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Accountants Act, 1985

Act 5 of 1985

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Accountants Act, 1985

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eSwatini

Accountants Act, 1985

Act 5 of 1985

Commenced on 1 April 1985 by [Date of Commencement \(Accountants Act\) Notice, 1985](#)

[This is the version of this document at 1 December 1998.]

An Act to establish the Institute of Accountants.

Part I – Preliminary

1. Short title and commencement

This Act may be cited as the Accountants Act, 1985 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint and the Minister may appoint different dates for the coming into force of the different provisions of the Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**articled clerk**” means a person who is duly bound to serve under articles of clerkship;

“**articles of clerkship**” means a written contract whereby any person is duly bound to serve another for a specific period and is entitled to receive training in the profession of a chartered accountant;

“**auditor**” means a person who is registered as such under [section 9\(3\)](#) and holds himself out to be an auditor;

“**Bye-laws**” means the Bye-laws of the Institute made under this Act;

“**chartered accountant**” means a person who is registered in terms of [section 9\(1\)](#);

“**Council**” means the Council of the Institute elected by the Institute in terms of this Act;

“**financial year**” means the period from the 1st April in one year to the 31st March in the following year and in respect of the first accounting period it shall be the period whether shorter or longer than twelve months as the Institute may determine;

“**formal training**” means a programme of training for trainee accountants or trainee chartered accountants approved or recognised by the Institute;

[Added A.5/2000]

“**Institute**” means the Swaziland Institute of Accountants established under [section 3](#);

“**Minister**” means the Minister responsible for Finance;

“**public practice**” means the practice of an auditor who has an office or place of business in Swaziland and for that purpose holds himself out as an auditor and places his services at the disposal of the public for reward, but does not include services which are substantially at the command of any person or of the Government;

“**Register**” means the Register of Accountants and Auditors maintained by the Institute under [section 4\(1\)](#);

“**registered accountant**” means a person who is registered in terms of [section 9\(2\)](#);

“resident” means

- (a) a citizen of Swaziland; or
- (b) any person to whom a residence permit has been issued under section 22(4) of the Immigration Act, 1964 and who is ordinarily resident in Swaziland for a period of not less than eight months in each year during the period of validity of his residence permit;

“student clerk” means a person other than an articled clerk who is registered with the Institute in order to study for the certificate issued by the Council under [section 9](#);

“trainee accountant” means a person other than an articled clerk who has entered into a training contract registered with the Institute in order to study for the examination of the Institute.

[Added A.8/1991]

Part II – The Institute and the Council

3. Establishment of the Swaziland Institute of Accountants

- (1) There is hereby established an Institute, to be known as the Swaziland Institute of Accountants, which shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name, and of performing all such acts as are necessary for, or incidental to, the carrying out of its objects and the performance of its functions and duties under this Act.
- (2) The Institute shall consist of all persons whose names appear in the Register.

4. Maintenance of Registers

- (1) The Institute shall maintain separate Registers in respect of the categories of persons registered under [section 9](#) as—
 - (a) chartered accountants;
 - (b) auditors;
 - (c) registered accountants;
 - (d) student clerks;
 - (e) articled clerks; and
 - (f) trainee accountants.

[Added A.8/1991]

- (2) The Registers shall at all reasonable times be open for inspection by any person upon payment of such fee as the Council may prescribe.

5. Power of Institute to prescribe qualifications

The Institute shall prescribe the degrees, diplomas or other qualifications of persons required by it for registration under [section 9](#).

6. Functions of the Institute

The Institute may—

- (a) conduct examinations or take such other steps as may be necessary to ascertain whether a person is qualified to have his name entered on the Register, and issue certificates upon such terms as the Council may prescribe;
- (b) encourage the study of accountancy in Swaziland by the spread of information and the promotion of education in accountancy matters;
- (c) establish and support or assist in establishing and supporting an association, funds, trusts and the like calculated to benefit the members of the Institute or their dependants or employees of the Institute, and from any special funds accumulated by grant pensions and allowances to members of the Institute or to dependants of employees of the Institute;
- (d) represent the interests and the views of the profession of accountants and auditors in Swaziland;
- (e) take such lawful steps as it may deem necessary in order to maintain the dignity and status of the profession of accountants and auditors in Swaziland and determine what shall be regarded as unprofessional conduct;
- (f) provide for the settlement of disputes relating to the practice of the profession between members of the Institute or between members of the Institute and other persons;
- (g) assist in the promotion of legislation which may be deemed to be of advantage to the profession of accountants and auditors in Swaziland;
- (h) contribute to organisations elsewhere having objects similar to the Institute and be associated with them in such activities as may be considered advantageous to the Institute and its objects;
- (i) take such steps as are necessary to provide facilities for the training of articled clerks and of student clerks;
- (j) do all things that are conducive or incidental to the attainment of such powers.

6bis. Borrowing powers of Institute

- (1) The Institute may borrow by way of bank overdraft or otherwise, such sums as it may require to meet its obligations.
- (2) The repayment of moneys borrowed by the Institute and the payment of interest thereon and all charges connected therewith shall be a liability of the Institute and shall be charged on its property, assets and revenue.

[Added A.15/1991]

7. Inauguration of Institute and Council

- (1) As soon as practicable after the commencement of this Act, the Minister shall in such manner as he may deem fit convene a meeting of all persons who are members in good standing or a society or institute which is a founder or associate members of the International Accounting Standards Committee and are resident in Swaziland, and who shall be called “founder members”.
- (2) The members of the first Council shall consist of—
 - (a) the Chairman of the Institute, who shall be a chartered accountant, and two other persons appointed by the Minister to hold office for such period as the Minister may determine and who may be removed by the Minister at his discretion; and
 - (b) three other persons who shall be persons entitled to attend the meeting convened under subsection (1) one of whom shall be a member who is not in public practice, and such

members shall be elected by persons entitled to attend and attending such meeting either in person or by proxy.

- (3) The members of the first Council shall continue to serve as such until the first annual general meeting of the Institute but thereafter the Council shall be constituted as provided for in [section 8\(3\)](#).
- (4) The Council shall manage and supervise the affairs of the Institute in accordance with the provisions of this Act, the Bye-laws and any lawful resolutions passed at a general meeting of the Institute, and may in the discharge of its functions, without affecting the generality of the foregoing—
 - (a) appoint and remove any officers and servants (including a Registrar) of the Institute and determine their duties and terms and conditions of employment;
 - (b) acquire or hire such movable or immovable property as it may consider necessary for the effective performance of its functions;
 - (c) make arrangements for the conduct of examinations for articled and student clerks;
 - (d) take steps which it may consider expedient for the maintenance of the integrity, the enhancement of the status and the improvement of the standards of the professional qualifications of accountants and auditors, and encourage research in connection with problems relating to any matter affecting the accounting profession;
 - (f) establish sub-committees to assist the Council in performing the duties and functions specified in this Act.

[Please note: numbering as in original.]

8. General meetings of the Institute

- (1) The Institute shall hold an annual general meeting within three months of the end of its financial year.
- (2) All persons whose names are registered under this Act and who are not in arrear with any subscription or other sum payable by them to the Institute shall be entitled to be present at such meetings, but only persons resident in Swaziland and registered under [section 9\(1\)](#) shall be entitled to vote at each meeting in person or by proxy.
- (3) Six members of the Council, three of whom shall be members in public practice, two of whom shall be members not in public practice and one of whom shall be a member registered in terms of [section 9\(2\)](#), all of whom shall be resident in Swaziland in accordance with the Bye-laws, and such members together with two members appointed by the Minister to hold office for such period as the Minister may determine and who may be removed at his discretion, shall elect a Chairman who shall be a member registered under [section 9\(1\)](#) of this Act.

[Amended A.8/1991]

- (4) The Council shall cause to be prepared a duly audited balance sheet and income and expenditure account of the Institute for each financial year and shall submit this to members for their approval at the annual general meeting.

[Amended A.8/1991]

- (5) The Council shall at such meeting present a report of the activities of the Institute for the financial year and a copy of that report together with the audited balance sheet income and expenditure account shall be submitted to the Minister.

[Amended A.8/1991]

- (6) General meetings of members of the Institute, other than the annual general meeting, may be convened in terms of the Bye-laws.

- (7) Save as otherwise provided in the Bye-laws, all questions to be decided at a general meeting of the Institute shall be by majority vote of those present and entitled to vote in terms of subsection (2).
- (8) Subject to the Bye-laws, a member of the Institute may move any resolution which is not inconsistent with the provisions of this Act.
- (9) The quorum for a general meeting shall be prescribed under [section 25](#).
- (10) The Institute shall determine the procedure of meetings of the Institute and of the Council and any committee of the Council.

Part III – Registration of accountants

9. Persons entitled to be registered as accountants

- (1) Any person who has attained the age of twenty one years shall be entitled to be registered as a chartered accountant, provided that he proves to the satisfaction of the Council that at the date of his application he—
 - (a) is a resident of Swaziland and has passed the examination prescribed for a chartered accountant by the council and—
 - (i) being a matriculant or a person with a G.C.E. “O” level or equivalent qualification and has completed a period of five (5) years of articles of clerkship with an auditor in Swaziland or in any country approved or recognised by the Council, or has completed the formal training as aforesaid of at least five years with a 'Government' department or any other employer provided that the formal training is or has been approved by the Council; or
[Amended A.5/2000]
 - (ii) having obtained a degree, which is approved or recognised by the Council, from a University, college or other institution which is approved or recognised by the Council and has further served a period of three (3) years of articles of clerkship or such formal training as may be approved by the Council; or
[Amended A.5/2000]
 - (b) is a founder member in terms of [section 7\(1\)](#); or
 - (c) is a partner of a person resident and in public practice in Swaziland and is a member of such other Society or institute of accountants as the Institute may recognise; or
 - (d) is a member of such other Society or institute of accountants as the Institute may recognise and has satisfied the Council that he is a resident of Swaziland.
[Amended A.8/1991]
- (2) The Institute shall permit the registration as a registered accountant of a resident of Swaziland who is not otherwise eligible for registration under subsection (1) if such person proves to the satisfaction of the Council that he has passed the examination prescribed by the Council for a registered accountant and has had such practical experience as may be approved by the Council.
- (3) A person shall be entitled to be registered as an auditor and to engage in public practice, provided that person—
 - (a) is registered in terms of subsection (1), and has served at least two (2) years of the required training or has served two (2) years after the required training, provided under subsection (1), with an auditor as an articled clerk or trainee accountant after passing the examinations prescribed by the Council in terms of [section 5](#); or;

- (b) is resident in Swaziland and has satisfied a board appointed for that purpose consisting of the Chairman of the Institute, the Auditor-General, the Commissioner of Taxes and two other members of the Council that, in the five (5) years immediately before the date of coming into operation of this Act, that person has in Swaziland, engaged in the practice of an Auditor and has had suitable practical experience in such practice for a minimum of two (2) years during that period and that during the remainder of that period, if not so engaged, has relevant experience in accounting obtained in Government, Commerce, or Industry;

[Amended A.8/1991; replaced A.5/2000]

- (4) A person registered under this section shall be issued a certificate by the Council recording that he has been so registered.

10. Persons disqualified from registration

No person shall be registered in terms of [section 9](#) who—

- (a) has at any time been removed from an office of trust by the order of any court in Swaziland or elsewhere;
- (b) has at any time been convicted of theft, fraud, forgery or uttering a forged document, perjury or any offence involving dishonesty;
- (c) is of unsound mind;
- (d) is an unrehabilitated insolvent; or
- (e) has been found guilty of a disciplinary offence by the Council acting under Part VI and, subject to [section 16\(6\)](#), whose name has been removed from the Register.

11. Right of appeal to the High Court

A person whose application for registration has been refused by the Council may appeal against such refusal to the High Court and the rules of Court applying to appeals from a magistrate's court to the High Court shall, *mutatis mutandis*, apply to such appeal.

12. Prohibition against practising as an auditor

No person who is not registered under [section 9\(3\)](#) as an auditor and who does not have an office or place of business in Swaziland, shall be entitled to practise as an auditor:

Provided that a person practising as an auditor at the date of commencement of this Act shall be entitled to continue so to practise without registration for a period of ninety days from such date; and

Provided further that nothing in this Act shall be construed as preventing the Auditor-General from performing his duties in terms of the Finance and Audit Act, of 1967.

13. Use of designations

- (1) A member of the Institute registered under [section 9\(1\)](#) shall be entitled to use the designations "Chartered Accountant (Swaziland)" or "Chartered Accountant (SD)" or the initial "CA (SD)".
- (2) A member of the Institute registered under [section 9\(2\)](#) shall be entitled to use the designations "Registered Accountant (Swaziland)" or "Registered Accountant (SD)" or the initials "RA (SD)".

14. Information to be furnished by accountants and auditors

- (1) A person who is registered as an auditor under this Act shall, subject to the provisions of subsection (3)—
 - (a) notify the Council and every person for whom he or his firm acts as auditor of any change in the name or constitution of such firm within twenty one days after the date on which such change takes place; and
 - (b) furnish the following information within twenty one 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—
 - (i) every firm name or title under which he practices;
 - (ii) the place or places of business of all partnerships in which he is in public practice as a partner;
 - (iii) the full names of all his partners in public practice; and
 - (iv) his nationality, his forenames, his surname which he may have borne previously and his ordinary business address and his residential address.
- (2) When two or more 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 regarded as 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 adoption; or
 - (b) in the case of any person, any surname previously borne by him which was changed before he attained the age of eighteen years or has been changed for a period of not less than twenty years; or
 - (c) in the case of a married or divorced woman or a widow, the surname borne by her before her marriage.
- (4) Where the Council has reason to believe that a person registered under this Act has failed to comply with any provision of this section, it may require such person to supply it with such information as may be necessary.

Part IV – Disciplinary powers of Council

15. Inquiry by Council into charges of unprofessional conduct

- (1) Subject to this section, the Council may enquire into any charge, complaint or allegation of unprofessional conduct against a person registered under this Act:

Provided that, in the case of a charge, complaint or allegation forming or likely to form the subject of criminal proceedings in a court of law, the Council shall postpone the inquiry until such proceedings have been finally determined; and

Provided further that nothing in this section shall be construed as preventing the Council from taking disciplinary action against a person convicted of an offence specified in [section 10](#).
- (2) Prior to the institution of any inquiry the Registrar of the Institute shall in writing advise the person concerned of the nature of the charge, complaint or allegation made against him and

give him a reasonable opportunity of exculpating himself in writing and to produce such written evidence as he may desire.

- (3) If the Council considers the answer given in terms of subsection (2) as satisfactory, it shall not proceed with an inquiry under subsection (1).
- (4) The Council may, prior to any enquiry, conduct a preliminary investigation of a person concerning any charge, complaint or allegation of unprofessional conduct made against him.
- (5) For the purpose of conducting any inquiry by the Council under this section, the Council shall consist of not less than two of its members together with a law officer appointed by the Attorney-General for this purpose.

16. Matters for and procedure upon inquiry by Council

- (1) A person who has been found after inquiry held by the Council under this Part to be guilty of unprofessional conduct, may be—
 - (a) cautioned or reprimanded;
 - (b) suspended for a specified period from practising or performing acts specially pertaining to that person's profession;
 - (c) fined, up to a maximum as determined by the Council from time to time;
 - (d) removed from the register; or
 - (e) sued, in default, in a Court for the enforcement of the Council's Order, or sued for the recovery of any fines or other monies imposed by or due to the Council or Institute.

[Replaced by A.5/2000]

- (2) The Council may order a person who is or has been cautioned, reprimanded, suspended, removed, fined or sued in terms of subsection (1) to pay such reasonable costs and expenses as the Institute may have or likely to incur in connection with such inquiry by the Council.

[Added by A.5/2000]

- (3) A person whose conduct is the subject of an inquiry under this Part shall be given an opportunity to appear by himself or with a legal practitioner to answer the charge, and to produce the evidence of any other person in support of his defence.
- (4) For the purpose of conducting an inquiry under this section, the Council may—
 - (a) summon any person to attend and give evidence;
 - (b) order the production of any book, record, document or thing which has any bearing on the subject of the inquiry;
 - (c) administer an oath through the person presiding at the inquiry.
- (5) A summons for the attendance before the Council of a person or for the production to it of any book, record, document or thing shall be in such form as the Council may determine and shall be served either by registered post or in the same manner as it would be served if it were a subpoena issued by a subordinate court.
- (6) A person summoned as aforesaid shall be bound to obey the summons served on him and shall be entitled to all the privileges and immunities to which a witness subpoenaed to give evidence before the High Court is entitled.
- (7) The Council may terminate any suspension under subsection (1) before the expiry of such period of suspension or cause to be restored to the Register any name which has been removed therefrom.

[Subsections (2) to (6) renumbered as (3) to (7) by A.5/2000]

17. Notification of decision of Council

As soon as practicable but not more than thirty days after the conclusion of an enquiry by the Council the Registrar shall notify the person concerned of the Council's findings and decision.

18. Appeal to the Court against decision by Council

- (1) Any person aggrieved by a decision of the Council under this Part may apply to the High Court for relief in accordance with the High Court Rules, 1954:

Provided that the High Court shall not set aside the proceedings of the Council by reason only of an irregularity which did not embarrass or prejudice the applicant in answering the charge, or in the conduct of his defence.

- (2) Any person appealing against the decision of the Council shall do so by lodging a notice of appeal with the Registrar setting out the grounds of appeal within fourteen days after the decision of the Council shall have been communicated to him, and shall lodge his application with the High Court within fourteen days after having served and the said notice of appeal on the Registrar.

19. Power to publish decisions

After an application to the High Court in terms of this Act has been dismissed or the period during which such an application may be made in terms of this Act has expired, the Council may publish in the *Gazette* a report of the findings and of any penalty imposed by it at an inquiry held in terms of [section 16\(1\)](#).

20. Effect of suspension or removal from Register

No person who has been suspended or whose name has been removed from the Register under this Part shall practise as a public accountant and his registration certificate shall be deemed to be cancelled until the period of suspension has expired or until his name has been restored to the Register in terms of [section 16\(1\)](#).

21. Removal of name at request of person registered

The Registrar shall remove the name of any person from the Register on written application made by such person and on proof to the satisfaction of the Registrar that no disciplinary proceedings are being contemplated or have been instituted against such person.

22. Restoration of name to Register

- (1) A person whose name has been removed from the Register may make application in writing to the Registrar for the restoration of his name to the Register.
- (2) The Council shall within, thirty days after the receipt by the Registrar of the application, hold an enquiry to consider such application.
- (3) [Sections 15 to 19](#) inclusive shall *mutatis mutandis* apply to such application and enquiry.

Part V – Auditors

23. Prohibition against practising as auditor

Subject to [section 12](#), no person who is not registered in terms of [section 9\(3\)](#) shall be entitled to act as an auditor where the appointment of an auditor or the performance of an audit is required by any law.

24. Powers and duties of auditors

- (1) No person acting in the capacity of an auditor, whether such audit is required by any law or not, shall, without such qualification as may be appropriate in the circumstances, in pursuance of any audit carried out by him in that capacity certify or report to the effect that any balance sheet or profit and loss account, including any annexure to such balance sheet or profit and loss account which relates to such undertaking, is correct or reflects a true and fair view of the matters dealt with therein, unless—
 - (a) he has carried out such audit free of any restrictions whatsoever;
 - (b) he is satisfied that proper books of accounts have been kept in connection with the undertaking in question, so as to reflect a true and fair view of the affairs of that undertaking and to explain all the transactions thereof;
 - (c) he has obtained all the 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;
 - (e) he has by means of such methods as are appropriate having regard to the nature of the undertaking in question satisfied himself of the existence of all assets and liabilities shown on any such balance sheet;
 - (f) he is satisfied as far as practicable as to the correctness or truth and fairness of any such balance sheet, account or annexures;
 - (g) any matter referred to in subsection (6) had at the date on which he so certified or reported, been adjusted to his satisfaction.
- (2) No auditor or accountant shall, when acting otherwise than in pursuance of an audit, certify or report, without such qualifications as may be appropriate in the circumstances, to the effect that any account, statement or other document relating to the business or financial affairs of any undertaking, is correct or reflects a true and fair view of the matters dealt with therein, unless he has *mutatis mutandis* complied with subsection (1)(a), (b), (f) and (g).
- (3) If any auditor or accountant 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 framing any balance sheet, account, statement or other document from existing records, the auditor or accountant shall, in certifying or reporting on anything in connection with the business or financial affairs of such undertaking, indicate that he or his partner or a person working under his supervision and control or under the supervision and control of his partner, as the case may be, was responsible for keeping such books, records or accounts.

[Amended A.8/1991]
- (4) Any certificate required to be given or report to be made by an auditor or accountant in his capacity as auditor or accountant in pursuance of any assignment carried out by him shall be given or made within a period of one hundred and twenty days after the date on which the assignment was completed, and if such auditor or accountant is unable to give an unqualified certificate or make an unqualified report, he shall within the said period give that certificate or make that report subject to such qualifications as he may deem necessary and may, if he considers it advisable, endorse on that certificate or report the reason for any such qualification.
- (5) If any person acting in the capacity of auditor to any undertaking is satisfied or has reason to believe that in the conduct of the affairs of such undertaking a material irregularity has taken place or is taking place which has caused or is likely to cause financial loss to the undertaking or to any of its members or creditors, he shall forthwith despatch a report in writing to the person in charge

of that undertaking giving particulars of the irregularity, at the same time drawing the attention of such person to the provisions of subsections (6) and (7) and requesting him to acknowledge receipt of such report in writing.

- (6) Unless within thirty days after an auditor has despatched a report referred to in subsection (5) 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 loss likely to be caused as aforesaid, or for the prevention of any such loss, he shall forthwith furnish the Council with copies of the report and of any acknowledgement of receipt thereof and reply thereto and such other particulars as he may deem fit.
- (7) The Council may disclose to the Director of Public Prosecutions or any officer in the public service any information supplied to it in terms of subsection (6).
- (8) For the purposes of determining whether any irregularity under subsection (5) has taken place or is taking place, an auditor may carry out such investigation as he may deem fit.
- (9) No action shall be instituted against any auditor or any person registered under this Act in respect of any opinion expressed or certificate given or report or statement made, or statement, account or document certified by him in good faith in the ordinary course of his duties, 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 male fide or negligently.

Part VI – Bye-laws

25. Bye-laws

Provided that a general meeting of the Institute has approved of them by a majority of two-thirds of the members present and voting, the Council may by notice in the *Gazette* publish Bye-laws for—

- (a) regulating the mode of admission to the Register of the Institute;
- (b) prescribing the registration and other fees and the time for payment of the registration fees;
- (c) regulating the time, mode and place of summoning and holding ordinary meetings and special general meetings and the quorum to be present thereat, and the mode of voting and the conduct of proceedings at any such meeting and the regulations for the adjournment thereof;
- (d) regulating the meetings of the Council and the quorum to be present thereat;
- (e) regulating the mode of nomination of members of the Institute for election to the Council and the mode of filling casual vacancies thereon;
- (f) regulating the service under articles of clerkship or training contracts of members of the Institute, and the cancellation of such articles or training contracts for misconduct or other sufficient cause;
[Amended A.8/1991]
- (g) regulating the times and places for holding examinations, the subjects for and the manner of conducting examinations, determining acceptable examination of other bodies, prescribing the fee to be paid by applicants, the conditions on which examiners shall hold office and the remuneration paid to examiners;
- (h) regulating the receipt of all monies, including fees, paid to the Institute, and laying down accounting and audit procedures therefor; and
- (i) regulating the service under articles of clerkship or training contracts of members of the Institute, and the cancellation of such articles or training contracts for misconduct or other sufficient causes.

Part VII – Offences and penalties

26. Offences and penalties by unregistered persons

Any person who is not registered under this Act as an auditor or chartered accountant and—

- (a) holds himself out to be an auditor or chartered accountant; or
- (b) uses any designation referred to under [section 13](#);

shall be guilty of an offence and liable to conviction to a fine not exceeding five thousand Emalangeni (E5000.00) or three (3) years imprisonment or both.

[Amended A.5/2000]

27. Offence and penalties by persons registered under this Act

(1) No person who is registered as an auditor under this Act shall—

- (a) except with the consent of the Council knowingly employ in connection with his practice—
 - (i) any person while such person is suspended from public practise under any provisions of this Act;
 - (ii) any person not registered as an auditor under this Act who was previously so registered;
- (b) make over to or share with any person other than a person registered as an auditor under this Act any portion of his professional fees;
- (c) share profits derived from his practice as an auditor in Swaziland or practise in partnership in Swaziland with any person not registered as an auditor in terms of this Act;
- (d) practice under a firm name or title unless on every letterhead bearing such firm or title there appears—
 - (i) his present forenames or the initials thereof and his present surname;
 - (ii) the present forenames or the initials thereof and the present surnames of his partners, if any; and
 - (iii) if any such partner is not ordinarily resident in Swaziland an indication of the name of the country in which such partner is ordinarily resident;
- (e) sign any account, statement, report or other document, which purports to represent work performed by him, unless such work was performed by himself or under his personal supervision or direction or by or under the personal supervision or direction of one or more of his partners:

Provided that the provisions of this subsection shall not apply in respect of work performed on behalf of a person registered as an auditor under this Act by another auditor so registered or in respect of work performed outside Swaziland in respect of a branch or subsidiary of a Swaziland company operating outside Swaziland by a member of an organised body of professional accountants outside Swaziland whose status is, in the opinion of the Council, at least equal to that prescribed by the Council for the profession in Swaziland;

- (f) perform professional work in connection with any matter which is the subject of dispute or litigation on condition that payment for such work shall be made only if such dispute or litigation ends favourably for the party for whom such work is performed;
- (g) engage in public practice during any period in respect of which he has been suspended from practice.

- (2) Any person who contravenes or fails to comply with this section shall be guilty of an offence and liable on conviction to a fine not exceeding ten thousand Emalangeni (E10 000.00) or five (5) years imprisonment or both.

[Amended A.5/2000]

Part VIII – Miscellaneous

28. Repeal of Order No. 25 of 1978

The Public Accountants and Auditors Order, 1978 is hereby repealed.