

NEW ZEALAND SOCIETY OF ACCOUNTANTS BILL

EXPLANATORY NOTE

THIS Bill consolidates and amends the New Zealand Society of Accountants Act 1908 and its amendments. It provides for the constitution of the New Zealand Society of Accountants, for admission to membership to the Society, for discipline within the Society, and for the prohibition of the improper use of terms implying membership of the Society.

The main changes are the transfer to the legislation of the disciplinary provisions which have hitherto appeared in the Society's regulations; the requirement of practical experience before full membership of the Society is granted; and the recording of members who are ordinarily resident beyond New Zealand on an overseas list. The spent provisions relating to the Registration Board are omitted; and the wording and scheme of the Act have been brought up to date and modelled to a large extent on corresponding provisions in the Medical Practitioners Act 1950 and the Law Practitioners Act 1955.

Clause 1 and 2 relate to the Short Title and interpretation of the Bill.

Clause 3 constitutes the New Zealand Society of Accountants, and defines its purposes.

Clause 4 provides that the Society shall be governed by a Council constituted in accordance with the rules of the Society.

Clause 5 declares that proceedings of the Council shall not be invalid by reason of any vacancy in its membership.

Clause 6 provides for the election of the President, Vice-President, and Treasurer of the Society, and for the appointment of its Secretary.

Clause 7 provides for the payment out of the funds of the Society of travelling expenses in proper cases.

Clause 8 declares that the Council shall have the entire management of the Society, and may prescribe a code of ethics of the Society, breaches of which shall be regarded as unprofessional conduct within the meaning of *clause 24 (2)*.

Clause 9 authorises the Council to establish Committees to assist it in the performance of its functions and duties.

Clause 10 contains the normal provision relating to contracts of the Society.

Clause 11 defines the powers of the Society.

Clause 12 confers on the Society, in general meeting, wide power to make rules for giving effect to the provisions of the legislation and for the due administration thereof. The rules are not to come into force until they have been approved by the Governor-General in Council. The rules so made are intended to take the place of the present regulations made by the Society.

Clause 13 makes provision simplifying the proof of the rules of the Society in legal proceedings.

Admission to Membership

Clause 14 provides that every person who complies with the prescribed requirements in respect of character, examination, and practical experience shall be entitled to membership of the Society.

Clause 15 provides that persons who satisfy the prescribed requirements in respect of character and examination, but have not the necessary practical experience, may be registered as provisional members of the Society. While so registered they have the same rights of membership as registered members, except that they are not entitled to vote at meetings of members, or to carry out duties reserved to any member of the Society by any enactment, and that (when referring to their membership) they may describe themselves only as provisional members and shall not be entitled to use any letters or abbreviation to indicate their qualification. Provisional membership may be revoked after ten years if it has not ripened into full membership in that time.

Clause 16 provides that while any member of the Society is resident beyond New Zealand, he shall be shown in the records of the Society as being on an overseas list. While on the overseas list he has the same right as other members, except that he is not entitled to receive notices other than disciplinary notices, and that (unless he is already overseas and so classified) he cannot be classified as a public accountant.

Clause 17 declares that it shall be lawful for the Society to make arrangements with the University of New Zealand in respect of the conduct of the examinations of the Society.

Clause 18 defines the procedure to be adopted by persons applying for registration.

Clause 19 defines the method of effecting registration, and the rights of the public in respect of information recorded in the records of the Society.

Clause 20 makes provision for the payment of fees by members and provisional members, and for the removal of their names from the register if they fail to pay their fees.

Clause 21 makes provision for resignations by members and provisional members.

Disciplinary Powers

Clause 22 provides for the appointment of an Investigation Committee, a Disciplinary Committee, and a Committee of Appeal. The Chairman of the Committee of Appeal is to be a barrister of not less than seven years practice; and a person who is a member of one of the Committees is not to be a member of any of the other Committees.

Clause 23 provides that complaints involving members or provisional members of the Society are to be made in the first instance to the Secretary and are to receive preliminary investigation by the Investigation Committee

to determine whether or not they are to be referred to the Disciplinary Committee. The Investigation Committee is given power to require the member or provisional member concerned to produce books, documents, and papers, and answer inquiries.

Clause 24 defines the disciplinary powers which the Disciplinary Committee may exercise over members and provisional members of the Society and the circumstances under which the powers may be exercised. Under the clause the Disciplinary Committee may cancel or suspend a person's registration, impose a penalty not exceeding £100, censure the person, and order the person to pay costs and expenses.

Clause 25 provides that, where the Disciplinary Committee has exercised its disciplinary powers in respect of any person, that person may appeal to the Committee of Appeal against the decision in which the power is exercised.

Clause 26 prevents public accountants from acting for or employing disqualified persons.

Clause 27 provides that at any time after any matter involving any member or provisional member is referred to the Disciplinary Committee, that Committee may suspend the person from membership or provisional membership until the matter has been heard and disposed of.

Clause 28 provides that costs in any matter before the Disciplinary Committee may be awarded to the person involved. In such a case the costs will be paid by the Society.

Clause 29 empowers the Disciplinary Committee and the Committee of Appeal to require witnesses to attend and give evidence.

Clause 30 provides that witnesses and counsel shall have the same privileges and immunities in relation to matters before the Investigation Committee, the Disciplinary Committee, or the Committee of Appeal as if they were proceedings in a Court of law.

Clause 31 makes provision for the payment of witnesses expenses.

Miscellaneous

Clause 32 imposes penalties for the improper use of terms implying membership of the Society.

Clause 33 requires the Society to have a registered office.

Clause 34 provides that persons who have conscientious objections to becoming members of the Society may, without becoming members, be granted practising certificates giving them equivalent rights and liabilities. Provision for similar cases was made by section 3 of the Law Practitioners Amendment Act 1957.

Clause 35 contains normal provisions in respect of repeals and savings.

Hon. Mr Nordmeyer

NEW ZEALAND SOCIETY OF ACCOUNTANTS

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A BILL INTITULED

An Act to constitute the New Zealand Society of Accountants, and to provide for the registration and control of its members

5 **BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

No. 34—1

1. Short Title and commencement—(1) This Act may be cited as the New Zealand Society of Accountants Act 1958.

(2) This Act shall come into force on the first day of December, nineteen hundred and fifty-eight.

2. Interpretation—In this Act, unless the context otherwise requires,— 5

“Accountant” includes an auditor:

“Accountancy” includes auditing:

“Committee” means any Committee established under this Act and the rules of the Society: 10

“Committee of Appeal” means the Committee of Appeal established under this Act and the rules of the Society:

“Council” means the Council of the Society:

“Disciplinary Committee” means the Disciplinary Committee established under this Act and the rules of the Society: 15

“Fundamental rule” means a rule of the Society which is declared by the Society’s rules to be a fundamental rule:

“Investigation Committee” means the Investigation Committee established under this Act and the rules of the Society: 20

“Overseas list”, in relation to members of the Society, means a list of members who are ordinarily resident beyond New Zealand that is prepared in accordance with subsection one of section sixteen of this Act: 25

“Provisional member” means a person who is for the time being registered as a provisional member of the Society:

“Public accountant” means a member of the Society who is classified in accordance with the rules of the Society as a public accountant: 30

“The register”, in relation to the Society or any member or provisional member thereof, means any register kept in accordance with section nineteen of this Act: 35

“Registered accountant” means a member of the Society who is classified in accordance with the rules of the Society as a registered accountant:

“Registered office” means the registered office of the Society that is maintained in accordance with section thirty-three of this Act: 40

“Rule” means a rule of the Society made under section twelve of this Act:

“Secretary” means the Secretary to the Society:

5 “Society” means the New Zealand Society of Accountants constituted under this Act.

Cf. 1908, No. 211, s. 2

Constitution of Society

3. Constitution of New Zealand Society of Accountants—

10 (1) There shall be a society to be called the New Zealand Society of Accountants.

(2) The Society shall consist of such persons as are for the time being registered as members or provisional members thereof in accordance with the provisions of this Act.

15 (3) The Society shall be a body corporate with perpetual succession and a common seal, and with power to sue and be sued and to hold real and personal property and to do and suffer all that bodies corporate may do and suffer.

(4) The purposes of the Society shall be—

20 (a) To control and regulate the practice of the profession of accountancy in New Zealand:

(b) To make provision for the training, education, and examination of persons practising or intending to practise the said profession in New Zealand or elsewhere:

25 (c) To grant or issue diplomas, certificates, and degrees of membership to members and provisional members of the Society and to other persons in recognition of their proficiency in accountancy or in any matters relating to the duties of an accountant:

30 (d) To promote in any manner which the Society thinks fit the interests of the profession of accountancy in New Zealand:

35 (e) To afford pecuniary and other assistance to members and provisional members of the Society who are in need of any such assistance, and to the wives and children and other dependants of members and provisional members, and to the widows and children and other dependants of deceased members and deceased provisional members:

(f) To grant prizes and scholarships, to hold exhibitions, and to establish and subsidise lectureships in schools, colleges, and Universities in relation to any subjects of study relating to accountancy or to the duties of an accountant: 5

(g) To grant pecuniary or other assistance to any society established in New Zealand in the interests of the profession of accountancy or of students for that profession.

Cf. 1908, No. 211, ss. 3, 4 10

4. Council of the Society—The Society shall be governed by a Council which shall be constituted as the rules of the Society may from time to time provide.

Cf. 1908, No. 211, s. 12

5. Proceedings of Council not invalid by reason of vacancy in membership—No act or proceeding of the Council or of any person acting as a member of the Council shall be invalidated in consequence of there being a vacancy in the membership of the Council at the time of the act or proceeding, or of the subsequent discovery that there was some defect with regard to the election or appointment of any member of the Council or of any person so acting or that he was incapable of being a member of the Council. 15 20

Cf. 1908, No. 211, s. 13

6. President, Vice-President, Treasurer, and Secretary— 25
 (1) At the first meeting of the Council after the annual meeting or as soon thereafter as may be, the Council shall elect one of its members to be President of the Society, and another of its members to be Vice-President thereof, and another of its members to be Treasurer thereof. In the event of any casual vacancy occurring in any of the said offices, the Council shall, at its next meeting or as soon thereafter as may be, elect one of its members to fill the vacancy. 30

(2) The Council may also from time to time appoint upon such terms and conditions as it thinks fit a Secretary to the Society, who shall not be a member of the Council. The Council may pay the Secretary out of the funds of the Society such salary as the Council thinks fit. 35

Cf. 1908, No. 211, s. 17

7. **Travelling expenses**—The Council may pay out of the funds of the Society the reasonable travelling expenses of any member or provisional member of the Society, or any officer or servant thereof on each occasion of the person attending
5 a meeting of the Council or of any Committee established by or under this Act or attending any conference or convention or being authoritatively engaged in the business of the Society or for any other purpose approved by the Council.

8. **Powers of Council**—Subject to the provisions of this Act
10 and to the rules of the Society, the Council shall have the sole and entire management and superintendence of the affairs of the Society and of the income and property thereof, and may exercise on behalf of the Society all the powers and functions thereof, and may prescribe a code of ethics of the
15 Society, breaches of which shall be regarded as unprofessional conduct within the meaning of subsection two of section twenty-four of this Act.

Cf. 1908, No. 211, s. 22

9. **Council may appoint Committees**—(1) Subject to this
20 Act and the rules of the Society, the Council, from time to time, may establish Committees to assist it in the performance of its functions and duties, and may appoint or provide for the appointment or election of such members or provisional
25 members (including members or provisional members of the Society other than members of the Council) as it deems fit to be members of any such Committee, and may fix the quorum thereof and fill any vacancy on any Committee.

(2) Except in the case of the Investigation Committee and
30 the Disciplinary Committee, the President and Vice-President shall be *ex officio* members of every Committee appointed by the Council.

(3) Subject to this Act and the rules of the Society, the
35 Council may at any time, and from time to time, discharge, alter, continue, or reconstitute any Committee, or discharge any member of a Committee, and, if it thinks fit, appoint another member in his stead.

(4) Subject to this Act and the rules of the Society, the
40 Council may delegate to any such Committee such of its powers as it thinks fit; and any Committee to which powers are so delegated may, without confirmation by the Council,

exercise its delegated powers in the same manner and with the same effect as the Council could itself have exercised them; but no such delegation shall prevent the exercise of any power by the Council.

(5) Subject to the provisions of subsection four of this section, every such Committee shall be subject in all things to the control of the Council, and shall carry out all directions, general or special, of the Council in relation to the Committee and its affairs; and the Council may amend or repeal or rescind any decision of any such Committee: 5 10

Provided that nothing in this subsection shall apply to any decision of the Disciplinary Committee or the Committee of Appeal.

10. Form of contracts—(1) Contracts on behalf of the Society may be made as follows: 15

(a) A contract which if made by private persons would be by law required to be by deed may be made on behalf of the Society in writing under the common seal of the Society attested in such manner as may be provided in the rules of the Society: 20

(b) A contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Society in writing signed by any person acting under its authority, express or implied: 25

(c) A contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the Society by any person acting under its authority, express or implied. 30

(2) A contract made according to this section shall be effectual in law, and shall bind the Society and its successors and all other parties thereto.

Cf. 1908, No. 211, s. 25 35

11. Powers of the Society—It shall be lawful for the Society—

(a) To acquire and hold any freehold or leasehold land reasonably required for offices or chambers for the use of the Society in any place or places in New Zealand: 40

- 5 (b) To take up and subscribe for or otherwise acquire shares in any company, if membership of the company is essential or highly advantageous to the Society in connection with acquiring and holding any lease or tenure from the company of land reasonably required for any such purpose:
- (c) To sell, lease, exchange, or mortgage any real or personal property vested in it:
- 10 (d) To borrow money, whether by way of bank overdraft or otherwise, for such of the purposes of the Society as the Council may from time to time consider desirable:
- 15 (e) To guarantee any contract of any company from which the Society holds or intends to hold any lease or tenure in accordance with paragraph (b) of this section, and any other contract in which the Society may have a financial interest and to which it may lawfully be a party in accordance with this section:
- 20 (f) To do all things which are reasonably necessary to carry out the purposes of the Society.

Cf. 1908, No. 211, ss. 27-29

- 12. Rules of the Society**—(1) Subject to the provisions of subsection three of this section, at any general meeting of the members of the Society it shall be lawful for the members
- 25 present thereat personally (or by proxy if and so far as the rules of the Society allow of voting by proxy) from time to time to make such rules as may be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.
- 30 (2) Without limiting the general power hereinbefore conferred, it is hereby declared that rules may be made under this section relating to all or any of the following matters:
- (a) The constitution of the Society and branches thereof:
- 35 (b) The admission of members and provisional members of the Society, and the modes in which persons cease to be members or provisional members thereof:
- (c) The constitution of the Council, and the election and tenure of office of members thereof:
- 40 (d) The election, appointment, resignation, and removal of the President, Vice-President, Treasurer, and other officers and servants of the Society; and the provision of pensions for retired officers and servants of the Society:

- (e) The qualifications and disqualifications of members of the Council, and of the officers and servants of the Society:
- (f) The holding of meetings of the Council and of the members of the Society: 5
- (g) The use and custody of the common seal of the Society:
- (h) The fees payable to the Society by members and provisional members thereof:
- (i) The powers, duties, and functions of the Council, and of the President, Vice-President, Treasurer, officers, and servants of the Society: 10
- (j) The examination of candidates for admission as members or provisional members of the Society, and the fees payable for any such examination: 15
- (k) The classification from time to time of the members of the Society as being public accountants or registered accountants:
- (l) The custody, investment, and expenditure of the funds and property of the Society: 20
- (m) The manner of voting at any meeting of the Council or of the members of the Society, and at any election:
- (n) The procedure of the Investigation Committee, the Disciplinary Committee, and the Committee of Appeal: 25
- (o) The publication in the *Gazette*, newspapers, and elsewhere of proceedings and findings of the Disciplinary Committee and the Committee of Appeal:
- (p) The registration as provisional members of persons who have completed the examinations but have not fulfilled the practical experience requirements as prescribed in the rules of the Society: 30
- (q) The prescribing of practical experience requirements for admission, and authorising the Council or any Committee to approve places of employment in which such experience may be obtained: 35
- (r) The regulation and good government of the Society in all matters within its powers.
- (3) No such rules shall come into force until they have been approved by the Governor-General in Council. 40

Cf. 1908, No. 211, s. 20

13. **Proof of rules**—In any legal proceedings the production of any document purporting to be a copy of any rules of the Society and to be sealed with the seal of the Society shall, until the contrary is shown, be sufficient proof that those rules have been duly made and are in full force and effect.

Cf. 1908, No. 211, s. 21

Admission to Membership

14. **Qualifications for membership of Society**—(1) No person shall be registered by the Council as a member or provisional member of the Society if he is less than twenty-one years of age or if, in the opinion of the Council, he is not of good character or reputation or is engaged in any business or occupation inconsistent with the integrity of a member of the Society.

15 (2) After the commencement of this Act, no person who is ordinarily resident beyond New Zealand shall be registered by the Council as a member of the Society, or retain membership of the Society, otherwise than as a registered accountant shown in the records of the Society as being on an overseas list:

20 Provided that, while a member of the Society who is classified as a public accountant and is ordinarily resident beyond New Zealand at the commencement of this Act retains his membership of the Society, he shall be entitled to retain that classification, whether or not at any time thereafter he is ordinarily resident beyond New Zealand.

25 (3) Subject to the provisions of subsections one and two of this section, every person, on payment of the fee prescribed by the rules of the Society, shall be entitled to be registered as a member of the Society, if—

30 (a) He has passed in accordance with the rules of the Society such examination in accountancy and other matters (if any) as the said rules prescribe, and has complied with such requirements of practical experience as may be required by or under the said rules;

35 or
(b) He is a member in good standing of any association of accountants which is recognised in this behalf by the rules of the Society and satisfies the Council that he has had practical experience at least equal to that necessary to comply with paragraph (a) of this subsection:

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Provided that any person who is registered as a member of the Society under this paragraph (b) shall cease to be a member of the Society if he ceases to be ordinarily resident in New Zealand.

(4) For the purposes of paragraph (a) of subsection three 5 of this section, a person shall be deemed to have passed the examination specified in that paragraph or any part of that examination, as the case may be, if he has passed any examination or part of an examination (whether in New Zealand or elsewhere) which is recognised by the said rules 10 or by the Council as being equivalent to or higher than the examination or part first mentioned in this subsection. 15

Cf. 1908, No. 211, ss. 8, 23

15. Provisional membership—(1) Subject to the provisions of subsection one of section fourteen of this Act, a person 15 who is not otherwise exempt from the practical experience requirements prescribed by the rules of the Society and who has passed in accordance with the said rules such examination in accountancy and other matters (if any) as the said rules prescribe, but who has not fulfilled the requirements of practical 20 experience prescribed by the said rules may, on application to the Council, be registered as a provisional member of the Society.

(2) On being so registered the person shall have the same rights of membership as a registered member, except that he 25 shall not be entitled to vote at any meeting of members, or to carry out any duty reserved to any member of the Society by any enactment, and that (when referring to his membership) he may describe himself only as a provisional member of the Society and shall not be entitled to use any letters or 30 abbreviation to indicate his qualification.

(3) Where a person has remained a provisional member of the Society for a period exceeding ten years, he may be called upon by the Council to show cause why his provisional membership should not be revoked, and the Council may if 35 it thinks fit revoke his provisional membership.

16. Members on the overseas list—(1) While any member of the Society is ordinarily resident beyond New Zealand, he shall be shown in the records of the Society as being on an overseas list. 40

(2) Subject to subsection two of section fourteen of this Act, while any member of the Society is shown in the records of the Society as being on an overseas list, he shall have the same rights of membership as any other registered member,
5 except that such members who have no registered address in New Zealand shall not be entitled to have notices sent to them:

Provided that nothing in this subsection shall apply to any notice by the Investigation Committee or the Disciplinary
10 Committee or the Committee of Appeal.

17. Conduct of examinations—Without restricting the examinations which may be prescribed by the rules of the Society or the manner in which any such examinations may be conducted, it is hereby declared that it shall be lawful
15 for the Society to make arrangements with the University of New Zealand for the conduct by that University on behalf of the Society of all or any examinations prescribed by the rules of the Society.

Cf. 1908, No. 211, s. 23 (2)

18. Application for registration—(1) Every application by
20 any person to the Council to be registered as a member or provisional member of the Society shall be in writing in a form for the time being approved by the Council; and the statements made therein shall, if so required by the Council,
25 be verified by a statutory declaration made by the applicant.

(2) Every such application shall be accompanied by a fee of such amount as is fixed from time to time by the rules of the Society, which fee shall be returned to the applicant if the application is refused.

30 Cf. 1908, No. 211, s. 9

19. Method of effecting registration—(1) The registration of members and provisional members of the Society by the Council shall in each case be effected by the entry in the appropriate register kept for that purpose of the following
35 particulars:

- (a) The name of the member or provisional member:
- (b) The qualification by virtue of which he is registered:
- (c) The district in which he is ordinarily resident; or, if he is ordinarily resident beyond New Zealand, a note
40 of that fact:

(d) His postal address:

(e) Such other particulars (if any) as the Council thinks fit.

(2) Whenever it is proved to the satisfaction of the Council, or of the Secretary to the Society, that any member or provisional member has transferred his residence from one district to another, or has altered his postal address, a corresponding alteration shall be made in the records of the Society. 5

(3) Whenever any new member or provisional member is admitted, and whenever any provisional member becomes a member, and whenever any member or provisional member ceases by reason of his death, resignation, removal, expulsion, or otherwise to be a member or provisional member, the Council shall forthwith cause an entry to be made accordingly in the appropriate register. 10

(4) The Council shall keep at its registered office a complete record of the names and addresses of all members and provisional members of the Society, and the information so recorded shall at all reasonable times be available to the public without fee. 15

Cf. 1908, No. 211, ss. 11, 34; 1949, No. 51, s. 40 20

20. Fees payable by members—(1) Every member and provisional member shall pay to the Society on admission and thereafter annually or at such other intervals as the rules of the Society prescribe, such fees as the said rules prescribe.

(2) The said rules may prescribe that different fees shall be payable by different classes of members or provisional members. 25

(3) The Council may remove from the appropriate register the name of any member or provisional member who is in arrear for three months or more in the payment of any fees payable by him, and on notice of the removal under the hand of the Secretary being delivered to that member or provisional member, or posted to his registered postal address, he shall cease to be a member or provisional member of the Society, as the case may be. 30 35

(4) Without restricting any other provision of this Act, it is hereby declared that any member or provisional member whose name is so removed from the register may, at any time within twelve months after the date when notice thereof is so delivered or posted to him, pay to the Council all fees which are in arrear or which would have been in arrear if he had continued to be a member or provisional member of the 40

Society, together with such penalty as is fixed from time to time by the Council, and shall thereupon be entitled to have his name restored to the register. On his restoration he shall be deemed to be re-admitted as a member or provisional member, as the case may be.

- 21. Resignations from the Society**—(1) A person who is a member or a provisional member of the Society may at any time, by writing under his hand delivered to the Secretary or any member of the Council, tender his resignation from the Society; and, unless the Council refuses to accept his resignation as provided in subsection two of this section, his name shall be removed from the appropriate register, and he shall cease to be a member or a provisional member of the Society, as the case may be.
- 10 (2) The Council may refuse to accept the resignation of any person, if—
- 15 (a) The Council has good reason for believing that the person has been guilty of conduct, or that circumstances exist, that would justify the removal of his name from the register; or
- 20 (b) The Council is aware that any matter concerning the person is before the Investigation Committee or the Disciplinary Committee for investigation or inquiry; or
- 25 (c) The person is indebted to the Society.

Disciplinary Powers

- 22. Appointment of Committees**—The Council shall appoint, in accordance with section nine of this Act and the rules of the Society, the following Committees:
- 30 (a) An Investigation Committee, which shall consist of such number of members of the Council as the said rules may require, but which shall not include the President or the Vice-President of the Society:
- 35 (b) A Disciplinary Committee, which shall consist of such number of members of the Society as the said rules may require, being members who are not members of the Investigation Committee or of the Committee of Appeal; and which shall not include the President or the Vice-President of the Society:

- (c) A Committee of Appeal, which shall consist of a barrister of not less than seven years practice who shall be Chairman, and the President, Vice-President, and one other member of the Council who is not a member of the Investigation Committee or the Disciplinary Committee. 5

23. Complaints against members and provisional members of Society—(1) Every person who seeks to make a formal complaint that any member or provisional member of the Society has done anything which renders the exercise of the powers of the Disciplinary Committee expedient in the interests of the public or of the Society shall make the complaint to the Secretary to the Society. 10

(2) Every such complaint (other than a complaint made by a Court) shall be in writing and shall, if the Secretary so requires, be supported by such statutory declarations as the Secretary may require. 15

(3) Where the Secretary has received any complaint as aforesaid, or where facts are brought to his knowledge which satisfy him that there may be grounds for such a complaint, it shall be the duty of the Secretary to lay the complaint or facts (as the case may be) before the Investigation Committee; and that Committee shall investigate the matter and determine whether or not it is to be referred to the Disciplinary Committee. 20 25

(4) For the purposes of any such investigation, the Investigation Committee may—

- (a) Make or employ any person to make whatever preliminary inquiries it deems necessary;
- (b) Require the production for inspection by the Committee or any person so employed of any books, documents, or papers which are in the possession or under the control of the member or provisional member to whom the investigation relates and which relate to the subject matter of the investigation: 30 35
- (c) Require the said member or provisional member to give all information in relation to any such books, documents, or papers which may be reasonably required by the Committee or by the person so employed. 40

(5) Every member and provisional member who, without lawful justification, refuses or fails to produce to the Investigation Committee or any person whom that Committee may specify any books, documents, or papers required of him as aforesaid, or to give any such information, commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(6) Before the Investigation Committee makes any final determination in respect of any matter which it investigates under this section—

(a) The Chairman of the Committee shall post or deliver to the person concerned—

(i) Copies of the written complaint (if any) and of all statutory declarations that have been made in support of the complaint; and

(ii) A notice setting out any further particulars that may be necessary to disclose the reason for the investigation, and inviting the person concerned, within such period (not being less than fourteen days) as may be specified in the notice, to give to the Chairman of the Committee any written explanation he may wish to offer and to advise the said Chairman if he wishes to be heard by the Committee:

(b) The Investigation Committee shall allow the time specified in the notice to elapse, and shall give the person concerned reasonable opportunity to be heard if he wishes to do so, and shall give due consideration to any explanation he may make.

(7) When the Investigation Committee determines that any matter investigated by it under this section should be referred to the Disciplinary Committee, it shall be the duty of the Chairman of the Investigation Committee to take that action or arrange for it to be taken.

(8) Subject to the provisions of this Act and to the rules of the Society, the Investigation Committee may regulate its procedure as it thinks fit.

24. Powers of Disciplinary Committee—(1) If any person who is a member or provisional member of the Society—

(a) Is convicted of a crime involving dishonesty as defined by section two hundred and thirty-seven of the Crimes Act 1908; or

- (b) Is judged by the Disciplinary Committee to have been guilty of grave impropriety or infamous conduct in a professional respect; or to have been guilty of gross carelessness, or gross neglect, or gross incapacity, in the performance of his professional duties; or to have been guilty of any act or default discreditable to an accountant; or to have conducted himself in such a manner as to render the exercise of the powers of the Disciplinary Committee expedient in the interests of the public or of the Society; or
- (c) Is a bankrupt who has not obtained his order of discharge or whose order of discharge is suspended for a term not yet expired, or is subject to conditions not yet fulfilled; or
- (d) Has, within three years immediately preceding the date on which the Disciplinary Committee seeks to exercise any disciplinary power under this subsection, individually or as a partner, assigned substantially the whole of his estate for the benefit of his creditors or under the order of any Court, or (under any deed or document) had substantially the whole of his estate placed in the hands of an assignee or trustee for the benefit of his creditors or made an arrangement for payment of a composition to his creditors—
- the Disciplinary Committee may, if it thinks fit, on the matter being referred to it by the Investigation Committee and after hearing in accordance with the rules of the Society, exercise in respect of that person all or any of the disciplinary powers conferred on it by subsection three of this section.
- (2) If any person who is a member or provisional member of the Society is judged by the Disciplinary Committee to have been guilty of unprofessional conduct or of a breach of any fundamental rule of the Society, or if any person who is a public accountant engages in any other business which in the opinion of the Disciplinary Committee is inconsistent with the integrity of a public accountant, the Disciplinary Committee may, if it thinks fit, on the matter being referred to it by the Investigation Committee and after hearing in accordance with the rules of the Society, exercise in respect of that person all or any of the disciplinary powers conferred on it by paragraphs (c), (d), and (e) of subsection three of this section.

(3) The disciplinary powers which the Disciplinary Committee may exercise as aforesaid in respect of any such person, if it thinks fit, shall be as follows:

- 5 (a) Subject to subsection four of this section, the Committee may cause the name of the person to be removed from the register; and thereupon the person shall cease to be a member or provisional member of the Society, as the case may be:
- 10 (b) Subject to subsection four of this section, the Committee may, by writing under the hand of the Chairman, suspend the person from membership or provisional membership of the Society (as the case may be) for a period not exceeding five years:
- 15 (c) The Committee may, by writing under the hand of the Chairman, impose a penalty upon the person not exceeding one hundred pounds:
Provided that no such penalty may be imposed under this paragraph in any case where the Committee is proceeding under paragraph (a) of subsection one of this section, or where the Committee is inquiring into any act or omission which constitutes an offence for which the person has been convicted by any Court and which is punishable by imprisonment or fine:
- 25 (d) The Committee may, by writing under the hand of the Chairman, censure the person:
- 30 (e) The Committee may, by writing under the hand of the Chairman, order the person to pay to the Society such sum as the Committee thinks fit in respect of costs and expenses of and incidental to the inquiry by the Disciplinary Committee and the investigation by the Investigation Committee.
- (4) The name of no person shall be removed from the register, and no person shall be suspended from membership or provisional membership of the Society, under paragraph (a) of subsection one of this section by reason of any offence committed before the date of his registration if at that date the Council was aware of his conviction in respect of that offence.
- 40 (5) Every monetary penalty imposed, and all costs and expenses payable, under this section shall be recoverable as a debt due to the Council.

(6) While any person remains suspended from membership or provisional membership of the Society, the person shall be deemed not to be a member or provisional member of the Society, as the case may be; but forthwith upon the expiry of his period of suspension his rights and privileges as a member or provisional member of the Society shall be revived as from the date of the expiry. 5

(7) No decision of the Disciplinary Committee exercising any of the disciplinary powers conferred on it by this section shall take effect while the person to whom the decision relates remains entitled to appeal against the decision in accordance with section twenty-five of this Act or while any such appeal by him awaits determination by the Committee of Appeal: 10

Provided that nothing in this subsection shall restrict the power of the Disciplinary Committee under section twenty-seven of this Act. 15

(8) In any case where the Disciplinary Committee causes the name of any person to be removed from the register as aforesaid, that Committee may, as part of its decision, fix a time after which the person whose name is so removed may apply to the Council for re-registration under this Act. If no time is so fixed, the Council may allow any such application to be made at such time as it thinks fit: 20

Provided that any person aggrieved by the refusal of the Council to consider any such application in a case where no time has been fixed may apply to the Committee of Appeal to fix the time after which application for re-registration may be made. 25

(9) At any time permitted in accordance with subsection eight of this section, the person may apply for re-registration; and all the provisions of this Act as to registration shall so far as applicable apply to re-registration under this section. 30

(10) The Disciplinary Committee may appoint a legal assessor, who may be present at the inquiry into any matter, and may then or at any time previously or subsequently advise that Committee on matters of law, procedure, and evidence relating thereto. 35

Cf. 1908, No. 211, s. 31 (3)

25. Appeals against decisions of Disciplinary Committee—

(1) In any case where the Disciplinary Committee has exercised any of its disciplinary powers in respect of any person as aforesaid, that person may, not later than twenty-eight days 40

after the date of the notification by the Disciplinary Committee to the person of the exercise of the power, appeal in writing to the Committee of Appeal against the decision in which the power is exercised.

5 (2) Where any such appeal is made to the Committee of Appeal as aforesaid, that Committee may confirm or vary or reverse the decision to which the appeal relates, and may in addition make such order as to the payment of the costs of the appeal as it thinks fit.

10 (3) Every such appeal shall be by way of rehearing; but, unless the Committee of Appeal otherwise directs, on any such rehearing it shall not be permissible to recall witnesses who gave evidence before the Disciplinary Committee or to call other witnesses.

15 **26. Restrictions on acting for or employing disqualified persons**—Every public accountant shall be deemed guilty of an act discreditable to an accountant who—

20 (a) Wilfully and knowingly enters into partnership with, or acts as agent in carrying on the professional practice of, any person who to his knowledge has had his name removed from the register by order of the Disciplinary Committee or the Committee of Appeal, or is under suspension from membership or provisional membership of the Society or of any association of accountants which is recognised for the purposes of paragraph (b) of subsection three of section fourteen of this Act; or

25 (b) Without the sanction of the Disciplinary Committee, knowingly employs or permits to act as a clerk or otherwise in or about his business of a public accountant any person who to his knowledge has had his name removed from the register by order of the Disciplinary Committee or the Committee of Appeal, or is under suspension from membership or provisional membership of the Society or of any association of accountants which is recognised for the purposes of paragraph (b) of subsection three of section fourteen of this Act.

Cf. 1955, No. 101, s. 20

30 **27. Interim suspension**—(1) At any time after any matter involving any person who is a member or provisional member of the Society is referred to the Disciplinary Committee under this Act, the Disciplinary Committee may, of its own

motion and without the necessity of giving any notice to that person, make an order that the person be suspended from membership or provisional membership of the Society until the matter has been heard and disposed of.

(2) The person in respect of whom any interim suspension order is made under this section may at any time apply to the Disciplinary Committee for the revocation of the order, and the Committee may grant or refuse any such application as it thinks fit. 5

Cf. 1955, No. 101, s. 37

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28. Society may be ordered to pay costs—Without restricting the powers conferred on the Disciplinary Committee by paragraph (e) of subsection three of section twenty-four of this Act, it is hereby declared that where any matter involving any person who is a member or provisional member of the Society is referred to that Committee, that Committee may order that costs be awarded to that person, and that those costs be paid by the Society. 15

29. Witnesses may be required to attend and give evidence—(1) The Disciplinary Committee or the Committee of Appeal, by notice in writing signed by the Chairman of the Committee for the time being, may, on tendering proper travelling expenses, require any person to attend and give evidence before it at the hearing of any matter under this Act, and to produce all books, documents, and papers in that person's custody or under his control relating to the subject-matter of any such application or inquiry. 25

(2) The Disciplinary Committee or the Committee of Appeal may require evidence to be given on oath and either orally or in writing, and for that purpose the Chairman of the Committee for the time being may administer an oath. 30

(3) Every person who without lawful justification refuses or fails to attend and give evidence when required to do so by the Disciplinary Committee or the Committee of Appeal as aforesaid or to answer truly and fully any question put to him by a member of the Committee or to produce to the Committee any book, document, or paper required of him, commits an offence against this section, and shall be liable on summary conviction to a fine not exceeding one hundred pounds. 35

Cf. 1955, No. 101, s. 44

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30. Immunity of witnesses and counsel—Witnesses and counsel shall have the same privileges and immunities in relation to matters before the Investigation Committee, the Disciplinary Committee, or the Committee of Appeal as if they
5 were proceedings in a Court of law.

Cf. 1950, No. 50, s. 49

31. Witnesses' expenses—(1) Every witness giving evidence or intending to give evidence at the investigation or hearing of any matter by the Investigation Committee, the Disciplinary
10 Committee, or the Committee of Appeal under this Act, shall be entitled in the discretion of the Committee to such sum for his expenses and loss of time as the Committee may determine.

(2) Subject to any order made by the Disciplinary Com-
15 mittee or the Committee of Appeal as to the payment of costs and expenses, all such witnesses' expenses shall be paid by the Society.

Cf. 1950, No. 50, s. 50

Miscellaneous

32. Improper use of terms implying membership of Society—(1) Every person commits an offence and shall be
20 liable on summary conviction to a fine not exceeding one hundred pounds who,—

(a) Not being a member of the Society, uses in connection
25 with his business, trade, calling, or profession any written words, initials, or abbreviation of words intended to cause or which may reasonably cause any person to believe that the person using the same is a member of the Society; or

(b) Describes himself in writing as a public accountant or
30 a registered accountant when he is not for the time being so registered and classified; or

(c) Describes himself in writing as a provisional member
when he is not for the time being so registered; or

(d) Acts in contravention of subsection two of section
35 fifteen of this Act.

(2) Every person who uses in connection with his name, or
with the name under which he carries on business, the initials
"F.P.A.N.Z." or "F.R.A.N.Z." or "A.P.A.N.Z." or
40 "A.R.A.N.Z.", or an abbreviation of the words "public ac-
countant" or "registered accountant" or "provisional mem-
ber", or any combination of any such initials or abbreviations,

shall be deemed for the purposes of paragraphs (b) and (c) of subsection one of this section to have described himself in writing as a public accountant or a registered accountant or a provisional member, as the case may be, unless it is proved that the manner and circumstances in which he did the act which is proved were such as to raise no reasonable inference that he was referring to the practice of accountancy. 5

(3) In every prosecution for an offence against subsection one of this section the burden of proving that the defendant was at the time when the offence was committed a member of the Society or a public accountant or a registered accountant or a provisional member, as the case may be, shall lie upon the defendant. 10

Cf. 1908, No. 211, s. 32

33. Registered office of Society—(1) The Society shall at all times have a registered office, and notice of the situation thereof and of any change of the situation thereof shall be given by the Council to the Registrar of Companies at Wellington, and shall be registered by him. 15

(2) If any default is made by the Society or Council in the observance of the requirements of this section, each member of the Council shall be liable on summary conviction to a fine not exceeding one shilling for every day during which the default continues. 20

(3) All writs, notices, or other documents required or authorised to be served on or delivered or sent to the Society or Council shall be deemed to be duly served, delivered, or sent if left at the registered office of the Society. 25

Cf. 1908, No. 211, s. 33

34. Issue of practising certificates to persons with conscientious objection to membership—(1) Where any person satisfies the Council that he is qualified for registration as a member of the Society, and that he has conscientious objection to becoming such a member, the Council may, without causing him to become a member of the Society, grant him a practising certificate, which shall entitle him to practise the profession of accountancy as if he were registered as a member of the Society and classified as specified in the certificate. 30 35

(2) Every reference in this Act or in any other enactment or document whatsoever to a member of the Society, or to a member of the Society who is within any specified classification, shall include a reference to every person who for the
5 time being holds a practising certificate entitling him to practise the profession of accountancy as if he were such a member or so classified, as the case may be.

(3) Without restricting the generality of the foregoing provisions of this section, it is hereby declared that every
10 person to whom a practising certificate is granted under this section entitling him to practise the profession of accountancy as if he were registered as a member of the Society and classified as specified in the certificate shall have the same
15 liability for payment of fees to the Society as if he were so registered and classified, and all the provisions of this Act and of the rules and code of ethics of the Society relating to the discipline of members of the Society shall apply to him as if he were so registered and classified.

(4) For the purposes of this section, every reference in this
20 Act or in the rules of the Society to the removal of the name of any person from the register shall be read as a reference to the cancellation of the practising certificate of that person; and every reference in this Act or in the rules of the Society to the suspension of a person from membership of the Society
25 shall be read as a reference to a suspension of the practising certificate of that person.

35. Repeals and savings—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) All regulations of the Society which originated under
30 any of the enactments hereby repealed and are subsisting or in force at the commencement of this Act shall enure for the purposes of this Act as fully and effectually as if they had originated as rules of the Society under the corresponding provisions of this Act, and accordingly shall, where necessary,
35 be deemed to be rules of the Society and to have so originated; and every reference to any regulation of the Society in any enactment or document shall, after the commencement of this Act, unless inconsistent with the context, be read as a reference
40 to a rule of the Society made under the corresponding provision of this Act.

(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

SCHEDULE

Section 35 (1)

ENACTMENTS REPEALED

- 1908, No. 211—The New Zealand Society of Accountants Act 1908.
 1909, No. 20—The New Zealand Society of Accountants Amendment Act 1909.
 1913, No. 26—The New Zealand Society of Accountants Amendment Act 1913.
 1915, No. 54—The New Zealand Society of Accountants Amendment Act 1915.
 1949, No. 51—The Statutes Amendment Act 1949: Section 40.