

New Zealand Institute of Chartered Accountants Amendment Bill

(Divided from the Accounting Infrastructure Reform
Bill)

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Accounting Infrastructure Reform Bill as reported from the Commerce Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- Auditor Regulation Amendment Bill comprising clauses 1 and 2, and subpart 1 of Part 1
- Charities Amendment Bill (No 3) comprising subpart 2 of Part 1 and Schedule 1AA
- Financial Reporting Amendment Bill comprising subpart 3 of Part 1, Part 2, and Schedules 1 and 2
- this bill comprising subpart 4 of Part 1 and Schedule 1A.

Hon Paul Goldsmith

New Zealand Institute of Chartered Accountants Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the New Zealand Institute of Chartered Accountants Amendment Act **2014**.

2 Commencement

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(1) This Act comes into force on a date appointed by the Governor-General by Order in Council; and 1 or more orders may be made bringing different provisions into force on different dates.

(2) To the extent that it has not previously been brought into force under **subsection (1)**, the rest of this Act comes into force on 1 April 2017.

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- 40 Principal Act**
This **subpart** amends the New Zealand Institute of Chartered Accountants Act 1996 (the **principal Act**).
- 41 Section 2 amended (Interpretation)**
In section 2, insert in their appropriate alphabetical order: 5
“**Executive Board** means the Executive Board of the Institute referred to in section 6(1)(e)
“**specified association** means the association of accountants that is declared to be the specified association under **section 8A**”. 10
- 41A New section 2A inserted (Transitional, savings, and related provisions)**
After section 2, insert:
“**2A Transitional, savings, and related provisions**
The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.” 15
- 42 Section 5 amended (Functions of Institute)**
(1) Before section 5(a), insert:
“(aa) to carry out the duty imposed under **section 5A**.”
(2) Replace section 5(b) with: 20
“(b) to promote the profession of accountancy by its members in New Zealand.”
- 43 New sections 5A to 5C inserted**
After section 5, insert:
“**5A Duty to control and regulate profession of accountancy practised by members in New Zealand** 25
“(1) The Institute must, with reasonable skill and care, control and regulate the practice of the profession of accountancy by its members in New Zealand.
“(2) The duty under **subsection (1)** includes— 30
“(a) maintaining, complying with, monitoring compliance with, and enforcing the rules referred to in section 6(1)(f) to **(ja)** (which relate to the investigation and

- hearing of complaints and other matters, appeals, disciplinary matters, and the recognition of auditors); and
- “(b) maintaining, monitoring members’ compliance with, and enforcing professional and ethical standards, including the code of ethics required by section 7; and 5
- “(c) monitoring members’ compliance with the Auditor Regulation Act 2011 and other enactments that relate to the practice of accountancy; and
- “(d) monitoring compliance with, and enforcing, section 14; and 10
- “(e) complying with the Institute’s duties—
- “(i) as an accredited body under the Auditor Regulation Act 2011; and
- “(ii) that are imposed on the Institute (by name) under any other enactment. 15
- “**5B Institute must perform duty to control and regulate profession but may delegate other functions**
- “(1) The Institute must not delegate the duty under **section 5A** (in whole or in part) to any person.
- “(2) The Institute may delegate the functions specified in section 5(a), (b), (c), and (d) (except to the extent that those functions relate to the duty in **section 5A**), either generally or specifically, to any other person. 20
- “(3) **Subsection (2)** is subject to **subsection (1)**.
- “**5C Specified association may act in its own interests rather than Institute’s interests** 25
- “(1) This section applies to the specified association if any functions referred to in **section 5B(2)** are delegated to the association.
- “(2) The specified association may, when performing a delegated function, act in a manner that the association believes is in the best interests of the association (or its members) even though it may not be in the best interests of the Institute (or the Institute’s members). 30

“(3) **Subsection (2)** does not permit the specified association to act in a manner that may materially prejudice the Institute’s ability to carry out the duty imposed under **section 5A**.”

44 Section 6 amended (Rules of Institute)

- (1) Repeal section 6(1)(d). 5
- (2) After section 6(1)(j), insert:
- “(ja) the recognition of persons for the purposes of **sections 36(1)(a) and 36A** of the Financial Reporting Act 2013, for keeping such recognition under review, and for the cancellation and suspension of such recognition; and 10
- “(jb) the powers of a person to whom functions are delegated under **section 5B(2)**, the effect of a delegation on the Institute, and the revocation of a delegation; and”.
- (3) In section 6(4), replace “Council” with “Executive Board”.

45 Section 7 amended (Code of ethics)

- (1) In section 7(2), (4), and (5), replace “Council” with “Executive Board”. 15
- (2) Repeal section 7(3).
- (3) After section 7(5), insert:
- “(6) The code of ethics prescribed by the Council and that is in 20
force immediately before the commencement of this subsection continues in force and may be amended, revoked, or replaced by the Executive Board under subsection (4).”

46 New section 7A inserted (Membership rules may require membership of specified association)

- After section 7, insert: 25
- “**7A Membership rules may require membership of specified association**
- “(1) The rules that relate to the matters referred to in section 6(1)(b) (admission of members and the cessation of membership) may 30
provide for either or both of the following:
- “(a) that a person may be admitted as a member of the Institute only if the person is a member of the specified association:

- “(b) that a person ceases to be a member of the Institute if the person—
- “(i) does not become a member of the specified association in accordance with the rules; or
- “(ii) ceases to be a member of the specified association. 5
- “(2) Those rules may provide for a cessation referred to in **subsection (1)(b)** to be automatic or to occur after a specified process.
- “(3) This section does not limit section 6(1)(b) (and, in particular, the ability to provide for other requirements for the admission of members).” 10
- 47 Section 8 amended (Application of Part 3 of Legislation Act 2012 to certain rules and code of ethics)**
In section 8(a), replace “(j)” with “**(jb)**”.
- 48 New sections 8A and 8B and cross-heading inserted** 15
After section 8, insert:
 “*Provisions concerning specified association*
- “8A Specified association**
- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Commerce, declare an association of accountants to be the specified association for the purposes of this Act. 20
- “(2) The Minister of Commerce may make a recommendation under **subsection (1)** only after consulting the Institute.
- “(3) In this section, **association of accountants** includes any association or other professional body of accountants (whether constituted or established overseas or in New Zealand). 25
- “8B Members of Council or Executive Board may act in best interests of specified association rather than Institute**
- “(1) This section applies to a person (A) who is appointed by or on behalf of the specified association, in accordance with the rules of the Institute, to be a member of either or both of the following: 30
- “(a) the Council:
- “(b) the Executive Board. 35

- “(2) A may, when exercising powers or performing duties as a member of the Council or the Executive Board, if expressly permitted to do so by the rules of the Institute, act in a manner that he or she believes is in the best interests of the specified association (or its members) even though it may not be in the best interests of the Institute (or the Institute’s members). 5
- “(3) **Subsection (2)** does not permit A to act in a manner that may materially prejudice the Institute’s ability to carry out the duty imposed under **section 5A**.”
- 49 Section 15 repealed (Accountants and auditors must be qualified)** 10
Repeal section 15.
- 50 Sections 21 to 24 and Schedules 3 to 5 repealed**
Repeal sections 21 to 24 and Schedules 3 to 5.
- 50A New Schedule inserted** 15
Before Schedule 1, insert the **Schedule 1AA** set out in **Schedule 1A** of this Act.
- 51 Schedule 1 amended**
In Schedule 1, clauses 3, 4(1)(a), and 8(1)(b), replace “Council” with “Executive Board” in each place. 20

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	Schedule 1A	s 50A
	New Schedule inserted	
	Schedule 1AA	s 2A
	Transitional, savings, and related provisions	5
	Provisions relating to subpart 4 of Part 1 of Accounting Infrastructure Reform Act 2013	
1	Interpretation	
	In clause 2 ,—	10
	2013 Amendment Acts means—	
	(a) subpart 4 of Part 1 of the Accounting Infrastructure Reform Act 2013 ; and	
	(b) subpart 3 of Part 1 and Part 2 of the Accounting Infrastructure Reform Act 2013	15
	principal Act means the New Zealand Institute of Chartered Accountants Act 1996.	
2	References to President or Vice President of Institute	
	Unless the context otherwise requires, and subject to the provisions of the 2013 Amendment Acts , every reference in any other enactment or in any deed or other document to the President or a Vice President of the Institute must, after this clause comes into force, be read as if it were a reference to the Chair of the Executive Board (or his or her delegate).	20

Legislative history

28 October 2014

Divided from Accounting Infrastructure Reform
Bill (Bill 180–2) as Bill 180–3D