

L.N. 18 of 2009**ACCOUNTANCY PROFESSION ACT
(CAP. 281)****Accountancy Profession Regulations, 2009**

BY virtue of the powers given by article 8 of the Accountancy Profession Act, the Minister of Finance, Economy and Investment on the recommendation of the Accountancy Board, has made the following regulations:-

1. (1) The title of these regulations is the Accountancy Title.
Profession Regulations, 2009.

(2) These regulations shall be deemed to have come into force on 1 October, 2008.

2. (1) In these regulations unless the context otherwise Interpretation.
requires:

“the Act” means the Accountancy Profession Act;

“affiliate” means any undertaking, regardless of its legal form, which is connected to a firm by means of common ownership, control or management;

“competent authorities of other Member States” means the authorities or bodies designated by the law of the other Member States responsible for approval, registration, quality assurance, inspection or oversight of statutory auditors in terms of the Directive;

“the Directive” means Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006;

“group auditor” means the auditor carrying out the audit of consolidated accounts;

“statutory auditor” means an individual who is approved by the Board in terms of the Act and these regulations to carry

out a statutory audit;

“warrant holder” means a person who has been issued with a warrant to practice the profession of accountant or is a firm registered under article 10 of the Act.

(2) Unless the context otherwise requires, terms used in these regulations and not defined shall have the meaning assigned to them in the Act.

Work which can only be performed by warrant holder.

3. (1) No person other than a warrant holder may perform the work or render the services listed in subregulation (2).

(2) The services indicated in subregulation (1) are:

(a) the issuing of reports on prospective financial information prepared for the promotion of investment in an entity or for the raising of finance;

(b) the issuing of independent reports on share valuations or valuations of businesses;

(c) acting as reporting accountants in prospectuses, offering memoranda and other similar documents intended for public subscription;

(d) the issuing of reports, including compilation or review of reports, with respect to interim or annual financial statements of any entity but excluding any reports on financial statements prepared for internal purposes; and

(e) any other service which may be prescribed by the Minister or by any other law.

(3) Any person who acts in contravention of the provisions of this regulation shall be guilty of an offence and shall on conviction be liable to a fine (multa) of not more than six thousand euro (6,000.00).

Audit of company accounts.

4. (1) An audit may only be carried out by a person holding a practising certificate in the field of auditing issued in terms of article 4 of the Act, to a person who:

(a) holds a warrant issued in terms of Article 4(1) of the Act and satisfies the Board that:

(i) he has adequate qualifications in auditing at an advanced level;

(ii) satisfies the conditions referred to in subarticle 2(d) of article 3 of the Act; and

(iii) has gained the equivalent of three years full time practical training in *inter alia* auditing of financial statements, at least two-thirds of which shall be with an auditor approved in any Member State:

Provided that at least eighteen months of this practical training were gained after obtaining the degree or academic qualification relating to the accountancy profession prescribed in article 3(2)(c) of the Act; or

(b) he satisfies the conditions laid down by article 4(3) or 4(6) of the Act.

(2) The person providing the practical training in accordance with the provisions of this regulation shall provide the Board with a written declaration that *inter alia* it has the ability to provide adequate practical training in accordance with the provisions of the Act and the regulations and directives issued under it, on such form prescribed by the Board for that purpose and any person making a false declaration shall be subject to a fine not to exceed six thousand euro (6,000.00) and in the case of warrant holders or practising certificate holders may result in the institution of disciplinary proceedings.

(3) An authorisation to act as auditor issued prior to the 25th July, 1978, under the provisions of article 141 of the Commercial Partnerships Ordinance as in force at the time of the issue of the authorization, in favour of a person who was then a member of a body of accountants recognized for the purposes of that article, or the holding of a warrant to act as auditor issued under the provisions of article 4(1) of the Act, prior to the date of entry into force of The Accountancy Profession Regulations, 1987 ("1987 Regulations") or practising certificates issued in terms of the 1987 Regulations, shall for all purposes have the same effect of a practising certificate issued under this regulation and be deemed to have been so issued. Cap. 168.

(4) The holder of a practising certificate issued under this regulation may bring this fact to the notice of the public, so however that holders of the warrant of certified public accountant

and auditor immediately before the date with effect from which such person shall be deemed to have been issued with a practising certificate under the immediately preceding subregulation, shall cease to use the designation “certified public accountant and auditor” and the corresponding abbreviation “CPAA”.

(5) A firm registered under article 10 of the Act shall be entitled to apply for a practising certificate to act as auditor:

Provided that the provisions of subregulation (3) shall apply *mutatis mutandis* in respect of firms registered under article 10 of the Act prior to the date of entry into force of the 1987 Regulations.

(6) The individuals who carry out a statutory audit on behalf of an audit firm must be principals holding a practising certificate in the field of auditing.

(7) Agreements or other arrangements purporting to exempt persons required to hold a practising certificate issued under this regulation from any liability, responsibility or duty relative to the statutory audit, or to relieve him therefrom, or, except under a policy of insurance made out under article 11 of the Act, to indemnify him against any such liability or responsibility, shall be null and void.

(8) The partners or shareholders of an audit firm as well as the members of the administrative and management bodies of such a firm, or of an affiliate shall not intervene in the execution of an audit in any way which jeopardises the independence and objectivity of the principals carrying out the audit on behalf of the firm.

Indemnity insurance
policy.

5. (1) Every person who, and every firm under article 10 of the Act which, is required to be covered by an indemnity insurance policy in terms of article 11 of the Act shall be adequately covered, throughout the currency of the insurance policy to the extent reasonably necessary according to the particular circumstances of such person or firm and in particular by reference to the size and type of practice and clients:

Provided that with effect from 1 January 2010, if the aggregate limit of liability in an indemnity insurance policy is less than the lower of the limits as calculated in paragraphs (a) and (b) below, then the cover shall be deemed inadequate:

(a) (i) in the case of a sole practitioner, one hundred thousand euro (100,000.00) (inclusive of costs to defend the claim but exclusive of the amount that may be deducted by the insurance company on each and every claim under the terms of the policy); and

(ii) in the case of a firm, the said amount shall be the equivalent of one hundred thousand euro (100,000.00) (inclusive of costs to defend the claim but exclusive of the amount that may be deducted by the insurance company on each and every claim under the terms of the policy) multiplied by the number of principals in the said firm;

Provided that in the case of a firm structured in a manner such that the liability of its owners is directly or indirectly limited, then the appropriate limit of liability for the purposes of this paragraph (a) shall be five hundred thousand euro (500,000.00) multiplied by the number of principals in the said firm; and

(b) the amount arrived at by multiplying the total annual fees charged by the insured in the course of his or its practice, by three;

Provided that in the case of a firm structured in a manner such that the liability of its owners is directly or indirectly limited, then the appropriate limit of liability for the purposes of this paragraph (b) shall be the total annual fees charged by the insured in the course of his practice multiplied by five.

(2) For the period commencing on the date of coming into force of these regulations and ending on 31 December 2009, every person who, and every firm under article 10 of the Act which, is required to be covered by an indemnity insurance policy in terms of article 11 of the Act shall be adequately covered throughout the currency of the insurance policy for a minimum amount of fifty-eight thousand and two hundred and thirty four euro (€58,234) (inclusive of costs to defend the claim) in respect of each sole practitioner and fifty-eight thousand and two hundred and thirty four euro (€58,234) (inclusive of costs to defend the claim) in respect of each principal in a firm:

Provided that in the case of a firm structured in a manner such that the liability of its owners is directly or indirectly limited, then the aggregate limit of liability in an indemnity insurance policy

shall not be less than the lower of:

(a) the amount arrived at by multiplying the number of principals in the firm by five hundred thousand euro (500,000.00); and

(b) the amount arrived at by multiplying the total annual fees charged by the firm in the course of its practice by five.

(3) In the event of reasonable doubt as to whether a person or firm is adequately covered by an indemnity insurance policy, the matter shall be conclusively determined by the committee appointed by the Board for the operation of a system of quality assurance in terms of Article 7(2) of the Act.

Registers to be kept
by the Board.

6. (1) The register of warrant holders and practising certificate holders to be kept by the Board in terms of Article 7(4) of the Act shall include for each warrant holder or practising certificate holder, including a third-country auditor registered in terms of article 7(6) of the Act:

(a) the name, address and registration number;

(b) a clear indication as to whether the warrant holder has been issued with a practising certificate to carry out audits together with the date of issue of such practising certificate;

(c) if applicable, the name, address, website address and registration number of the audit firm by which the statutory auditor is employed or with whom he is associated as a partner or otherwise; and

(d) all other registrations as statutory auditor with the competent authorities of another Member State and as auditor with a third country, including the name of the registration authority, and if applicable, the registration number.

(2) The register of registered firms to be kept by the Board in terms of article 7(4) of the Act shall include for each registered firm, including a third-country audit-entity:

(a) the name, address and registration number;

(b) the legal form;

(c) contact information, the primary contact person and where applicable the website address;

(d) address of each office in the Member State;

(e) name and registration number of all statutory auditors employed by or associated as partner or otherwise with the audit firm and indicating in each case whether the statutory auditor is authorised to sign audit reports on behalf of the firm;

(f) names and business addresses of all owners and shareholders;

(g) names and business addresses of all members of the administrative or management body;

(h) if applicable, the membership of a network and a list of the names and addresses of member firms and affiliates or an indication of the place where such information is publicly available; and

(i) all other registrations as audit firm with the competent authorities of another Member State as an audit entity with third countries including the name of the registration authority, and if applicable, the registration number.

(3) The Board shall assign for each registered auditor, third-country auditor and third-country audit entity a unique registration number.

(4) The register referred to in this regulation shall indicate clearly the contact details of the Board and such other information as may be reasonably necessary to indicate that the Board is the ultimate competent authority with ultimate responsibilities for public oversight, the approval of warrants and practising certificates, the operation of the quality assurance process and for investigation and disciplinary measures.

7. (1) The course of theoretical instruction referred to in article 3(2)(c) of the Act shall cover the following subjects in particular:

Theoretical instruction course.

(a) general accounting theory and principles;

(b) legal requirements and standards relating to the preparation of annual and consolidated accounts;

(c) international accounting standards;

(d) financial analysis;

(e) cost and management accounting;

(f) risk management and internal control;

(g) tax law;

(h) auditing and professional skills;

(i) legal requirements and professional standards relating to accountants, auditors and the statutory audit;

(j) international auditing standards;

(k) professional ethics and independence.

(2) Such course shall also cover at least the following subjects insofar as they are relevant to auditing and accounting:

(a) company law and corporate governance;

(b) the law of insolvency and similar procedures;

(c) tax law;

(d) civil and commercial law;

(e) social security law and employment law;

(f) information technology and computer systems;

(g) business, general and financial economics;

(h) mathematics and statistics;

(i) basic principles of the financial management of undertakings.

8. (1) The Board shall cooperate with the competent authorities of other Member States whenever necessary to carry out the responsibilities arising from the Directive.

Functions of the Board.

(2) The Board shall render assistance to competent authorities in other Member States, in particular by exchanging information and cooperating in investigations related to the carrying out of statutory audits.

(3) The Board shall, on request, and without undue delay supply any information required for the purpose referred to in subregulation (1) and where necessary the Board shall without undue delay, take the necessary measures to gather the required information:

Provided that at all times the information so supplied shall be covered by the obligation of professional secrecy.

(4) If the Board is not able to supply the required information without undue delay it shall notify the requesting competent authority of the reasons thereof.

(5) The Board may refuse to act on a request of information, after consulting the Minister, where:

(a) supplying information might adversely affect the sovereignty, security or public order of Malta or breach its national security rules;

(b) judicial proceedings have already been initiated in respect of the same actions and against the same auditors before the Maltese authorities;

(c) final judgment has already been passed in respect of the same actions and on the same auditors by the competent authorities in Malta.

(6) Where the Board concludes that activities contrary to the provisions of the Directive are being or have been carried out on the territory of another Member State, it shall notify the competent authority of the other Member State of that conclusion in a specific manner.

(7) Where the competent authorities of another Member State notify the Board that activities contrary to the provisions

of the Directive are or have been carried out in Malta, the Board shall investigate the matter without undue delay and shall inform the notifying competent authority of the outcome and, to the extent possible, of significant interim developments.

(8) A competent authority of another Member State may request that an investigation be carried out by the Board on the Maltese territory. The competent authority of another Member State may also request some of its own personnel to be allowed to accompany the personnel of the Board in the course of the investigation:

Provided that the investigation shall at all times be subject to the overall control of the Board.

(9) The Board may refuse to act on a request for an investigation to be carried out as provided in subregulation (8) or on a request for the Board's personnel to be accompanied by the personnel of a competent authority of another Member State where:

(a) such an investigation might adversely affect the sovereignty, security or public order of Malta; or

(b) judicial proceedings have already been initiated in respect of the same actions and against the same person before the authorities of Malta; or

(c) final judgment has already been passed in respect of the same actions on such persons by the authorities of Malta.

(10) Any information received by the competent authorities of other Member States pursuant to provisions of this article shall only be used by the competent authorities of the other Member State for the exercise of their functions within the scope of the Directive and in the context of administrative or judicial proceedings specifically related to the exercise of those functions.

Transfer of auditing documents.

9. (1) Auditors registered in accordance with the Act may transfer to the competent authorities of a third-country audit working papers or other documents held by them, provided that:

(a) those audit working papers or other documents relate to audits of companies which have issued securities in that third-country or which form part of a group issuing statutory consolidated accounts in that third-country;

(b) the transfer takes place via the Board to the competent authorities of that third-country at their request;

(c) the competent authorities of the third-country concerned meet requirements which have been declared adequate in accordance with paragraph 3 of article 47 of the Directive;

(d) there are working arrangements on the basis of reciprocity agreed between the competent authorities concerned;

(e) the transfer of personal data to the third-country is in accordance with Chapter IV of Directive 95/46/EC or any amending legislation.

(2) The working arrangements referred to in subregulation 1(d) shall at all times ensure that:

(a) justification as to the purpose of the request for audit working papers and other documents is provided by the competent authorities;

(b) the persons employed or formerly employed by the competent authorities of the third-country that receive the information are subject to obligations of professional secrecy;

(c) the competent authorities of the third-country may use audit working papers and other documents only for the exercise of their functions of public oversight, quality assurance and investigation that meet requirements equivalent to those of article 29, 30 and 32 of the Directive;

(d) the request from a competent authority of a third country for audit working papers or other documents held by a statutory auditor or audit firm can be refused where the provision of those working papers or documents would adversely affect the sovereignty, security or public order of the European Community or of the requested Member State or where judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the requested Member State.

(3) In exceptional cases, the Board may allow auditors to transfer audit working papers and other documents directly to the

competent authorities of a third-country, if the following conditions are satisfied:

(a) investigations have been initiated by the competent authorities in that third-country;

(b) the transfer does not conflict with the obligations with which auditors are required to comply in relation to the transfer of audit working papers and other documents to their home competent authority;

(c) there are working arrangements with the competent authorities of that third-country that allow the Board reciprocal direct access to audit working papers and other documents of that third-country's audit entities;

(d) the requesting competent authority of the third-country informs in advance the home competent authority of the auditor of each direct request for information including the reasons therefor; and

(e) the conditions laid down in subregulation (2) are respected.

(4) The Board shall be empowered to issue directives on the applicability and proper interpretation of this regulation and shall lay down the criteria for determining the assessment of adequacy referred to in this regulation and the meaning of "exceptional cases" in subregulation (3).

Consolidated
accounts of group of
undertakings.

10. In the case of a statutory audit of the consolidated accounts of a group of undertakings:

(a) the group auditor shall bear the full responsibility for the audit report in relation to the consolidated accounts;

(b) the group auditor shall carry out, review and maintain documentation of his review of the audit work performed by auditors, third-country auditors and third-country audit entities for the purpose of the group audit. The documentation retained by the group auditor shall be such as to enable the Board to review the work of the group auditor properly;

(c) when a component of a group of undertakings is audited by a third-country auditor or a third-country audit

entity that has no working arrangement as referred to in subregulation 9(3)(c), the group auditor shall be responsible for ensuring proper delivery, when requested, to the Board of the documentation of the audit work performed by the third-country auditor or third-country audit-entity, including the working papers relevant to the group audit. To ensure such delivery, the group auditor shall retain a copy of such documentation, or alternatively agree with the third-country auditor or third-country audit-entity his proper and unrestricted access upon request, or take any other appropriate action:

Provided that if legal or other impediments prevent audit working papers from being passed from a third-country to the group auditor, the documentation retained by the group auditor shall include evidence that he has undertaken the appropriate procedures in order to gain access to the audit documentation, and in the case of non-legal impediments, evidence supporting such an impediment.

11. Any disciplinary committee appointed by the Accountancy Board in terms of article 7(16) of the Act shall in any enquiry for the purposes of article 15 of the Act follow the procedure set out in the rules of procedure set out in the Schedule. Inquiry procedures.

12. The Accountancy Profession Regulations, 1987 are hereby being revoked. Revokes L.N. 29 of 1987.

SCHEDULE**(Regulation 11)****Rules of Procedure**

- Citation. 1. The title of these rules is the Accountancy Profession Rules of Procedure.
- Interpretation. 2. In these rules -
- “the Act” means the Accountancy Profession Act;
- “the Board” means the Accountancy Board established by the Act;
- “the Chairman” means the Chairman of the Accountancy Board and includes, in the case of absence of the Chairman from a meeting of the Board, the member acting as chairman for that meeting;
- “charge” means a charge specified in a notice of inquiry;
- “notice of inquiry” has the meaning assigned to it in rule 5(1);
- “practising certificate holder” means a holder of a practising certificate issued in terms of article 4 of the Act, and references to practising certificate holder, in relation to any complaint or information or to any proceedings, are references to the practising certificate holder against whom a complaint or information is sent to the Board;
- “Secretary” means the Secretary of the Accountancy Board appointed in accordance with the provisions of article 6(5) of the Act;
- “warrant holder” has the same meaning as is assigned to it in the Accountancy Profession Regulations, and references to the warrant holder, in relation to any complaint or information or to any proceedings, are references to the warrant holder against whom a complaint or information is sent to the Board.
- Application of rules. 3. A warrant or practising certificate may only be suspended or revoked in terms of article 15(1)(a) or (2)(d) or (2)(e) of the Act

in consequence of an inquiry held in accordance with the provisions of these rules, into the charge or charges formulated in a notice of inquiry served in accordance with the provisions of these rules on the person against whom the charge or charges is or are made.

4. (1) Where:

Complaints and
information.

(a) a complaint in writing on the conduct of a warrant holder or a practising certificate holder has been sent to the Board by the Minister or by any member of the Board or by any body or person, or information in writing as to the conduct of a warrant holder or a practising certificate holder has been sent to the Board by a person acting in a public capacity, or

(b) a complaint in writing that a warrant holder or practising certificate holder is unfit to continue to practice his profession on grounds of mental or physical infirmity is sent to the Board by the Minister or by any member of the Board or by any body or person, or information in writing as to the unfitness of a warrant holder or practising certificate holder to continue to practice his profession on the grounds aforesaid is sent to the Board by a person acting in a public capacity,

the Secretary shall submit the complaint or information to the Chairman.

(2) In so far as a complaint relates to conduct or unfitness on grounds of infirmity it shall not proceed further unless and until it has been confirmed by means of a declaration on oath; and every such declaration –

(a) shall state the address and description of the declarant; and

(b) if any fact declared is not within the personal knowledge of the declarant, shall state the source of the declarant's information and the grounds for his belief in the truth of the fact.

(3) Subject to the provisions of sub-rule (2), the Chairman shall direct the Secretary to notify the warrant holder or practising certificate holder of the receipt of the complaint or information stating the substance thereof and sending to the warrant holder or a practising certificate holder a copy of any declaration on oath furnished under sub-rule (2), and to invite the warrant holder or

practising certificate holder to submit to the Board, within such date as the Chairman shall determine, any explanation which the warrant holder or practising certificate holder may have to offer; and every such explanation must be in writing and must reach the Secretary within the time fixed by the Chairman:

Provided that in so far as a complaint or information relates to conduct, if it does not appear to the Chairman that a question arises whether the said conduct constitutes any of the acts or omissions referred to in article 15(1)(a) of the Act, he shall direct the Secretary to refer such complaint or information to the Board either to decide that the complaint or information need not proceed further or to direct the Secretary to notify the warrant holder or practising certificate holder in accordance with the provisions of this sub-rule.

(4) Subject to the foregoing provisions of this rule, the Chairman shall direct the Secretary to refer for enquiry a complaint or information to the Board together with any explanation then furnished by the warrant holder or practising certificate holder and any declarations on oath furnished under sub-rule (2).

(5) In this rule, the expression “person acting in a public capacity” means an officer of a Government Department or public authority acting as such, or any person holding judicial office or any officer attached to a court.

Notice of inquiry.

5. (1) As soon as may be after a complaint or information has been referred to the Board under the foregoing provisions and unless the Board is fully satisfied with the written explanation of the warrant holder or practising certificate holder, the Secretary shall serve on the warrant holder or practising certificate holder notice (in these rules referred to as “a notice of inquiry”) which shall:

(a) specify, in the form of a charge or charges, the matters into which the inquiry is to be held, and

(b) state the day, time and place at which the inquiry is to be held; and

(c) state the names of the individuals nominated by the Board to perform duties as members of the disciplinary committee in respect of the particular charge or charges, including the individual nominated by the Board as Chairman.

(2) The inquiry shall not be fixed for any date earlier than eight days after the date of service of the notice of inquiry on the warrant holder or practising certificate holder.

(3) The Secretary shall cause such service to be effected either personally on the warrant holder or the practising certificate holder, or by the delivery of such notice at his place of residence in the case of an individual, and in the case of a firm registered in terms of article 10 of the Act, at the address from which it conducts its activities according to the records of the Board.

(4) A notice of inquiry shall be in the form set out in Form A contained in the Appendix to these rules, with such variations as circumstances may require.

(5) There shall be sent with any notice of inquiry a copy of these rules.

(6) A copy of the notice of inquiry shall be served on the complainant or the informer.

6. The Chairman shall appoint the day and time for the holding of an inquiry. Day and time of inquiry.

7. (1) Where before the hearing of an inquiry it appears to the Chairman, or at any stage of the hearing it appears to the Board, that a notice of inquiry is defective, the Chairman or the Board, as the case may be, shall give directions for the amendment of the notice as may be necessary unless, having regard to the merits of the case, the required amendments cannot be made without injustice. Defective notice.

(2) Where in the opinion of the Chairman or of the Board it is expedient, in consequence of the exercise by him or it of the powers conferred by sub-rule (1), that the inquiry should be postponed or adjourned, the Chairman or the Board, as the case may be, shall give such directions in that behalf as appear necessary.

8. Proceedings before the disciplinary committee shall be held in public; the disciplinary committee may, however, when it considers it necessary or expedient, order that the proceedings be held in private. Public proceedings.

9. (1) Any member of the disciplinary committee and the Secretary shall abstain from taking part in any inquiry or may be challenged in any of the circumstances in which a judge would Abstention or challenge.

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abstain or may be challenged in accordance with the provisions of section 734 of the Code of Organization and Civil Procedure.

(2) Any such challenge shall be made before the reading out by the Secretary of the charge or charges to the warrant holder or practising certificate holder, unless the cause of the challenge arose or came to the knowledge of the party later.

(3) The disciplinary committee shall decide the objection previously to the reading of the said charge or charges, or later in appropriate cases, and its decision shall be final.

Legal and other assistance.

10. (1) Any party to the proceedings before the disciplinary committee may be assisted by an advocate or legal procurator. The warrant holder or practising certificate holder may also be assisted by another warrant holder or practising certificate holder.

(2) The Chairman of the disciplinary committee shall bring the provisions of these rules to the notice of any party to the proceedings appearing before the Board without any such assistance.

Reading of the charge.

11. The proceedings on the inquiry shall commence with the reading out by the Secretary of the charge or charges. Thereupon the Chairman of the disciplinary committee shall put to the warrant holder or practising certificate holder the question whether he admits or refutes the charge or charges.

Admission or refutation.

12. (1) If the warrant holder or practising certificate holder admits the charge or charges the disciplinary committee may, in its discretion, dispense with the production of witnesses and proceed to give its decision on that day or on any other day appointed for the purpose.

(2) If the warrant holder or practising certificate holder refutes the charge or charges the disciplinary committee shall proceed with the inquiry.

(3) If the warrant holder or practising certificate holder fails to attend without just cause and the disciplinary committee is satisfied that a notice of inquiry was served as required by these rules, the disciplinary committee may, if it thinks fit, proceed with the inquiry even in his absence:

Provided that if the warrant holder or practising certificate holder is unable to attend for a just cause, he may, if he so prefers, request that the inquiry be proceeded with and appoint one of the persons mentioned in rule 10(1) to represent him in the proceedings.

13. The proceedings on an inquiry shall be as follows:

Proceedings.

(a) Witnesses in support of the charge shall be produced and examined by the party producing them or in his absence by the disciplinary committee and cross-examined by the warrant holder or practising certificate holder; thereafter any member of the Board may put questions as he may deem necessary.

(b) Witnesses in defence shall be heard and in case the warrant holder or practising certificate holder wishes to give his evidence, he may do so provided that his evidence shall be given before that of any witness to be produced by him. Witnesses shall be examined by the warrant holder or practising certificate holder or by the person by whom he is assisted or represented and cross-examined by any other party to the proceedings; thereupon any member of the disciplinary committee may put questions as he may deem necessary.

(c) When the whole of the evidence has been concluded, the warrant holder or practising certificate holder may, personally or through the person by whom he is assisted or represented, address the disciplinary committee and make his defence.

(d) The disciplinary committee shall then give its decision including the imposition of any penalty as it may determine on that day or on any other day appointed for the purpose.

(e) The disciplinary committee shall not be debarred at any stage of the proceedings until the decision is given from re-examining any witness or requesting the production of any documents.

14. In all cases where the disciplinary committee is satisfied that the charge or charges have or have not been proved, the disciplinary committee shall decide accordingly and it shall record a finding that the charge or charges have or have not been proved

Charge not proved.

and that the warrant holder or practising certificate holder is or is not guilty in respect of the matters to which the charge or charges relate.

Decisions, public and in writing.

15. (1) The decisions of the disciplinary committee shall be given in public and in writing; they shall be signed by the Chairman of the disciplinary committee.

(2) The original shall be forwarded by the Secretary to the Board together with the complete record of the inquiry. The Board shall, in the case of a revocation or withdrawal of a warrant give its advice in writing to the Minister to give effect to the decisions of the disciplinary committee. A copy of any decision of the disciplinary committee, certified as a true copy by the Chairman of the Board, shall be forwarded by the Secretary to the Minister, and in the case of revocation or cancellation of a warrant, the Secretary shall forward to the Minister the Board's advice in writing.

(3) On receipt of the decision of the disciplinary committee and of the advice of the Board, the Minister shall give effect to the decision and act in terms of article 15 of the Act.

Validity of proceedings.

16. Where under any of the foregoing provisions of these rules the inquiry stands postponed to a future meeting, the validity of the proceedings at that meeting shall not be called into question by reason only that members of the disciplinary committee who were present at the former meeting were not present at the later meeting or that members of the disciplinary committee who were present at the later meeting were not present at the former meeting.

Copy of decision.

17. The Secretary shall serve without delay on the warrant holder or practising certificate holder a copy of the decision of the disciplinary committee.

Form of summons to give evidence.

18. Notice to any person to appear before the disciplinary committee to give evidence and/or produce documents shall be in the form set out in Form B contained in the Appendix hereto.

Signature and service of summons.

19. Every notice referred to in these rules shall be signed by the Chairman.

Power of Board.

20. It shall be within the authority of the disciplinary committee during the proceedings –

(a) to maintain good order; and

(b) regulate the discussion.

21. The members of any disciplinary committee, the Board and the Secretary shall not divulge anything discussed by the disciplinary committee or the Board in the course of an inquiry.

Confidential
discussions.

22. (1) The provisions of the Inquiries Act shall apply to the disciplinary committee in any inquiry held according to these regulations.

Other proceedings.

(2) Subject as otherwise expressly provided and in particular to sub-rule (1), the disciplinary committee shall regulate its own procedure.

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APPENDIX

Rules 5(4), 18

FORM A

ACCOUNTANCY BOARD

Notice of Inquiry

To (date)

I hereby give you notice that the Accountancy Board has ordered an inquiry to consider and judge the charge/charges imputed to you, namely

You are hereby informed that the first sitting of the said inquiry will be held on the at

The Accountancy Board has nominated the following individuals as members of the disciplinary committee that will conduct the inquiry in respect of the above charge/charges:

.....
.....
.....

The Disciplinary Committee shall be chaired by the above-mentioned

A copy of the Accountancy Profession Rules of Procedure is enclosed for your guidance.

You are warned that failure on your part to appear without giving a reasonable explanation for your absence would not debar the disciplinary committee from proceeding with the inquiry in your absence.

Chairman
Accountancy Board

FORM B

ACCOUNTANCY BOARD

Notice to a Person to give Evidence and/or
to produce documents, etc.

To (date)

You are hereby required to attend before the disciplinary
committee nominated by the Accountancy Board on
the at and so on any other day
to which the hearing may be put off, to give evidence and/or to
produce the following documents:
.....
in the matter of an inquiry held against
.....

You are warned that failure to attend as hereby required will
expose you to sanctions prescribed by law.

Chairman
Accountancy Board

