

THE CHARTERED ACCOUNTANTS BILL, 2009

Memorandum

The purpose of the Bill is to recast the Institute of Chartered Accountants Act, 1963 (Act 170) to make it reflect the changes that have taken place in the accountancy profession and international accountancy practice since that Act was enacted some forty-six years ago.

Within this period a lot has happened in the area of accountancy practice which require changes to the Act. To effect these changes by amendments, would require as many as sixteen substantive amendments of the Act. This will change the character of the Act and make the use of the Act difficult because the contents of the Act will be in two separate documents with reference being made from one document to the other.

To avoid this situation, the Act has to be recast to make it more reader friendly and to conform to contemporary accountancy practice. It is for this reason that this Bill has been proposed for enactment.

The Bill is divided into five subject headings namely "Establishment and Management of the Institute"; "Public practice of accountancy and register of accountants"; "Financial provisions", "Miscellaneous provisions" and "Repeals, transitional provisions and commencement".

Under the heading of "Establishment and Management of the Institute, *clause 1* provides for the establishment of the Institute as a body corporate with all the powers and rights of a body corporate including perpetual succession and a common seal, the right to sue and be sued in the corporate name and the right to hold movable and immovable property and to enter into contract or other transaction. *Clause 2* provides for the custody and use of the common seal of the Institute.

The objects of the Institute are provided for in *clause 3* and they include promoting the sound development of the accountancy profession and accountancy practice so as to ensure the integrity of financial management in the country. In *clause 4*, the functions of the Institute are listed. These include the regulation of the practice of accountancy in the country, certifying persons, who can practice as auditors; prescribing and approving courses of study for the accountancy profession; conducting and providing for the conduct of qualifying examinations for membership of the Institute; and keeping; maintaining and publishing of a register of chartered accountants and practising accounting firms.

Clause 5 provides for meetings of the Institute which are to be held in accordance with the First Schedule to the Act. Qualification for membership of the Institute is provided for in *clause 6*. A person qualifies to be a member of the Institute if among other requirements; the person is at least eighteen years old; of good character

and has passed the qualifying examinations of the Institute and completed practical training of a description and for a period specified by the Institute.

The categories and designations for members of the Institute are provided for in *clause 7* and *clause 8* provides for restrictions on the use of titles conferred under the Act.

Clause 9 provides for the governing body of the Institute and its composition. The governing body of the Institute is a Council of eleven members. Provision is made for the tenure of members of the Council other than the President and Vice-Presidents in *clause 10* whilst *clause 11* provides for the tenure of the President and Vice-Presidents of the Council. Provisions relating to meetings of the Council are to be found in *clause 12* and in the Second Schedule. A member of the Council who has an interest in a matter before the Council is required to disclose the nature of the interest in writing and not to participate in the discussion and decision on the matter, *clause 13*. The Council is empowered to establish committees in *clause 14*. This clause also provides for a disciplinary committee to be established. *Clause 15* makes provision for the payment of allowances to members of the Council and committees of the Council, whilst *clause 16* specifies the conditions under which the allowances are to be paid.

The Institute is required in *clause 17* to have its headquarters in Accra or some other location determined by the Council. The Institute may also have regional and district offices as the Council may determine. The position, required qualification and function of the Chief Executive are provided for in *clause 18*. Provision is made for the appointment of a secretary for the Council in *clause 19* and the appointment of other staff for the Institute is to be found in *clause 20*.

Under the heading “Public practice of accountancy and register of accountants”, *clause 21* provides for the qualification required for public practice of accountancy. A person is qualified to engage in the public practice of accountancy if that person is a member of the Institute and is registered by the Institute to engage in public practice of accountancy. The meaning of public practice of accountancy is given in *clause 22* and this clause provides for professional misconduct as well. *Clause 23* imposes restrictions on public practice of accountancy.

In *clause 24* the Institute is required to publish a code of professional conduct and ethics for members. *Clause 25* imposes an obligation on the Council to establish an accountancy review committee to among others monitor compliance with accounting and auditing standards by members and review the standard of practice of registered firms and members.

The Institute is required in *clause 26* to keep and maintain a register of members and practising firms and publish the list of members and firms annually in the *Gazette* and at least two newspapers with wide circulation in the country.

Clause 27 under the heading “Financial provisions”, requires the Council to establish and maintain an Accountancy Fund into which moneys received for and on behalf of the Institute are to be paid. The sources of money for the Fund are listed in *clause 28* whilst *clause 29* provides for how the moneys from the Fund are to be used. Payment of fees and levies by members of the Institute is provided for in *clause 30*. In *clause 31* the Institute is required to open bank accounts in a reputable commercial bank and to maintain proper books of account and accounting records. Provision is made for the election of the auditor of the Institute in *clause 32*. Statutory audit of the annual accounts of the Institute, audited financial statements, the auditor’s report and the annual report of the Institute are all provided for in *clause 31*.

Under the heading “Miscellaneous Provisions”, *clause 34* provides for the conditions under which a member’s name would be struck off the register. Inquiry by the disciplinary committee is a condition precedent to a name being struck off the register and this together with the composition and procedure to be adopted by the committee are provided for in *clause 35* and the Fifth Schedule. The sanctions which can be recommended by the disciplinary committee and the implementation of the sanctions are in *clauses 36* and *37* respectively while provision is made for appeal against decisions of the disciplinary committee in *clause*.

Clause 39 creates a general offence in relation to contravention of the Act and *clause 40* provides for Regulations which are to be made under the Act as well as rules to be made and procedures to be established under the Act.

Interpretation, Repeals, and transitional provisions are in *clauses 41, 42* and *43*.

HON. ALEX TETTEY-ENYO, M.P.
MINISTER RESPONSIBLE FOR
EDUCATION

THE CHARTERED ACCOUNTANTS ACT, 2009

Arrangement of Section

Section

Establishment and Management of the Institute

1. Establishment of the Institute
2. Custody and use of the Common Seal of the Institute
3. Object of the Institute
4. Functions of the Institute
5. Meetings of the Institute
6. Qualification for membership of the Institute
7. Categories and designation of members
8. Restrictions on use of titles conferred under this Act
9. Governing body of the Institute
10. Tenure of members of the Council other than the President and Vice-Presidents
11. Tenure of Office of the President and Vice-Presidents
12. Meetings of the Council
13. Disclosure of interest
14. Establishment of committees
15. Allowance
16. Remuneration to Council members and conflict of interest
17. Head Office and other offices of the Institute
18. Chief Executive Officer
19. Secretary
20. Appointment of other staff

Public practice of accountancy and register of accountants

21. Qualification required for public practice
22. Meaning of public practice of accountancy and professional misconduct
23. Restrictions on public practice of accountancy
24. Code of professional conduct and ethics
25. The accountancy practice review committee

26. Register and Gazetting of members and firms

Financial provisions

27. Establishment and management of Accountancy Fund

28. Sources of money for the Fund

29. The use of the accountancy Fund

30. Fees and levies

31. Bank accounts and books of account

32. Institute's statutory auditor

33. Statutory audit and annual report

34. Striking off name from Register

35. Inquiries by disciplinary committee

36. Sanctions recommended by the disciplinary committee

37. Implementation of the disciplinary committee sanctions

38. Appeal against the decisions of the disciplinary committee

Miscellaneous provisions

39. Offences and penalties

40. Regulations

41. Interpretation

Repeals, transitional provisions and commencement

42. Repeal

43. Transitional provisions

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

PART ONE

PART TWO

PART THREE

FOURTH SCHEDULE

FIFTH SCHEDULE

A
BILL
ENTITLED
THE CHARTERED ACCOUNTANTS ACT, 2009

AN ACT to establish The Institute of Chartered Accountants to regulate the accountancy profession and practice and to provide for the conduct of examinations by the Institute and for related matters.

ENACTED by the President and Parliament.

Establishment and Governance of the Institute

Establishment of the Institute

1. (1) There is established by this Act a body known as The Institute of Chartered Accountants, Ghana.

(2) The Institute is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Institute may for the performance of its functions acquire and hold movable or immovable property and may enter into a contract or any other transaction.

(4) Where there is hindrance to the acquisition of property, the property may be acquired for the Institute under the State Property Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125) and the cost shall be born by the Institute.

Custody and use of the Common Seal of the Institute

2. (1) The Institute may determine the person who shall keep the common seal and the documents to which the common seal may be affixed.

(2) The common seal shall not be affixed to a document except

(a) with the prior authorisation of the Institute in writing; and

(b) in the presence of two members of the governing body of the Institute who shall sign the document independently of any person who may have signed the document as a witness.

Object of the Institute

3. The objects of the Institute are
 - (a) to promote the sound development of the accountancy profession and accountancy practice to ensure the integrity of financial management in the country;
 - (b) to ensure that accountancy practice and services are of the highest possible standards and conform to internationally accepted best practice.

Functions of the Institute

4. The functions of the Institute are to
 - (a) regulate the practice of accountancy in the country, including certifying persons who can practise as auditors;
 - (b) prescribe and approve courses of study for the accountancy profession regulated under this Act;
 - (c) conduct and provide for the conduct of qualifying examinations for membership of the Institute;
 - (d) regulate the engagement, training and transfer of articled clerks;
 - (e) specify the class of persons to train articled clerks and specify the circumstances under which a person of that class may be disqualified;
 - (f) keep, maintain and publish a register of chartered accountants and practising accounting firms;
 - (g) prescribe and maintain standards of professional conduct for members of the institute and take steps that are necessary to acquaint members with the methods and practices that are necessary to maintain the standards;
 - (h) establish a disciplinary code and exercise, uphold and enforce discipline among members of the Institute;
 - (i) preserve the status of the accountancy profession and the professional integrity of members of the Institute;

- (j) promote and preserve the common interest and professional independence of its members;
- (k) promote continuous professional education including advancement of theory and practice of accountancy, financial management and related disciplines among its members;
- (l) maintain a library of books and periodicals including electronic library which relate to accountancy and related subjects and encourage the publication of such books and periodicals;
- (m) encourage research in accountancy and related subjects and generally secure the advancement of the accountancy profession;
- (n) publish and promote the implementation of standards on accounting, financial reporting and auditing which are consistent with internationally accepted standards.
- (o) advise Government and recognised educational institutions on the appropriate curricula in accounting and auditing and on topical issues pertaining to the accounting profession and other relevant sectors of the national economy; and
- (p) perform any other function necessary for the advancement of the accountancy profession.

Meetings of the Institute

5. The meetings of the Institute shall be held in accordance with the First Schedule to this Act.

Qualification for membership of the Institute

6. (1) A person qualifies to be a member of the institute if that person
- (a) is at least eighteen years old;
 - (b) is of a good character;
 - (c) has passed the qualifying examinations for membership of the Institute and completed practical training of a description and for a period specified by the Institute;

- (d) is a member of a society or institute of accountants which in the opinion of the Council is of equivalent status to the Institute and has undergone additional approved course of study or training or both as determined by the Council;
- (e) has not been certified by a competent medical practitioner and adjudged by a court to be of unsound mind;
- (f) has not been convicted by a court of competent jurisdiction of any offence involving fraud or dishonesty;
- (g) has not been adjudged insolvent or bankrupt by a court of competent jurisdiction or having been adjudged insolvent or bankrupt has been issued with a certificate by a court of competent jurisdiction to the effect that the insolvency or bankruptcy has arisen wholly or partly from unavoidable losses or misfortunes.

Categories and designation of members

7. (1) The membership of the Institute consists of Associates and Fellows.

(2) A person who has been admitted to membership of the Institute but who has not been a member for a continuous period of ten years is an Associate member.

(3) A person who has been an Associate member of the Institute for a continuous period of ten years or more and has met other requirements as published by Council shall be a Fellow of the Institute.

(4) An associate member may use the designation "CA" after that member's name and a Fellow of the Institute may use the designation "FCA" after that Fellow's name.

(5) Any member of the Institute is entitled to use the title "Chartered Accountant".

Restrictions on use of titles conferred under this Act

8. (1) A person who is not a Chartered Accountant as defined in section 6, shall not take or use the title "Chartered Accountant".

(2) Despite the preceding subsection, a firm of accountants, each of the partners of which is a member of the Institute but not a practising accountant may take and use the title "Chartered Accountants".

Governing body of the Institute

9. (1) The governing body of the Institute is a Council which consists of twelve members of the Institute and the Chief Executive Officer of the Institute.

(2) Seven of the members of the Council, not more than three of whom must be accountants in practice, shall be elected by members of the Institute at a general meeting.

(3) The three other members of the Council, each of whom shall be a chartered accountant shall be appointed by the Minister.

(4) The Council may with the approval of two thirds of members of the Institute present and voting at an annual general meeting propose an amendment of the number of Council members.

(5) The Council shall elect from among its members, a President, a first Vice-President and a second Vice-President.

(6) The Council is responsible for the effective implementation of the functions of the Institute.

Tenure of members of the Council other than the President and Vice-Presidents

10. (1) A member of the Council other than the President, the Vice-Presidents, and the Chief Executive Officer shall hold office for a term not exceeding two years and is eligible for re-election or re-appointment, unless the member resigns from office earlier or that member's

(a) registration is cancelled, and

(b) name is struck off the register.

(2) A member of the Council may at any time resign from office in writing addressed to

(a) the President of the Institute, or

(b) the Minister, where the member was nominated by the Minister

(3) A member of the Council who is absent from three consecutive meetings of the Council without sufficient cause ceases to be a member of the Council.

(4) In the event of the resignation, disqualification or death of a Council member before the completion of the term of office

- (a) where the member was an elected member, the Council shall appoint the person who obtained the highest number of votes among those who stood for election for the office of council member but who were not elected;
- (b) where the member was appointed by the Minister, the Minister shall appoint another person to replace the member.

(5) A person elected or appointed as a member of the Council by virtue of subsection 4, shall hold office for the remainder of the term.

Tenure of Office of the President and Vice-Presidents

11. (1) The President and Vice-Presidents of the Institute shall hold office for a term not exceeding two years, subject to subsections (4) and (5).

(2) The President or a Vice-President may resign from office at any time in writing addressed to

- (a) the Secretary of the Institute in the case of the President; or
- (b) the President of the Institute in the case of a Vice-President.

(3) In the event of the resignation, disqualification from office or death of

- (a) the President, the first Vice-President shall hold office as President for the remaining term;
- (b) a Vice-President, the Council shall elect one of its members to hold office as a second Vice-President for the remaining term of office and where it is the First Vice-President who resigns is disqualified or dies, the second Vice-President at the time shall become the first vice-President; and
- (c) the President and the first Vice-President, the second Vice-President shall hold office as President and the Council shall elect two of its members to hold office as first and second Vice-Presidents for the remainder of the term; and
- (d) the President and both the first and second Vice-Presidents, the Council shall elect three of its members as President and first and second Vice-Presidents respectively.

(4) Where the period of the remainder of the term of the previous President is eighteen months or more, the person who assumes office to serve that remainder shall not be eligible for re-election as President.

(5) A Vice-President who leaves office because of the expiration of the term of office is in the case of the first Vice-President eligible for election to the position of President and in the case of the second Vice-President eligible for election to the position of first Vice-President or President.

Meetings of the Council

12. (1) The Council shall meet at least once every three months for the dispatch of business at the times and in places determined by the chairperson.

(2) The President and in the President's absence any of the Vice-Presidents acting as President shall at the request in writing of not less than one third of the membership of the Council convene an extraordinary meeting of the Council at the place and time determined by the President or Vice-President.

(3) The quorum at a meeting of the Council is seven members or a greater number determined by the Council in respect of special matters.

(4) The President shall preside at meetings of the Council and in the absence of the President, the first Vice-President and in the absence of both the President and the first Vice-President, the second vice-President and in the absence of the President and both Vice-Presidents, a member of the Council elected by the members present from their number shall preside.

(5) Matters before the Council shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Council may co-opt a person to attend a Council meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Council shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, meetings of the Council shall be held in accordance with the Second Schedule to this Act, but the Council may determine the procedure for its meetings.

Disclosure of interest

13. (1) A member of the Council who has an interest in a matter for consideration by the Council shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Council in respect of that matter.

(2) A member who contravenes subsection (1) ceases to be a member of the Council.

Establishment of committees

14. (1) The Council may establish committees consisting of members of the Council or non-members of the Institute or both to perform a function.

(2) Without limiting subsection (1) the Council shall have a disciplinary committee as provided for in the Fifth Schedule to this Act.

(3) A Committee of the Council may be chaired by a member of the Council except that the Disciplinary Committee shall be chaired by a member or non-member of the Institute appointed by the Council.

Allowances

15. Members of the Council and members of a committee of the Council shall be paid the allowances approved by the Council.

Remuneration to Council members and conflict of interest

16. (1) An allowance payable to a Council member under subsection 15 accrues only where that member attends Council meetings and shall cover all travelling expenses and other expenses properly incurred for attending and returning from meetings of Council, or any committee of the Council or otherwise in connection with the business of the Institute.

(2) A member of Council shall not without the consent of Council, act in a manner or assume a position in which that member's duty to the Institute conflicts or may conflict with that member's personal interest.

(3) A Council member who provides service to the Institute in a capacity other than a council member, is entitled to fair remuneration to be determined by Council.

Head Office and other offices of the Institute

17. (1) The Head Office of the Institute shall be situated in Accra or any other location in the country that the Council may determine.

(2) The Council may establish regional and district offices of the Institute as the Council considers necessary.

(3) The Institute may have correspondents and representatives either within or outside the country as the Council may determine.

(4) A regional or district office of the Institute shall

(a) perform the functions of the Institute that the Council may direct in the region or the district; and

(b) be provided with the officers that the President of the Council shall appoint in accordance with terms and conditions of the collective agreements.

(5) A regional or district office of the Institute shall perform the functions of the Institute in the region or district that the Council may direct.

Chief Executive Officer

18. (1) The Council shall appoint a Chief Executive Officer for the Institute.

(2) The Chief Executive Office is responsible for the day-to-day administration of the Institute and is answerable to the Council in the performance of the functions under this Act.

(3) The Chief Executive Officer shall hold office on terms and conditions specified in the letter of appointment.

(4) The Chief Executive Officer may delegate a function to an officer of the Institute but is not relieved of the ultimate responsibility for the performance of the delegated function.

Appointment of other staff

19. (1) The Council shall appoint other staff of the Institute that are necessary for the proper and effective performance of the Institute's functions.

(2) Other public officers may be transferred or seconded to the Institute or may otherwise give assistance to the Institute on request by the Council.

(3) The Institute may engage the services of consultants and advisers on the recommendations of the Council.

(4) The terms and conditions of members of staff shall be decided by the Council.

(5) The Institute may advertise staff vacancies in the national media.

Public practice of accountancy and register of accountants

Qualification required for public practice of accountancy

20. (1) A person shall not engage in the public practice of accountancy if that person

(a) is not a member of the Institute; and

(b) has not been registered by the Institute to engage in the public practice of accountancy.

(2) A person who engages in the public practice of accountancy contrary to the subsection (1) commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or a term of imprisonment not exceeding three years or both.

Meaning of public practice of accountancy and professional misconduct

21. (1) For the purpose of this Act, a person is engaged in public practice of accountancy if that person acting in partnership with another person and in consideration of remuneration received or to be received

(a) engages in the practice of accountancy or portrays to the public that that person is a member of the Institute;

(b) offers to perform or performs service involving auditing or verification of financial transactions, books or records, or the preparation, verification, or certification of financial accounting, reports and related statements;

(c) renders professional service or assistance in respect of matters that in principle or detail relate to accounting procedure or certification of financial facts or data; or

- (d) renders any other service which may be prescribed by the Institute by Regulations to be service constituting public practice of accountancy.

(2) A member serving a contract of employment is not engaged in public practice of accountancy by virtue of only performing the obligations under that contract.

(3) A person engaged in public practice of accountancy and a member of the Institute who is in a contract of employment are liable for professional misconduct under the Third Schedule if they do any of the things specified in that Schedule as constituting professional misconduct.

Restrictions on public practice of accountancy

22. (1) A person who is not a Chartered Accountant as defined in this Act shall not engage in public practice of accountancy.

(2) A person who is a Chartered Accountant shall not engage in public practice of accountancy unless that person is a holder of a valid certificate to practise.

(3) A certificate to practise shall be issued by the Council on payment of the prescribed annual subscription, fees and other requirements determined by Council.

(4) A certificate to practise expires on the thirty-first day of December of the calendar year of issue of that certificate, and may after that be renewed yearly on payment of the prescribed fee and annual subscription.

Code of professional conduct and ethics

23. (1) The Institute shall publish a code of professional conduct and ethics to be observed by all its members.

(2) The Institute's code of professional conduct and ethics shall be consistent with the code of ethics published by IFAC.

The accountancy practice review committee

24. The Council shall establish an accountancy practice review committee in accordance with the Fourth Schedule of this Act to

- (a) monitor compliance with accounting and auditing standards by members;
- (b) review the standard of practice of registered firms and members;

- (c) do anything that is incidental to the fulfilment of its duties.

Register and Gazetting of members and firms

25. (1) The Institute shall keep and maintain a register of its members and practicing firms and enter in the register information and particulars about the members and the firms that the Council considers appropriate.

(2) The Council shall cause the annual publication of the list of members and firms and their particulars in the *Gazette* and at least in two newspapers with wide circulation in the country.

(3) A member of the public may inspect the register of members and firms or make a copy or extract of parts of the register subject to the payment of the prescribed fee and adherence to the prescribed procedures.

(4) At the beginning of each calendar year, the person responsible for the management of a firm shall submit to the Institute a list of names and particulars of each partner in that firm stating;

- (a) the partners and membership certificate number;
- (b) the partners practising certificate number;
- (c) the partnership firm certificate number issued of the Institute.

(5) The list shall be updated within 30 days of a change being made.

Financial provisions

Establishment and management of Accountancy Fund

26. (1) The Council shall establish and maintain an Accountancy Fund into which shall be paid moneys received for and on behalf of the Institute.

(2) The expenses and liabilities incurred by the Council in performing its functions under this Act shall be paid out of the Fund.

Sources of money for the Fund

27. Sources of money for the Fund are

- (a) membership fees, annual subscriptions or any other similar fees;
- (b) fees
 - (i) levied on members, and
 - (ii) for services rendered by the Institute;
- (c) student subscriptions and examination fees;
- (d) moneys approved by Parliament;
- (e) grants, gifts and donations from any donor;
- (f) fund raising events;
- (g) conferences and seminar fees;
- (h) sales of publications, books and academic literature;
- (i) loans and any other credit facilities considered appropriate by the Council; and
- (j) any other means considered appropriate by the Council and approved by the Minister.

The use of the Accountancy Fund

28. (1) Moneys from the Fund may be spent only on activities approved by the Council;

(2) The Council may invest any excess funds of the Institute and shall report to the Institute at the annual general meeting any investments made and the income or loss made on the investment.

Fees and levies

29. (1) A person who is eligible for admission to membership of the Institute shall be admitted on payment of an admission fee and the annual subscription for the calendar year of that person's admission.

(2) The amounts payable for admission fee and annual subscription shall be prescribed by the Council.

(3) A member of the Institute shall pay the subscription fee to the Council each calendar year.

(4) The annual subscription payable under this section shall be paid on the first day of January each year.

(5) The Council with the approval of the general meeting of the Institute may prescribe special levies to be paid by members for financing specific projects.

Bank accounts and books of account

30. (1) The Institute shall maintain bank accounts in reputable commercial banks.

(2) The Institute shall maintain proper books of account and accounting records that explain the details of the Institute's incomes, expenditure, assets and liabilities, and shall prepare the financial statements of the Institute on the basis of generally accepted accounting principles approved by the Institute.

Institute's statutory auditor

31. (1) A member of the Institute in public practice of accountancy, who is not a member of the Council, may be elected the auditor of the Institute.

(2) The auditor shall be elected by simple majority of the members present at the annual general meeting.

(3) The annual general meeting of the Institute shall authorise Council to determine the remuneration payable to the auditor.

(4) Despite subsection 1, the Auditor-General or a person authorised by the Auditor-General shall within three months after the end of the financial year audit the accounts of the Institute where the accounts comprise public funds.

Statutory audit and annual report

32. (1) Subject to section 32 (4), the annual accounts of the Institute shall be subject to audit by the Institute's statutory auditor.

(2) Not later than four months after the end of each financial year, the Council shall distribute to each member of the Institute a set of audited financial statements and the auditor's report on the Institutes finances in respect of the previous year, comprising

- (a) a statement of income and expenditure,
- (b) balance sheet, and
- (c) statement of cash flow

together with the necessary accompanying explanatory notes.

(3) The accounts of the preceding year as audited shall be approved by the members at the annual general meeting.

(4) Not later than one month after the holding of the annual general meeting, the Council shall send a copy of the annual report to the Minister comprising an overview of the Institute's activities for the previous year, the audited financial statements and the auditor's report on the financial statement approved by the annual general meeting.

Miscellaneous provisions

Striking off name from Register

33. (1) The Council may strike off the name of a person from the register of the Institute if Council is satisfied that that person is unfit to practice the profession because that person has been found guilty of professional misconduct or has been disqualified under this Act.

(2) The Council may strike off the name of a person from the register of the Institute if that person fails to pay the prescribed fees for a period exceeding four months.

(3) A person whose name has been struck off the register of the Institute under subsection (1) of this section may have the name or registration restored if Council is satisfied that that person has subsequently become a fit and proper person to practice the profession of accountancy.

(4) A person whose name has been struck off the register would have the name re-instated upon payment of the prescribed fee.

Inquiries by disciplinary committee

34. (1) The name of a member shall not be struck off the register of the Institute for professional misconduct unless the disciplinary committee has, after due inquiry, made a report to the Council that the member concerned is liable for professional misconduct.

- (2) The provisions of the Fifth Schedule to this Act shall apply in relation to
- (a) the constitution of, and the procedure to be followed by the disciplinary committee appointed under this section,
 - (b) the proceedings at inquiries held by the Committee, and
 - (c) the powers exercisable by the Committees.

Sanctions recommended by the disciplinary committee

35. After hearing a case presented in accordance with the specified procedure and on the evidence adduced, the disciplinary committee may recommend to the Council any of the following actions in respect of the person who is the subject of the inquiry

- (a) the dismissal of the case on the grounds of lack of evidence for professional misconduct;
- (b) reprimanding the person in writing with or without a fine or costs to the Institute;
- (c) in the case of a reprimand, publication of the letter of reprimand in a suitable mass media;
- (d) suspension or disqualification of the person from membership of the Institute for a specified period or dismissal of the person from the Institute;
- (e) withdrawal of the member's practising certificate for a specified period;
- (f) forwarding the case to the Attorney-General for appropriate action.

Implementation of the disciplinary committee sanctions

36. The Council shall implement any sanctions recommended by the disciplinary committee.

Appeal against the decisions of the disciplinary committee

37. (1) A person aggrieved by a decision of the Council in relation to this Act may seek a review of the decision in the High Court.

(2) An application for a review under subsection (1) shall be lodged within three months after the date of that decision.

Offences and penalties

38. A person who contravenes a provision of this Act for which no penalty is provided commits an offence and is liable on summary conviction to a fine not exceeding one hundred penalty units or a term of imprisonment not exceeding one year or to both.

Regulations

39. (1) The Council shall make rules and establish procedures for any matter relating to, or connected with its functions under this Act or for the proper performance of these functions and obtain approval for them at a general meeting of the Institute.

(2) The Minister in consultation with the Council shall by legislative instrument make Regulations for the effective implementation of this Act.

Interpretation

40. In this Act, unless the context otherwise requires

“Council” means the Council of the Institute of Chartered Accountants, Ghana established under section 1 of this Act;

“Institute” means the Institute of Chartered Accountants, Ghana established under section 1 of this Act;

“Minister” means the Minister responsible for Education;

“public practice of accountancy” means performing or offering to perform or holding out to be qualified to render to any person, professional services requiring skills in accountancy and financial auditing;

“President” means President of the Institute of Chartered Accountants, Ghana;

“Vice-President” means either the First or Second Vice-President, as appropriate, of the Institute of Chartered Accountants, Ghana;

Repeals transitional provisions and commencement

Repeal

41. The Institute of Chartered Accountants Act, 1963 (Act 170) is hereby repealed.

Transitional provisions

42. (1) On the coming into force of this Act, the Institute of Chartered Accountants, Ghana, established under the Institute of Chartered Accountants Act, Act 170, shall continue to exist and operate as the body established in section 1 of this Act.

(2) The Council of the Institute existing before the coming into force of this Act shall continue in office until the expiration of its term of office.

(3) The assets and liabilities of, and any property vested in the Institute of Chartered Accountants, Ghana immediately before the coming into operation of this Act shall vest in the Institute established under section 4 of this Act.

(4) An employee of the Institute on the coming into operation of this act shall, so far as is practicable and subject to any direction from the Council, continue as an employee of the Council in a post comparable to that which that employee held with the previous Institute.

(5) Every contract in respect of a matter subsisting between the Institute and any other person and in force immediately before the coming into force of this Act shall, subject to any directions by the Council, be deemed to subsist between the Council and that other person.

(6) A person who is a member of the Institute of Chartered Accountants, Ghana who has been a member continuously for less than ten years on the date of coming into force of this Act shall continue to be a member of the Institute and be entitled to the use of the designation "CA", meaning an Associate Member of the Institute of Chartered Accountant, Ghana.

(7) A person who has been a member of the Institute for a continuous period of ten years or more is entitled to use the designation "FCA", Fellow of the Institute of Chartered Accountants, Ghana.

(8) On the coming into force of this Act the Association of Accountants in Ghana and the Society of Ghanaian Practising Accountants, being companies registered under the Companies Ordinance (Cap. 193), shall cease to operate and accordingly, their names shall be struck off the register of companies in accordance with the provisions of the Companies Ordinance (Cap. 193).

FIRST SCHEDULE (Section 5)

Meetings of the Institute

Composition of the General Assembly

1. The total membership of the Institute constitutes the General Assembly of the Institute.

Annual ordinary meetings

2. (1) The annual meeting of the Institute for the transaction of the ordinary annual business of the Institute for

- (a) the election of members of the Council;
- (b) the appointment of auditors and;
- (c) the reception and consideration of the annual report of the Council and accounts of the Institute with the auditors' report,

shall be held in Accra or elsewhere in the Republic on the 30th day of April in every year or any other day appointed by the Council.

(2) A meeting shall be held in every calendar year and not more than fifteen months shall elapse between one annual meeting and the next annual meeting.

(3) A member who wishes to table a motion at the annual general meeting which is not related to the ordinary annual business of the Institute may do so if

- (a) notice in writing of the proposed motion is sent or given to the Chief Executive not later than four weeks before the annual general meeting;
- (b) not less than ten members entitled to vote at the annual general meeting have sent or given notice in writing to the Chief Executive not later than three weeks before the date of the annual general meeting supporting the proposed motion to be brought before the annual general meeting; and
- (c) the proposed motion relates to matters affecting the Institute or the accountancy profession.

Extraordinary meetings

3. (1) The Institute may hold a special meeting of the General Assembly at any time that the Council considers appropriate to transact business of the Institute not covered by the annual general meeting.

(2) The Council shall convene a special meeting of the General Assembly at any time, if at least fifty members of the Institute have requested the meeting in writing addressed to the Chief Executive stating the object of the proposed meeting.

Notice of meeting

4. (1) A meeting of the Institute shall not be held unless it has been convened by giving prior written notice of not less than fourteen days to every member of the Institute stating the agenda, venue, the day and hour of the meeting.

(2) The non-receipt of a notice by a member shall not invalidate the proceedings of the meeting to which it relates.

Presiding at general assembly meeting

5. (1) The President shall preside at all meetings of the Institute and in case of the President's absence the First Vice-President and in the absence of the First Vice-President the second Vice-President shall preside.

(2) In the absence of the President the First Vice-President and the second Vice-President, a chairperson shall be elected from among the members of the Council present.

Quorum at general assembly meetings

6. The quorum of the general meetings of the Institute shall be 100 of the registered members of the Institute and if there is no quorum the meeting shall stand adjourned until the same day on the following week at the same time and same place and if there is still no quorum the members present shall constitute a quorum and the meeting shall validly proceed to conduct business.

Voting at general assembly meeting

7. (1) The decisions of the general meeting shall be by a simple majority of the members present and voting.

(2) The person presiding at a meeting of the Institute shall have a casting vote in the event of an equality of votes.

Minutes of meetings

8. (1) Resolutions and proceedings of the Institute shall be recorded in the minutes of the meeting and the minutes shall be signed by the Chairman of the meeting to which it relates.

(2) The minutes where duly signed is sufficient evidence of the facts contained in it.

SECOND SCHEDULE

(Section 11)

Notice of meetings

1. (1) Notice in writing of a meeting of the Council shall be delivered or sent to each member of Council at least seven clear days before the meeting.

(2) The notice shall contain, as far as practicable, a statement of the business to be transacted at the meeting and the notice shall be deemed to have been duly delivered if sent by post, fax or electronic mail unless the contrary is shown; and accordingly, subject to the provisions of this section the non-receipt of any notice by any member shall not affect the validity of the proceedings of a meeting.

(3) Despite subsection (3), whenever the President or Vice-President certifies that an emergency exists and calls a meeting; the notice for the emergency meeting may be delivered one clear day before the meeting.

(4) The Council may request the attendance of any person to act as an adviser or observer at any of its meetings but that person shall not vote on any matter for decision by the Council.

Adjournment

2. (1) Subject to the other provisions of this Act, the person presiding at any meeting of the Council may, with the consent of the meeting adjourn the meeting but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(2) A notice need not be given of an adjourned meeting unless the resolution for the adjournment requires otherwise.

Minutes of meetings

3. (1) Resolutions and proceedings of meetings of the Council and of any committees of the Council shall be recorded in the minutes of the meeting, and the minutes shall be signed by the person presiding at the meeting to which the minutes relates.
- (2) The minutes where duly signed is sufficient evidence of the facts contained in it.

THIRD SCHEDULE

PART ONE (Section 21)

Professional misconduct for practising accountants

1. (1) A person who carries on public practice of accountancy, is liable for professional misconduct if that person
 - (a) allows another person to engage in public practice of accountancy in that other person's name unless that other person is the holder of a "certificate to practise" and is in partnership with or employed by the person licensed to engage in public practice of accountancy;
 - (b) obtains business on the basis of a commission or brokerage payable to the client or a representative of the client whether directly or indirectly;
 - (c) accepts appointment to render audit services to any entity without prior written communication with the person previously holding that appointment to ascertain whether that other person would have any professional reasons for which the appointment may be declined or accepted conditionally;
 - (d) accepts appointment to render statutory audit services to any entity without first ascertaining whether the entity has complied with the requirements for the appointment of the auditor as prescribed by the relevant law;
 - (e) performs external audit assignments in the name of a limited liability company;
 - (f) accepts engagement as an auditor of an entity before the end of two years, if that person has rendered to that entity, before that proposed audit engagement, the following services

- (i) accounting and book keeping services;
 - (ii) consultancy to create financial systems or accounting manuals;
 - (iii) consultancy to prepare budgets; or
 - (iv) any other services whose fees would significantly exceed the audit fees to the extent that professional independence could be compromised;
- (g) vilify any member of the Institute in order to influence a decision to secure an appointment to render services;
- (h) accepts appointment to render services requiring particular expertise and skills which that person does not possess or in which that person is not competent;
- (i) advertises self or services offered in a manner that contravenes the guidelines published in the Institute's Code of professional conduct and ethics;
- (j) discloses information acquired in the course of professional engagement to any person other than a client, without the consent of the client, or otherwise than required by law;
- (k) expresses an audit opinion or report on financial statement, book of account or accounting record, or internal control system without sufficient evidence, or expresses an opinion on matter in a professional capacity without obtaining sufficient information on which to base the opinion;
- (l) fails to observe prescribed standards or rules of the Institute in the course of public practice of accountancy;
- (m) expresses an opinion on a financial statement of an entity in which that person or that person's immediate family, or own firm or any partner in that person own firm, has an interest whether directly or indirectly, unless that person discloses that interest when expressing the opinion;
- (n) accepts appointment to render professional services under circumstances or terms that is likely to compromise that person's professional independence and objectivity;

- (o) charges in respect of a professional work, other than insolvency or receivership, fees which are based on a percentage of profits or which are contingent on results;
- (p) fails to disclose in a financial statement or otherwise a material fact known to that person, the disclosure of which is necessary to ensure that the financial statement is not misleading;
- (q) fails to report a material misstatement known to that person which is a financial statement with which that person is concerned in a professional capacity;
- (r) is found to engage in a fraudulent act or an act which may be unjustifiable and likely to result in loss to the client;
- (s) is guilty of gross negligence in the conduct of that person's professional duties;
- (t) fails to keep the funds of a client in a separate banking account or to use any of those funds for the purposes for which they are intended;
- (u) includes in a statement, return or form to be submitted to the Council or to another party, any particular information knowing that that information is false;
- (v) allows a firm in which that person is a sole partner to describe itself in plural on its official stationery or communication, as "Chartered Accountants" instead of "Chartered Accountant";
- (w) engages in public practice of accountancy in the name of a firm whose name has not been registered with the Institute.

(2) For the purposes of paragraph 1 (m) the immediate family of a person is that person's spouse, blood relation or adopted child, dependants and blood relation of

- (a) an adopted child; or
- (b) a spouse.

PART TWO

Professional misconduct for non-practising accountants

2. (1) A member of the Institute, who is in a contract of employment, is liable for professional misconduct if that member
- (a) being an official of an entity, obtains a commission or brokerage from any person, whether directly or indirectly, so as to influence the decision to appoint that person to render services or supply goods to that entity;
 - (b) discloses information acquired in the course of that member's employment to another person without the consent of the employer even if required under any law to disclose the information;
 - (c) fails to disclose in a financial statement or otherwise a material fact known to that member, the disclosure of which is necessary to ensure that the financial statement is not misleading;
 - (d) fails to report a material misstatement known to that member, which is in a financial statement with which that member is concerned in a professional capacity;
 - (e) is found to have engaged in a fraudulent act;
 - (f) includes in any statement, return or form to be submitted to the Council or to any other party including statutory auditors of the entity by which that member is employed, any particular information which that member knows to be false.

PART THREE

Offences punishable under the Penal Code

3. (1) A person who is not registered as a Chartered Accountant but who pretends to the public to be a "Chartered Accountant" or uses a description or designation likely to create the impression that that person is a Chartered Accountant commits an offence and is liable on summary conviction to a fine of not more than one thousand penalty units or a term of imprisonment of not more than five years or both.

- (2) A person who reports or expresses an audit opinion on
 - (a) a financial transaction or statement of an entity; or
 - (b) the books of account, or accounting records, or internal financial control systems of an entity

without sufficient evidence gathered by that person or under that person's direct supervision through an audit conducted in accordance with auditing standards approval in accordance with this Act, commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or a term of imprisonment of not more than five years or both.

Any professional misconduct involving crime

4. This Schedule does not prevent the Disciplinary Committee of the Institute from imposing a sanction against a person who is in breach of discipline.

FOURTH SCHEDULE

Accountancy practice review committee

(Section 25)

Establishment of committee

1. There is hereby established an Accountancy Practice Review Committee, consisting of five persons appointed by the Council
 - (a) a chairperson appointed by the Council of the Institute from among the members of the Institute who are not engaged in public practice of accountancy;
 - (b) one person appointed by Council from recognised universities offering courses leading to qualifications in accountancy, who shall be of a rank not lower than a senior lecturer in accountancy; and
 - (c) three members of the Institute appointed by the Council two of whom have public practice experience.

Term of office of members

2. A member of the Committee shall serve for a term of three years and is eligible for re-appointment for a second term by three years.

Cessation of membership

3. A person automatically ceases to be a member of the Committee if that person
 - (a) resigns the office in writing, hand delivered in person to the Chief Executive Officer of the Council;
 - (b) is found liable for professional misconduct under this Act; or
 - (c) is adjudged bankrupt;
 - (d) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
 - (e) becomes for any reason incompetent or incapable of performing the functions of the office;
 - (f) without reasonable cause, is absent from three consecutive meetings of the Committee; or
 - (g) dies.
4. The Accountancy Practice Review Committee shall
 - (a) monitor compliance with the standards;
 - (b) review the standard of practice of registered firms; and
 - (c) do anything that is incidental to the fulfilment of its duties.

Remuneration to Committee members

5. The members of the Committee may be paid fees for their services and the fees shall be determined in accordance with the rules of the Institute.

Meetings of the Committee

6. (1) The Committee shall
 - (a) meet as often as is necessary and at least once every three months;
 - (b) determine its rules of procedure at its first meeting.

(2) Three members constitute a quorum at a meeting of the Committee

(3) The chairperson shall preside at the meetings of the Committee and in the chairperson's absence the members present shall elect a member to act as the chairperson of the meeting.

(4) The Committee shall have a secretary who shall be appointed from among the employees of the Institute by the Council.

(5) Decisions of the Committee shall be by simple majority.

Collaboration with other Persons

7. (1) The Committee may co-opt or co-operate with any person or organisation with respect to any specific matter where the Committee believes that the experience or qualification of that person or organisation is beneficial to the performance of its duties.

(2) The person or organisation co-opted is entitled to take part in the Committee's proceedings but does not have a right to vote.

Reports of the Committee

8. The report of the Committee on findings from a review of the standard of practice of holders of practising certificates and their firms may include a combination of the following recommendations:

- (a) remedial measures to be undertaken by the reviewed member or firm within a specified period of time;
- (b) suspension of the member for a specified period of time; and
- (c) withdrawal of the member's practising certificate.

Submission of the Committee reports

9. (1) The Committee shall submit its report to the Council.

(2) The report of the Committee shall be discussed and agreed with the Council, and in case of the practice review report, with the member or firm which is the subject of the review.

Scheduled practice reviews

10. The Committee shall perform an inspection of the standards
- (a) of practice of a person holding a practising certificate; and
 - (b) a firm owned by that person, whether alone or in partnership with another person

at intervals of not more than three years and in this respect may inspect and make copies of any book, document or thing in the possession or under the control of that person and may interview that person or any of that person's employees.

Unscheduled practice reviews

11. The Committee may commission *ad hoc* inspection of the practice of a person or firm at any time considered appropriate by the Committee.

Obligation to provide information

12. (1) A person whose practice is under inspection as required by this Act shall at the request of the Committee or its appointed representative
- (a) provide information; and
 - (b) produce a book, document or thing

and may not, unless otherwise required by any other enactment refuse to provide or produce the information, book, document or thing.

(2) A person acting in good faith during the inspection is not liable for any damage or loss caused by the provision or production of the information, book, document or thing to the Committee or its representative.

Confidentiality of information provided

13. Any information, book, document or thing obtained as a result of the inspection shall remain the property of the Committee for the sole use in fulfilment of its obligations and a person may not disclose to any third party any information, book, document or thing obtained in the performance of the inspection, except as may be required by any enactment in respect of a civil or criminal investigation or a hearing or prosecution.

FIFTH SCHEDULE

Inquiries by Disciplinary Committee (Section 35 (2))

Establishment of Disciplinary Committee of the Institute

1. There is established by this Act the Disciplinary Committee of the Institute.

Composition of the Disciplinary Committee

2. (1) The Disciplinary Committee comprises five person's appointed by the Council as follows:
 - (a) a chairperson appointed from among the members of the institute,
 - (b) two other members of the Institute,
 - (c) a lawyer of not less than ten years standing at the bar who shall be the legal advisor to the Committee, and
 - (d) one other person determined by the Council.

(2) Where the person whose conduct is the subject of the investigation is an accountant in public practice, membership of the Disciplinary Committee shall include an accountant in public practice.

Duties of the Disciplinary Committee

3. (1) The Disciplinary Committee may receive, inquire, hear, consider, and make decisions relating to complaints or allegations of professional misconduct against a member of the Institute.

Presentation of cases to the Disciplinary Committee

4. (1) Where a person has reason to believe that an action or omission of a member of the Institute constitutes professional misconduct that person may submit a complaint to the Council.

(2) The Council on receipt of a complaint shall refer the complaint to the Disciplinary Committee.

(3) The Council on its own motion may refer the conduct of a member of the Institute to the Committee where the Council is satisfied that that conduct constitutes professional misconduct.

Statement of charges

5. (1) The Council shall cause a statement to be prepared setting out the matter to be investigated by the Disciplinary Committee, and the Chief Executive shall transmit a copy of the statement to each member of the Committee and to the person whose conduct is to be investigated.

(2) Where the inquiry is as a result of a petition or complaint alleging misconduct by any person, the Chief Executive shall, in addition, transmit a copy of that petition or complaint to that person and each of the members of the Disciplinary Committee.

Notice of hearing

6. (1) The Chief Executive shall give notice of the first date fixed for the inquiry to the person whose conduct is the subject of the investigation.

(2) Every notice shall be delivered at least fourteen days before the date fixed for the inquiry by

- (a) hand,
- (b) e-mail,
- (c) fax, or
- (d) sent through the post by registered letter addressed to the last known address or place of residence of that person.

(3) Where a person to whom a notice has been given under sub-paragraph (1) fails to appear in person or is not represented by counsel, the inquiry may be held by the Disciplinary Committee in that person's absence.

(4) Notice of a date to which the inquiry is adjourned shall be given by the Committee personally to the person whose conduct is the subject of inquiry or be given in the manner provided in sub-paragraph (2).

Evidence

7. (1) Where the Council is of the opinion that the evidence of a person, or the production by the person of document is necessary to enable a matter to be investigated by the Disciplinary Committee, the Council shall direct the Chief Executive to require

- (a) the attendance of that person, or
- (b) the production by that person of the document.

at a time and place specified in a notice which shall be delivered by hand, e-mail, fax or sent through the post by registered letter addressed to the last known address or place of residence of that person.

(2) A person who having been served with a notice under paragraph (1), fails, without reasonable cause, to attend or to produce a document, as the case may be, at the place specified in the notice, commits an offence under this Act.

(3) The Disciplinary Committee shall have power to administer an oath or affirmation to a person who is required to give evidence before the Committee.

(4) A person who refuses to be sworn or affirmed, or to answer a question put to that person concerning any matter in respect of which the inquiry is held, commits an offence under this Act.

(5) A person who on examination on oath or affirmation before a Disciplinary Committee wilfully gives false evidence commits an offence under this Act.

Quorum

8. The quorum of the Disciplinary Committee is three members of the Committee

Legal representation

9. (1) Any person whose conduct is the subject of investigation at an inquiry or who is in any way concerned or implicated in an inquiry may be represented by a lawyer at the inquiry.

(2) The Council may appoint an employee of the Institute to provide administrative, including secretarial assistance to the Committee.

Hearing

10. An inquiry held by the Disciplinary Committee shall, unless the Council otherwise determines, be held in camera.

Decisions of the Disciplinary Committee

11. (1) The decisions of the Disciplinary Committee shall be by simple majority of the members present at its duly convened meeting.

(2) On the conclusion of an inquiry, the Disciplinary Committee shall prepare and transmit to the Council, a report embodying the findings on the matters in respect of which the inquiry was held.