwys doenlik met inagneming van die aard van die betrokke onderneming en van die ouditering deur hom uitgevoer, vergewis het van die redelikheid of die waarheid of die juistheid, na gelang van die geval, van bedoelde finansiële staat of bylae;
- (g) enige aangeleentheid in subartikel (5) bedoel, op die datum waarop hy aldus gesertifiseer of verslag gedoen het of so 'n mening uitgespreek het, na sy goëddunke in die reïne gebring was.

(2) Geen rekenmeester of ouditeur mag sonder die voorbehoud wat onder die omstandighede gepas is, wanneer hy anders optree as na aanleiding van 'n ouditering, sertifiseer of verslag doen of 'n mening uitspreek nie ten effekte dat 'n rekening, finansiële staat (met inbegrip van 'n bylae daarby) of ander dokument met betrekking tot die sake of finansiële aangeleenthede van 'n onderneming 'n redelike voorstelling is, of 'n ware en redelike uiteensetting bied, of 'n juiste weergawe is, van die aangeleenthede wat daarin behandel word, tensy hy *mutatis mutandis* die bepalings van subartikel (1)(a), (c) en (f) nagekom het.

(3) Indien 'n rekenmeester of ouditeur of sy vennoot of iemand wat by hom of sy vennoot in diens is of iemand wat onder sy toesig en beheer of onder die toesig en beheer van sy vennoot werk, verantwoordelik was vir die hou van die boeke, registers of rekenings van 'n onderneming, behalwe deur afsluitingsinskrywings te doen of hulp te verleen by die doen van aansuiweringsinskrywings of die opstel van 'n balansstaat, rekening, staat of ander dokument volgens bestaande stukke, moet dié rekenmeester of ouditeur wanneer hy iets in verband met die sake of finansiële aangeleenthede van die onderneming sertifiseer of daaroor verslag doen, aandui dat, na gelang van die geval, hy of sy vennoot of iemand wat by hom of sy vennoot in diens is of iemand wat onder sy toesig en beheer of onder die toesig en beheer van sy vennoot werk, verantwoordelik was vir die hou van die boeke, registers of rekenings.

(4) 'n Sertifikaat wat deur 'n rekenmeester of ouditeur in sy hoedanigheid as rekenmeester of ouditeur gegee of 'n verslag wat deur hom uitgebring of 'n mening wat deur hom uitgespreek moet word na aanleiding van 'n opdrag deur hom uitgevoer, moet binne 'n tydperk van vier maande na die datum waarop die opdrag uitgevoer is, gegee of uitgebring of uitgespreek word, en indien die rekenmeester of ouditeur nie in staat is om 'n sertifikaat, verslag of mening sonder voorbehoud te gee of uit te bring of uit te spreek nie, moet hy binne genoemde tydperk daardie sertifikaat gee of daardie verslag uitbring of daardie mening uitspreek behoudens die voorbehoude wat hy nodig ag, en kan hy, indien hy dit raadsaam ag, op daardie sertifikaat, verslag of mening die redes vir so 'n voorbehoud endosseer.

(5) (a) Indien iemand wat in die hoedanigheid van ouditeur van 'n onderneming optree, oortuig is of rede het om te glo dat by die bestuur van die sake van die onderneming 'n wesenlike onreëlmatigheid plaasgevind het of plaasvind wat

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 of paragraphs (b) and (c) and requesting him to acknowledge receipt of such report in writing. 5

(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. 10

(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 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. 15

(d) For the purpose of determining whether any irregularity contemplated in this subsection has taken place or is taking place, an auditor may carry out such investigation as he may deem fit. 20

(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. 25 30 35

(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. 40 45

(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. 50

(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. 55

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

geldelike verlies aan die onderneming of aan enige van sy lede of krediteure berokken het of waarskynlik sal berokken, stuur hy onverwyld aan die persoon in beheer van daardie onderneming 'n skriftelike verslag waarin besonderhede van die onreëlmatigheid aangegee word en terselfdertyd vestig hy die aandag 5 van die persoon in beheer op die bepalings van paragrafe (b) en (c) en versoek hy hom om skriftelik ontvangs van die verslag te erken.

(b) Tensy binne 30 dae nadat 'n ouditeur so 'n verslag afgestuur het, hy oortuig is dat geen sodanige onreëlmatigheid plaasgevind het of plaasvind nie of dat doeltreffende stappe gedoen is om enige sodanige verlies wat aldus berokken 10 is, te verhaal of om enige sodanige verlies wat waarskynlik aldus berokken sal word, te voorkom, verstrek hy onverwyld aan die raad afskrifte van die verslag en van enige ontvangserkenning daarvan of antwoord daarop en die ander besonderhede wat hy goedvind.

(c) Die raad kan aan 'n prokureur-generaal of die Registrateur van Deposi- 15 tonemende Instellings of 'n beamppte in die staatsdiens of 'n lid of krediteur van die betrokke onderneming of enige regspersoon van wie die onderneming 'n lid is of wat beheer oor die onderneming het of wat bevoeg is om dissiplinêre stappe teen die onderneming te doen, of aan die komitee van enige effektebeurs waarop aandele van die onderneming genoteer word, enige inligting openbaar 20 wat ingevolge paragraaf (b) aan die raad verstrek is.

(d) Ten einde te bepaal of 'n onreëlmatigheid in hierdie subartikel beoog, plaasgevind het of plaasvind, kan 'n ouditeur die ondersoek instel wat hy goedvind.

(e) Hierdie subartikel word nie so vertolk dat dit aan enigiemand 'n reg 25 verleen om 'n eis teen 'n ouditeur in te stel wat hy by ontstentenis van hierdie subartikel nie sou gehad het nie.

(6) (a) Indien iemand wat in die hoedanigheid van ouditeur van 'n onderne- 30 ming opgetree het onmiddellik voor die sekwestrasie of likwidasie (hetsy voorlopig of finaal) daarvan, oortuig is of rede het om te glo dat daar op of voor die datum van die sekwestrasie of likwidasie 'n wesenlike onreëlmatigheid by die bestuur van die sake van die onderneming besig was om plaas te vind of plaasgevind het wat geldelike verlies aan die onderneming of aan enige van sy lede of krediteure berokken het of waarskynlik sal berokken, en bedoelde 35 persoon nie voor genoemde datum met betrekking tot daardie onreëlmatigheid aan die bepalings van subartikel (5)(a) voldoen het nie, stuur hy onverwyld 'n skriftelike verslag, waarin besonderhede van die onreëlmatigheid aangegee word, aan die persoon aangestel as trustee of voorlopige trustee of as likwidateur of voorlopige likwidateur, na gelang van die geval, van daardie onderneming, en verskaf hy terselfdertyd afskrifte van daardie verslag aan die persoon in beheer 40 van daardie onderneming en aan die raad.

(b) Indien iemand wat in die hoedanigheid van ouditeur van 'n onderneming opgetree het onmiddellik voor die sekwestrasie of likwidasie (hetsy voorlopig of finaal) daarvan en wat nie ingevolge subartikel (5)(a) gehandel het of ingevolge 45 paragraaf (a) van hierdie subartikel 'n skriftelike verslag gestuur het nie, te eniger tyd skriftelik daartoe versoek word deur die persoon aangestel as kurator of voorlopige kurator of as likwidateur of voorlopige likwidateur, na gelang van die geval, van daardie onderneming, moet hy onverwyld die persoon wat bedoelde versoek doen, in kennis stel of 'n skriftelike verslag by paragraaf (a) 50 van hierdie subartikel vereis word al dan nie, en in die geval waar hy die persoon wat bedoelde versoek doen, in kennis stel dat sodanige verslag wel aldus vereis word, moet hy onverwyld die verslag aan hom stuur, en terselfdertyd afskrifte van daardie verslag aan die persoon in beheer van daardie onderneming en aan die raad verskaf.

(c) Die bepalings van subartikel (5)(c) is *mutatis mutandis* van toepassing met 55 betrekking tot inligting wat ingevolge paragraaf (a) van hierdie subartikel aan die raad verstrek is, en die bepalings van subartikel (5)(e) is *mutatis mutandis* van toepassing met betrekking tot enige bepalings van hierdie subartikel.

(7) 'n Ouditeur moet by die verrigting van 'n plig bedoel in subartikels (5) en 60 (6) die inligting wat tot sy kennis kom in sy hoedanigheid van ouditeur van 'n onderneming en alle inligting wat vanuit enige bron tot sy kennis kom, in ag neem.

(8) Indien iemand wat ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is—

- (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 reasonably 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

- (a) versuim om die pligte wat in sy hoedanigheid van ouditeur van 'n onderneming op hom rus, met die mate van versigtigheid en bedrewenheid te verrig wat volgens die raad se oordeel redelikerwys verwag kan word; of
- 5 (b) by die verrigting van bedoelde pligte nalatig is, kan die raad, hetsy bedoelde ouditeur ten opsigte van daardie versuim of nalatigheid aan strafregtelike vervolging onderhewig is of daarvan aangekla of daaraan skuldig bevind is, al dan nie, die omstandighede ondersoek en, indien daardie versuim of nalatigheid ten genoë van die raad bewys word, na
- 10 goeëddunke aan daardie persoon enige van die ingevolge artikel 13(1)(h) voorgeskrewe strawwe oplê: Met dien verstande dat so iemand nie straf deur die raad oploop weens 'n mening deur hom te goeder trou uitgespreek omtrent die waarde of bedrag van 'n bate of las wat verskyn op die balansstaat ten opsigte van die onderneming in verband waarmee die ouditering uitgevoer is, of weens
- 15 sy weiering om daaroor 'n mening uit te spreek nie, indien die raad oortuig is dat, met die oog op die aard van die betrokke bate of las of ander omstandighede, daar nie redelikerwys van bedoelde persoon verwag kon gewees het om 'n gesaghebbende mening uit te spreek nie.
- (9) Ten opsigte van 'n mening uitgespreek of sertifikaat gegee of verslag of
- 20 verklaring gedoen of 'n staat, rekening of dokument gesertifiseer in die gewone loop van sy pligte deur 'n persoon-wat ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is—
- (a) loop hy geen aanspreeklikheid op teenoor sy kliënt of 'n derde party nie, tensy bewys word dat daardie mening of daardie sertifikaat of daardie
- 25 verslag of verklaring of daardie staat, rekening of dokument kwaadwillig of na aanleiding van 'n nalatige verrigting van sy pligte uitgespreek, gegee, gedoen of gesertifiseer, na gelang van die geval, is; en
- (b) is hy, waar bewys word dat daardie mening of daardie sertifikaat of daardie verslag of verklaring of daardie staat, rekening of dokument na
- 30 aanleiding van 'n nalatige verrigting van sy pligte uitgespreek, gegee, gedoen of gesertifiseer, na gelang van die geval, is, teenoor 'n derde party wat hom op daardie mening, sertifikaat, verslag, verklaring, staat, rekening of dokument verlaat het, aanspreeklik vir geldelike verlies gelyk as gevolg daarvan dat die derde party hom daarop verlaat
- 35 het, slegs indien bewys word dat die ouditeur of persoon aldus geregistreer—
- (i) geweet het of daar onder die bepaalde omstandighede redelikerwys van hom verwag kon gewees het om te weet, toe die nalatigheid plaasgevind het by die verrigting van die pligte na
- 40 aanleiding waarvan daardie mening uitgespreek of daardie sertifikaat gegee of daardie verslag of verklaring gedoen of daardie staat, rekening of dokument gesertifiseer is—
- (aa) dat daardie mening, sertifikaat, verslag, verklaring, staat, rekening of dokument deur sy kliënt gebruik sou word om die derde party oor te haal om op een of ander wyse op te
- 45 tree of nie op te tree nie of om die besondere transaksie wat die derde party aangegaan het of 'n ander transaksie van soortgelyke aard met die kliënt of iemand anders aan te gaan; of
- 50 (bb) dat die derde party hom op daardie mening, sertifikaat, verslag, verklaring, staat, rekening of dokument sou verlaat met die doel om op een of ander wyse op te tree of nie op te tree nie of om die besondere transaksie wat die derde party aangegaan het of 'n ander transaksie van soortgelyke
- 55 aard, met die kliënt of iemand anders aan te gaan; of
- (ii) te eniger tyd nadat daardie mening uitgespreek of daardie sertifikaat gegee of daardie verslag of verklaring gedoen of daardie staat, rekening of dokument gesertifiseer is, op enige wyse aan die
- 60 derde party te kenne gegee het dat daardie mening, sertifikaat, verslag, verklaring, staat, rekening of dokument juis was, terwyl hy op daardie tydstip geweet het of daar op daardie tydstip onder die bepaalde omstandighede redelikerwys van hom verwag kon gewees het om te weet dat die derde party hom sou verlaat op wat

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.

(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— 5

- (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). 10

(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 15
 - (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; 20
 “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. 25

Carrying on of business

21. (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— 30

- (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; 35
- (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; 40
- (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 so to conform or for such longer period as the board may approve; 45
- (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; 50
- (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; 55

aldus te kenne gegee is, met die doel om op een of ander wyse op te tree of nie op te tree nie of om die besondere transaksie wat die derde party aangegaan het of 'n ander transaksie van soortgelyke aard, met die kliënt of iemand anders aan te gaan.

- 5 (10) By die toepassing van paragraaf (b) van subartikel (9) is die feit dat 'n ouditeur of persoon in daardie paragraaf bedoel die werksaamhede van 'n rekenmeester of ouditeur verrig het, op sigself nie bewys nie dat daar redelikerwys van hom verwag kon gewees het om te weet dat—
- 10 (a) sy kliënt sou optree soos in subparagraaf (i)(aa) van genoemde paragraaf (b) beoog; of
- (b) die derde party sou optree soos in subparagraaf (i)(bb) of (ii) van genoemde paragraaf (b) beoog.
- (11) Die bepalinge van paragraaf (b) van subartikel (9) raak nie—
- 15 (a) enige aanspreeklikheid van 'n ouditeur of 'n persoon in daardie subartikel bedoel wat voortspruit uit—
- (i) 'n kontrak tussen 'n derde party en daardie ouditeur of persoon nie; of
- (ii) enige statutêre bepaling nie; of
- 20 (b) enige uitsluiting van aanspreeklikheid deur 'n ouditeur of 'n persoon in daardie subartikel bedoel nie.
- (12) By die toepassing van subartikel (9), (10) of (11) beteken—
- 25 “derde party” enigiemand behalwe die betrokke kliënt, en ook 'n lid van 'n kliënt wat 'n maatskappy of buitelandse maatskappy (soos omskryf in artikel 1 van die Maatskappywet, 1973 (Wet No. 61 van 1973)), is of wat 'n ander regspersoon is;
- “kliënt” die persoon vir wie 'n ouditeur of 'n persoon in subartikel (9) bedoel, of sy firma, die betrokke pligte verrig het.

Sakebedryf

21. (1) 'n Openbare rekenmeester kan openbare praktyk alleen of in vennootskap met ander openbare rekenmeesters beoefen.
- (2) Persone wat ingevolge hierdie Wet as rekenmeesters en ouditeurs geregistreer is en openbare praktyk beoefen, kan ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), 'n maatskappy instel om deur sy lede openbare praktyk te beoefen, mits—
- 35 (a) die maatskappy ingevolge die Maatskappywet, 1973, as 'n maatskappy ingelyf en geregistreer is, met 'n aandeelkapitaal, en sy akte van oprigting bepaal dat sy direkteure en gewese direkteure saam met die maatskappy gesamentlik en afsonderlik aanspreeklik is vir sy skulde en laste wat tydens hul ampstermyn opgeloop het;
- 40 (b) slegs natuurlike persone wat openbare rekenmeesters is lede of aandeelhouers van die maatskappy is of 'n belang in sy aandele het;
- (c) elke aandeelhouer van die maatskappy 'n openbare rekenmeester en 'n direkteur daarvan is en slegs sodanige aandeelhouer 'n direkteur daarvan is;
- 45 (d) in die geval waar 'n aandeelhouer van die maatskappy of 'n persoon wat 'n belang by die aandele daarvan het, sterf of ophou om aan 'n vereiste van paragraaf (b) te voldoen, sy boedel of hy, na gelang van die geval, kan voortgaan om die betrokke aandele of belang te hou vir 'n tydperk van ses maande vanaf die datum van die dood of waarop hy ophou om aldus te voldoen of vir die langer tydperk wat die raad goedkeur;
- 50 (e) 'n aandeel beoog in paragraaf (d) geen stemregte meebring nie, en 'n aandeelhouer daarin genoem nie optree as 'n direkteur van die maatskappy nie of regstreeks of onregstreeks direkteursgelde of vergoeding ontvang nie of deel in die inkomste van of winste deur die maatskappy in sy saak verwerf nie;
- 55 (f) die maatskappy, indien sy statute aldus bepaal en sonder bevestiging deur 'n hof, op die voorwaardes wat hy dienstig ag enige aandele in hom kan aankoop sonder dat sy gemagtigde aandeelkapitaal daardeur verminder word;
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- (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.

Information to be furnished by accountants and auditors

22. (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 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 name 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;

- (g) aandele wat kragtens paragraaf (f) aangekoop is, beskikbaar vir toekenning ingevolge die maatskappy se statute is;
- (h) die maatskappy se statute, ondanks andersluidende bepalings van enige ander wet, bepaal dat 'n lid van die maatskappy nie 'n persoon wat nie 'n lid van die maatskappy is nie, aanstel om in sy plek 'n vergadering van die maatskappy by te woon of daarop die woord te voer of te stem nie;
- (i) die maatskappy, sodra hy ophou om te voldoen aan paragrafe (a) en (b), ophou om aldus openbare praktyk te beoefen: Met dien verstande dat die bepalings van hierdie paragraaf nie slegs weens die feit dat 'n aandeelhouer van die maatskappy of 'n persoon wat 'n belang by die aandele van die maatskappy het, opgehou het om 'n openbare rekenmeester te wees, gedurende die tydperk in paragraaf (d) bedoel of beoog, op die maatskappy van toepassing is nie.
- (3) Die bepalings van artikel 20(1)(b) van die Maatskappywet, 1973 (Wet No. 61 van 1973), geld nie ten opsigte van 'n maatskappy bedoel in subartikel (2) van hierdie artikel van hierdie Wet nie, indien dit 'n private maatskappy is.

Inligting wat deur rekenmeesters en ouditeurs verstrek moet word

22. (1) Elke persoon wat ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is en openbare praktyk beoefen, moet behoudens die bepalings van subartikel (3)—
- (a) die raad en elke persoon vir wie hy of sy firma as ouditeur optree, van enige verandering in die naam, samestelling of adres van die firma in kennis stel nie later nie as 14 dae na die datum waarop die verandering plaasvind: Met dien verstande dat kennis van 'n verandering in—
- (i) die naam of adres van 'n takkantoor van 'n firma; of
- (ii) die samestelling van 'n firma waarby 'n vennoot toegewys aan 'n takkantoor van sodanige firma in die besonder betrokke is, slegs aan die raad en die persone aan wie professionele dienste uit daardie takkantoor gelewer word, gegee hoef te word; en
- (b) die volgende inligting verstrek binne 14 dae na ontvangs van 'n versoek daarvoor van 'n persoon vir wie hy of sy firma as ouditeur optree of wat voornemens is om hom of sy firma as ouditeur aan te stel, naamlik—
- (i) elke handelsnaam of benaming waaronder hy praktiseer;
- (ii) die sakeperseel of -persele van alle vennootskappe waarin hy openbare praktyk beoefen as 'n vennoot;
- (iii) die volle name van al sy vennote; en
- (iv) sy nasionaliteit, sy voorname of die voorletters daarvan, sy van en elke van wat hy vroeër gehad het en sy gewone sakeadres en sy woonadres.
- (2) Wanneer twee of meer sodanige persone in vennootskap praktiseer, kan die in subartikel (1) bedoelde besonderhede verstrek word in 'n mededeling deur of op naam van die firma, en so 'n mededeling word geag 'n voldoende nakoming deur die individuele vennote van daardie firma van die bepalings van daardie subartikel te wees.
- (3) By die toepassing van subartikel (1) beteken die uitdrukking "elke van wat hy vroeër gehad het" nie ook—
- (a) in die geval van iemand wat as kind aangeneem is, sy van voor die aanneming nie; of
- (b) in die geval van enigiemand, 'n van wat hy voorheen gehad het en wat verander is of in onbruik geraak het voordat hy die ouderdom van 18 jaar bereik het of verander is of in onbruik geraak het vir 'n tydperk van minstens 20 jaar nie; of
- (c) in die geval van 'n getroude of geskeide vrou of 'n weduwee, die van wat sy voor haar huwelik gehad het nie.
- (4) Enigiemand wat ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is—
- (a) en wat nie openbare praktyk beoefen nie, stel die raad onverwyld in kennis as hy met openbare praktyk begin en van 'n verandering in sy adres;

(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).

Disciplinary powers of board

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23. (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 the 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 any 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.

Hearing by board

24. (1) For the purpose of any hearing 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

- (b) en wat openbare praktyk beoefen, stel die raad onverwyld in kennis as hy ophou om openbare praktyk te beoefen.
- (5) Die bepalings van hierdie artikel is, vir sover hulle toegepas kan word, ook van toepassing op 'n maatskappy in artikel 21(2) bedoel.

5 Disziplinêre bevoegdhede van raad

23. (1) Die raad kan 'n aantying of klagte van onbehoorlike gedrag, hetsy voorgeskryf al dan nie, waaraan iemand wat ingevolge hierdie Wet as rekenmeester en ouditeur geregistreer is of was hom na bewering skuldig sou gemaak het terwyl hy aldus geregistreer was, ondersoek of laat ondersoek en, indien
10 nodig, verhoor, en ten opsigte van so 'n klag enige voorgeskrewe straf oplê: Met dien verstande dat in die geval van beweerde onbehoorlike gedrag wat die onderwerp van straf- of sivilregtelike verrigtinge in 'n geregshof uitmaak, of ten opsigte waarvan die raad rede het om te glo dat dit waarskynlik so 'n onderwerp sal uitmaak, die raad die ondersoek kan uitstel tot sodanige verrigtinge
15 afgehandel is: Met dien verstande voorts dat die bepalings van hierdie artikel nie afbreuk doen aan die reg van 'n genootskap of 'n georganiseerde liggaam van professionele rekenmeesters om ingevolge die konstitusie en reëls van daardie genootskap of liggaam tug- of ander maatreëls op enigeen van sy lede toe te pas nie.
- 20 (2) Die raad kan iemand wat kragtens subartikel (1) straf opgelê word, beveel om die redelike koste wat die raad in verband met die ondersoek en verhoor van die betrokke klagte opgeloop het, of die deel daarvan wat die raad billik ag, te betaal: Met dien verstande dat ten spyte daarvan dat enige rekenmeester en ouditeur wie se gedrag kragtens subartikel (1) ondersoek is, nie aan onbehoorlike gedrag skuldig bevind is, of daarvan dat geen straf hom opgelê is nie, die
25 raad hom nogtans kan beveel om genoemde koste te dra as sy gedrag ten aansien van die ondersoek of die verhoor, na die raad se oordeel, van so 'n aard was dat die raad onnodige koste moes aangaan.
- (3) Wanneer—
- 30 (a) 'n straf wat kragtens subartikel (1) opgelê is, uit 'n boete bestaan of 'n boete insluit; of
- (b) 'n kostebevel kragtens subartikel (2) uitgereik is, kan die bedrag daarvan deur die raad op die betrokke persoon verhaal word, en moet 'n bedrag aldus verhaal in die fondse van die raad gestort word.
- 35 (4) Wanneer in die loop van verrigtinge voor 'n geregshof dit aan die hof blyk dat daar *prima facie*-bewys is van onbehoorlike gedrag aan die kant van 'n persoon wat ingevolge hierdie Wet registreer is, of van gedrag aan die kant van so 'n persoon wat, met inagneming van die beroep van 'n rekenmeester en ouditeur, onbehoorlik is, moet die hof gelas dat 'n afskrif van die oorkonde van
40 die verrigtinge of die gedeelte daarvan wat op sodanige gedrag betrekking het, aan die raad gestuur word.

Verhoor deur raad

24. (1) Die raad kan, vir die doeleindes van 'n verhoor kragtens artikel 23—
- 45 (a) iemand wat na sy oordeel in staat is om inligting van wesenlike belang te verstrek omtrent die onderwerp van verhoor of wat vermoed word 'n boek, dokument of saak wat betrekking het op die onderwerp van die verhoor in sy besit of bewaring of onder sy beheer te hê, dagvaar om op 'n tyd en plek in die dagvaarding vermeld voor die raad te verskyn om ondervra te word of om daardie boek, dokument of saak oor te lê, en kan 'n boek, dokument of saak wat aldus oorgelê is, vir ondersoek
50 behou;
- (b) enige by die verhoor aanwesige persoon wat kragtens paragraaf (a) gedagvaar is of kon gewees het, oproep en, by monde van die voorsitter van die raad of van 'n ander persoon deur die raad daartoe gemagtig, aan hom 'n eed oplê of van hom 'n bevestiging aanneem, en hom ondervra en hom aansê om 'n boek, dokument of saak in sy besit of bewaring of onder sy beheer oor te lê;
- 55 (c) iemand aanstel om die raad by bedoelde verhoor te adviseer oor aangeleenthede betreffende die reg, prosedure of bewyslewering, en

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. 5

(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. 10 15

(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. 20

(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. 25

(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. 30

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

Suspension from practising of registered accountants and auditors who are of unsound mind 35

25. (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. 40

(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. 45

Privileges of board

26. No legal proceedings, whether criminal or civil, shall lie against the board or any member or official thereof in respect of any act or duty performed in accordance with the provisions of sections 13(1)(o), 20, 22, 23 or 24. 50

Offences and penalties

27. (1) No person who is registered as an accountant and auditor in terms of this Act, shall—

(a) except with the consent of the board knowingly employ in connection with his practice— 55

wat met die toestemming van die voorsitter van die raad enige by die verhoor aanwesige persoon kan ondervra.

(2) 'n Dagvaarding van iemand om voor die raad te verskyn of om 'n boek, dokument of saak oor te lê, moet in die vorm wees wat die raad voorskryf, moet 5 deur die voorsitter van die raad of 'n deur die raad daartoe gemagtigde persoon onderteken word, en moet beteken word op dieselfde wyse as dié waarop dit beteken sou gewees het indien dit 'n getuiedagvaarding was in 'n siviele aangeleentheid in 'n landdroshof.

(3) Indien iemand wat behoorlik kragtens hierdie artikel gedagvaar is, sonder 10 genoegsame rede in gebreke bly om op die in die dagvaarding vermelde tyd en plek te verskyn, of om aanwesig te bly totdat die voorsitter van die raad hom van verdere bywoning onthef, of indien iemand wat kragtens subartikel (1)(b) opgeroep is, weier om as getuie beëdig te word of om te bevestig, of sonder genoegsame rede versuim om volledig en bevredigend na sy beste kennis en 15 geloof te antwoord op alle vrae wettig aan hom gestel oor die onderwerp van die verhoor, of om enige boek, dokument of saak in sy besit of bewaring of onder sy beheer oor te lê wat hy aangesê is om oor te lê, is hy aan 'n misdryf skuldig: Met dien verstande dat in verband met die ondervraging van so 'n persoon of die oorlegging van so 'n boek, dokument of saak, die regsbepalings met betrekking 20 tot privilegie, soos van toepassing op 'n getuie wat gedagvaar is om voor 'n geregshof getuienis af te lê of 'n boek, dokument of saak oor te lê, van toepassing is.

(4) 'n Getuie wat, nadat hy behoorlik beëdig is of 'n bevestiging gedoen het, 'n valse antwoord gee op 'n vraag wat wettig aan hom gestel is of 'n valse 25 verklaring doen oor enige aangeleentheid, wetende dat daardie antwoord of verklaring vals is, is aan 'n misdryf skuldig.

(5) Iemand wat die voorsitter of 'n lid of amptenaar van die raad opsetlik hinder by die uitoefening van 'n bevoegdheid deur of kragtens hierdie artikel aan hom verleen, is aan 'n misdryf skuldig.

(6) Daar moet aan iemand wie se gedrag deur die raad ondersoek word, kennis gegee word van die aard van die klag wat teen hom ingebring is, en so 30 iemand is geregtig om persoonlik te verskyn of deur iemand anders wat skriftelik en behoorlik namens hom daartoe gemagtig is, verteenwoordig te word, en om getuienis aan te voer, getuies namens homself op te roep en te ondervra en ander 35 getuies onder kruisverhoor te neem.

(7) Iemand wat weens 'n misdryf kragtens hierdie artikel skuldig bevind word, is strafbaar met 'n boete van hoogstens R2 000.

Skorsing van geregistreerde rekenmeesters en ouditeurs wat geestelik versteurd is

25. (1) Wanneer dit uit beëdigde inligting vir die raad blyk dat iemand wat 40 ingevolge hierdie Wet as rekenmeester en ouditeur geregistreer is, in so 'n mate geestelik versteurd geraak het dat dit in stryd met die openbare welsyn sou wees om hom toe te laat om aan te hou praktiseer, kan die raad na goeëddunke ten opsigte van so iemand 'n ondersoek instel *mutatis mutandis* ooreenkomstig die bepalings van artikel 24.

(2) Indien die raad bevind dat so iemand aldus geestelik versteurd geraak het, 45 kan die raad vir 'n vermelde tydperk die skorsing van so iemand in sy praktyk as openbare rekenmeester beveel.

(3) Die raad kan die geldingstydperk van 'n bevel kragtens hierdie artikel uitgereik, vir 'n tydperk deur die raad bepaal, verleng of so 'n bevel intrek.

50 Privileges van raad

26. Geen regsgeding, hetsy straf- of sivilregtelik, kan teen die raad of 'n lid of amptenaar daarvan ten opsigte van 'n handeling of plig ooreenkomstig die bepalings van artikel 13(1)(o), 20, 22, 23 of 24 verrig, ingestel word nie.

Misdrywe en strawwe

55 27. (1) Niemand wat ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is, mag—

(a) behalwe met toestemming van die raad—

- (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); 5
- (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; 10
- (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; 15
- (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 20
 - (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; 25
- (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 organized 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; 35
- (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; 40
- (g) engage in public practice during any period in respect of which he has been suspended from practice; 50
- (h) engage in public practice without carrying such professional indemnity insurance as may have been 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

- (i) enigiemand terwyl so iemand kragtens 'n bepaling van hierdie Wet van openbare praktyk geskors is; of
- (ii) enigiemand wat nie ingevolge hierdie wet as rekenmeester en ouditeur geregistreer is nie en wat voorheen aldus geregistreer was; of
- (iii) enigiemand wat nie ingevolge hierdie Wet as rekenmeester en ouditeur geregistreer is nie en wat die raad uit hoofde van die bepalings van artikel 15(4) geweier het om te registreer, wetens in verband met sy praktyk in diens hê nie;
- (b) enige gedeelte van professionele gelde deur hom verdien ten opsigte van werk deur hom verrig as rekenmeester en ouditeur oormak aan, of deel met, enige persoon (behalwe iemand wat ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is of wat buite die Republiek as 'n rekenmeester en ouditeur praktiseer) nie;
- (c) winste deel wat van sy praktyk as 'n rekenmeester en ouditeur in die Republiek verkry is, of in die Republiek praktiseer in vennootskap, met 'n persoon wat nie ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is nie;
- (d) onder 'n handelsnaam of benaming praktiseer nie tensy op elke brief wat daardie handelsnaam of benaming dra daar verskyn—
- (i) sy huidige voorname, of voorletters, en van; of
- (ii) in die geval van 'n vennootskap—
- (aa) minstens die huidige voorname, of voorletters, en vanne van die besturende vennote of, indien daar nie besturende vennote is nie, van die aktiewe vennote; of waar so 'n briefhoof slegs deur 'n takkantoor van die vennootskap gebruik word, minstens die huidige voorname, of voorletters, en vanne van die besturende vennote by daardie takkantoor of, indien daar nie sodanige besturende vennote is nie, van die resident-vennote by daardie takkantoor of, indien daar nie sodanige resident-vennote is nie, van die vennote toegewys aan daardie takkantoor; en
- (bb) indien 'n vennoot bedoel in subparagraaf (aa) nie gewoonlik in die Republiek woonagtig is nie, 'n dienoreenkomstige verklaring en die naam van die land waarin daardie vennoot gewoonlik woonagtig is;
- (e) 'n rekening, staat, verslag of ander dokument onderteken wat werk deur hom verrig, heet weer te gee nie, tensy die werk deur hom of onder sy persoonlike toesig of beheer of deur of onder die persoonlike toesig of beheer van een of meer van sy vennote verrig is: Met dien verstande dat die bepalings van hierdie paragraaf nie van toepassing is nie ten opsigte van werk wat ten behoeve van 'n persoon wat ingevolge hierdie Wet as 'n rekenmeester of ouditeur geregistreer is, verrig word deur 'n ander persoon aldus geregistreer of ten opsigte van werk buite die Republiek verrig deur 'n lid van 'n georganiseerde liggaam van professionele rekenmeesters buite die Republiek waarvan die status volgens die raad se oordeel minstens gelyk is aan wat die raad van die beroep binne die Republiek vereis: Met dien verstande voorts dat die bepalings van hierdie paragraaf nie belet dat 'n persoon wat ingevolge hierdie Wet as 'n rekenmeester en ouditeur geregistreer is die handelsnaam of benaming waaronder hy praktiseer, teken nie;
- (f) professionele werk verrig nie in verband met enige aangeleentheid wat die onderwerp van 'n geskil of regseding uitmaak, op voorwaarde dat betaling vir sodanige werk sal geskied slegs indien bedoelde geskil of geding gunstig verloop vir die persoon vir wie die werk verrig word;
- (g) openbare praktyk beoefen nie gedurende enige tydperk waartydens hy van praktyk geskors is;
- (h) openbare praktyk beoefen nie sonder dat hy gedek is deur die professionele skadeloosstellingsversekering wat deur die raad voorgeskryf is.

(2) By die toepassing van artikel 171 van die Maatskappywet, 1973 (Wet No. 61 van 1973), met betrekking tot 'n maatskappy bedoel in artikel 21(2) van hierdie Wet, word dit as voldoende beskou indien 'n geskrif in eersgenoemde

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.

5

Repeal of laws, and savings

28. (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. 10

(3) Any matter in connection 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. 15

Short title and commencement

20

29. (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. 25

artikel bedoel wat van 'n takkantoor van so 'n maatskappy uitgaan, die vereiste besonderhede bevat ten opsigte van direkteure wat aan daardie takkantoor verbonde is.

- 5 (3) Iemand wat 'n bepaling van hierdie Wet oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig en, waar daar nie 'n ander straf voorgeskryf is nie, by skuldigbevinding strafbaar met 'n boete van hoogstens R4 000.

Herroeping van wette, en voorbehoude

28. (1) Behoudens die bepalings van subartikel (2), word die wette vermeld in die Bylae hierby herroep in die mate uiteengesit in die derde kolom van die
10 Bylae.

(2) Enigiets gedoen kragtens 'n bepaling van 'n wet wat deur subartikel (1) herroep word, en wat kragtens 'n bepaling van hierdie Wet gedoen sou kon word, word geag kragtens laasgenoemde bepaling gedoen te gewees het.

- (3) Met 'n aangeleentheid in verband waarmee enigiets kragtens 'n wet in
15 subartikel (1) vermeld, uitgesonderd die Wet op die Transvaalse en Natalse Genootskappe van Geoktrooieerde Rekenmeesters, 1968 (Wet No. 66 van 1968), voor die inwerkingtreding van hierdie Wet gedoen is of enigiets wat met so 'n aangeleentheid in verband staan of wat nodig is om in verband met so 'n aangeleentheid gedoen te word of wat daaruit voortvloei, word daar vanaf
20 genoemde inwerkingtreding gehandel ingevolge die tersaaklike bepalings van hierdie Wet.

Kort titel en inwerkingtreding

29. (1) Hierdie Wet heet die Wet op Openbare Rekenmeesters en Ouditeurs, 1991, en die bepalings daarvan tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.
25

(2) Verskillende datums kan aldus ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

(3) 'n Verwysing in hierdie Wet na die inwerkingtreding daarvan word uitgelê as 'n verwysing na die toepaslike datum wat aldus bepaal is.

Act No. 80, 1991

PUBLIC ACCOUNTANTS' AND AUDITORS' ACT, 1991

Schedule
LAWS REPEALED

No. and year of law	Short title	Extent of repeal
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 and 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 and 2
Act No. 3 of 1990	Public Accountants' and Auditors' Amendment Act, 1990	The whole

Bylae
WETTE HERROEP

No. en jaar van wet	Kort titel	In hoeverre herroep
Wet No. 51 van 1951	Wet op Openbare Rekenmeesters en Ouditeurs, 1951	Die geheel
Wet No. 47 van 1956	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1956	Die geheel
Wet No. 64 van 1957	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1957	Die geheel
Wet No. 30 van 1962	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1962	Die geheel
Wet No. 68 van 1965	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1965	Die geheel
Wet No. 66 van 1968	Wet op die Transvaalse en Natalse Genootskappe van Geoktrooieerde Rekenmeesters, 1968	Die geheel
Wet No. 80 van 1971	Algemene Regswysigingswet, 1971	Artikels 15 en 16
Wet No. 61 van 1973	Maatskappywet, 1973	Artikel 275(1)(e)
Wet No. 53 van 1975	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1975	Die geheel
Wet No. 91 van 1979	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1979	Die geheel
Wet No. 42 van 1982	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1982	Die geheel
Wet No. 12 van 1983	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1983	Die geheel
Wet No. 48 van 1984	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1984	Die geheel
Wet No. 51 van 1985	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1985	Die geheel
Wet No. 45 van 1986	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1986	Die geheel
Wet No. 9 van 1988	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1988	Die geheel
Wet No. 92 van 1988	Wysigingswet op Rekenmeesters en Ouditeurs en Finansiële Instellings, 1988	Artikels 1 en 2
Wet No. 3 van 1990	Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1990	Die geheel

