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Financial Reporting Act, 2013



THE GAMBIA
NO. 07 OF 2013

Assented to by The President,
this 2nd day of July, 2013

LS

YAHYA A. J. J. JAMMEH
President

AN ACT to establish The Gambia Institute of Chartered Accountants to provide for the registration of chartered accountants, practicing and registered auditors and the setting of accounting, auditing and corporate governance standards; to establish the Financial Reporting Oversight Board; and for related matters.

[2nd July, 2013]

PART I – PRELIMINARY

1. Short title and commencement

This Act may be cited as the Financial Reporting Act, 2013, and shall come into operation on the date the Minister appoints by Order published in the Gazette.

2. Interpretation

In this Act, unless the context otherwise requires –

"accounting standards" means the norms to be followed in the preparation of financial statements, as specified under section 67;

"audit" means an independent examination of financial statements by an auditor to enable him or her express an opinion on whether the financial statements are prepared, in all material respects, in accordance with an identified financial reporting framework;

"auditing standards" means the norms to be followed by auditors in the audit of financial statements, as specified under section 68;

"Board" means The Gambia Financial Reporting Oversight Board established under section 48;

"Board member" means a member of The Gambia Financial Reporting Oversight Board;

"Bulletin" means the official newsletter issued by the Institute;

"chartered accountant" means a person registered as a chartered accountant by the Institute under section 28, and in good standing;

"corporate governance standards" means the norms to be followed by public interest entities as specified under section 70;

"Council" means the Council of the Institute established under section 9;

"Council member" means a person who is a member of the Council of the Institute;

"effective date" means the date appointed by the Minister by Order published in the Gazette as the date of commencement of this Act;

"entity" means a person or body of persons whether incorporated or not;

"member firm" means a firm which provides accounting and auditing services and is registered as such under section 32;

"general purpose financial statements" or "financial statements" in IFRS" are financial statements intended to meet the needs of users who are not in a position to require an entity to prepare financial reports tailored to the users particular information needs;

"Government" means the Government of The Gambia;

"IAASB" means the International Auditing and Assurance Standards Board which is an independent standard-setting board of IFAC, or its successor body;

"IAESB" means the International Accounting Education Standards Board which is an independent standard-setting board of IFAC, or its successor body;

"IESBA" means the International Ethics Standards Board for Accountants which is an independent standard-setting board of IFAC, or its successor body;

"IFAC" means the International Federation of Accountants or its successor body;

"IFRS" means the International Financial Reporting Standards issued by the International Accounting Standards Board (IASB) and the interpretations issued by the IFRS Interpretations Committee, and any standards or interpretations issued by their successor bodies;

"Institute" means The Gambia Institute of Chartered Accountants established under section 4;

"IPSASB" means the International Public Sector Accounting Standards Board which is an independent standard-setting board of IFAC, or its successor body;

"ISA" means International Standards on Auditing issued by IAASB;

"ISQC" means International Standard on Quality Control issued by the IAASB, or its successor body;

"material irregularity" means an irregularity that, by itself, or in combination with other irregularities, results in a misstatement of the financial statements of an entity, or in the financial statements of the entity not fairly presenting the operations and financial condition of the entity and which, if properly presented, would affect a financial or investment decision of the user;

"member" means a person or an entity registered by the Institute;

"Minister" means the Minister responsible for matters relating to Finance and "Ministry" shall be construed accordingly;

"practicing auditor" means a chartered accountant registered as a practicing auditor with the Institute under section 29;

"practicing certificate" means a certificate issued by the Institute permitting the holder to carry on practice as a chartered accountant, practicing auditor or member firm of the Institute under section 33;

"prescribed" means prescribed in regulations or rules made under this Act;

"professional accountancy organisation" means an organisation whose functions, responsibilities, and membership are equivalent to The Gambia Institute of Chartered Accountants;

"public interest entity" means-

- (a) an entity that has issued equity or debt securities for public subscription,
- (b) a bank, deposit taking institution or other similar institution that is subject to supervision by the Central Bank of The Gambia,
- (c) an insurance company, a pension and provident fund, collective investment undertaking or other similar institution that is subject to supervision by the Central Bank of the Gambia or any other statutory body,

- (d) a public enterprise as defined under section 175 of the Constitution and section 2 of the Public Enterprise Act, or [cap 87:01]
- (e) an entity to which any two of the following conditions are applicable in excess of an amount or number the Board may prescribe-
- (i) annual revenue,
 - (ii) number of employees,
 - (iii) total assets, or
 - (iv) total liability, not including shareholder's equity, applicable at the end of the preceding accounting year;

"quality assurance review system" means a mechanism based on reviews, established under the authority of the Board to determine whether a member is in adequate compliance with applicable quality control and other relevant standards;

"quality assurance reviews" mean reviews to determine whether an audit firm, practicing auditor or registered auditor-

- (a) has implemented quality control standards,
- (b) pursues its activities in compliance with such standards, and
- (c) has adhered to professional standards and regulatory and legal requirements in performing audits;

"quality control standards" mean standards designed to provide an audit firm or practicing auditor with a reasonable assurance that –

- (a) the firm and its personnel or practicing auditor comply with professional standards and regulatory and legal requirements,

- (b) reports issued by the firm, partners or practicing auditor are appropriate in the circumstances, and

- (c) the procedures necessary to implement and monitor compliance with firm policies in such regard are properly in place and adequately operational;

"registered auditor" means a chartered accountant registered as a practicing auditor with the Institute who is also registered with the Board as a registered auditor for public interest entities under section 58;

"Standards Committee" means The Gambia Accounting, Auditing and Corporate Governance Standards Committee established under section 66; and

"strategic plan" means a document developed based on an ongoing mechanism that guides and drives the Institute's activities and priorities for a period specified by the Council through defining and providing continuity to organizational objectives.

3. Administration of the Act and Oversight

The Minister is responsible for the administration of this Act and the Board shall operate under the oversight of the Minister.

PART II - ESTABLISHMENT OF THE GAMBIA INSTITUTE OF CHARTERED ACCOUNTANTS AND THE COUNCIL

4. Establishment of the Institute

- (1) There is established by this Act The Gambia Institute of Chartered Accountants.
- (2) The Institute shall be a body corporate with perpetual existence and succession and a common seal.
- (3) The Institute shall exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity and may-

- (a) enter into contracts and acquire, hold and dispose of property by whatever lawful means in connection with the pursuit of its purpose;

- (b) sue and be sued in its corporate name; and

- (c) perform such acts as bodies corporate may by law perform.

(4) The application of the seal of the Institute shall be authenticated by the signature of the Chief Executive Officer of the Institute or his or her designated representative.

(5) A document bearing the seal of the Institute shall, unless the contrary is proved, be deemed to be properly sealed.

5. Objectives of the Institute

The objectives of the Institute are to –

- (a) promote the development of the accountancy profession in the private and public sectors;
- (b) promote the highest standards of professional ethics and business conduct of, and enhance the quality of services offered by, chartered accountants or practicing auditors;
- (c) protect the public interest by ensuring that members observe the highest standards of professional and ethical conduct;
- (d) determine the eligibility criteria to become a chartered accountant and practicing auditor;
- (e) arrange for the assessment of candidates seeking certification as chartered accountants and practicing auditors;
- (f) promote, maintain and increase the knowledge, skills and competence of members;
- (g) maintain the legitimate professional rights of members;
- (h) promote IFRS and ISA and other internationally accepted accounting and auditing Standards; and
- (i) keep abreast of international developments affecting the accountancy profession.

6. Functions of the Institute

- (1) The Institute shall conduct its affairs so as to represent the interest of members as well as that of the public.
- (2) Without prejudice to the generality of sub-section (1), the functions of the Institute shall be to-
 - (a) register as members, persons who qualify to be chartered accountants, practicing auditors or such other class of membership as the Institute may establish under its Rules;
 - (b) prescribe the requirements for different classes of its membership;
 - (c) consider any application for registration in a specific class of membership of the Institute;
 - (d) issue practicing certificates to Members;
 - (e) keep and maintain the registers set forth in section 26, and such other registers as the Institute may deem necessary for the purposes of this Act;
 - (f) conduct, or arrange for the conduct of national professional qualification examinations and such other examinations as it deems necessary, which shall comply with the standards set by the IAESB, with particular focus on an adequate level of practical training for the registering of practicing auditors, chartered accountants or other class of membership established under its Rules;
 - (g) establish requirements for conduct of professional accountancy education and training programs, and monitor professional accountancy education and training programs for members of the accountancy profession, including continuous professional development programs;
 - (h) determine practical training requirements for the purpose of granting membership;
 - (i) recognise any accountancy qualifications that are in the opinion of the Council equivalent to those of the Institute;

- (j) establish, publish and review a Code of Professional Conduct and Ethics for all members, which shall comply with and contain all the principles of the Code of Ethics for Professional Accountants issued by the IESBA, or its successor body;
- (k) establish disciplinary requirements and mechanisms for investigating and disciplining members for misconduct and breach of the Code of Professional Conduct and Ethics, rules and regulations of the Institute, provisions of this Act, and any other rules and regulations made under this Act;
- (l) represent members' interests in local, regional and international fora;
- (m) develop a strategic plan that will lead to the long term financial sustainability of the organisation as an independent professional organization for accountants and auditors;
- (n) advise the Board on any matters referred to it; and
- (o) carry out research into matters affecting the profession.

7. General Meetings of the Institute

- (1) There shall be an Annual General Meeting of the Institute according to the Rules of the Institute.
- (2) The Institute may allow non-voting members of the Institute to attend the Annual General Meeting.
- (3) The Annual General Meeting is the ultimate decision making body of the Institute.
- (4) Subject to the provisions of this Act, the Rules of the Institute shall prescribe the functions to be performed at the General Meeting and the procedure to be followed at the meeting.
- (5) At the request of the Council, an Extraordinary General Meeting may be convened in accordance with the Rules of the Institute.

8. The President and the Vice-President

- (1) The General Meeting of the Institute shall elect the President and Vice-President of the Institute from among the members for a period of two years, respectively.
- (2) The President and Vice-President of the Institute shall be eligible for appointment for not more than two terms.
- (3) The Rules of the Institute shall prescribe the functions to be exercised by the President and Vice-President of the Institute and the procedure for their election.

9. The Council

- (1) The affairs of the Institute shall be managed by a Council of eleven members eligible for registration by the Institute under this Act, consisting of-
 - (a) seven persons elected at an Annual General Meeting, three of whom shall be practicing auditors, two non-practicing chartered accountants, and two academics in accountancy matters;
 - (b) two persons who shall be representatives of the accountancy profession co-opted by the Council; and
 - (c) the President and Vice-President of the Institute, who shall be the Chairperson and Vice-Chairperson of the Council.

(2) Whenever a vacancy occurs among the seven members of the Council elected at an Annual General Meeting of the Institute, the members of the Council for the time being shall co-opt a member of the Institute qualified to fill the vacancy within thirty days from the date of the vacancy.

(3) The name and qualifications of every person appointed or elected as a member of the Council together with the date of his or her appointment shall be published in the Institute's Bulletin.

10. Term of office of Council Members

- (1) The President and Vice-President of the Institute shall be the Chairperson and Vice-Chairperson of the Council for the duration of their mandate as President and Vice-President of the Institute.

(2) Subject to sub-section (3), members of the Council shall hold office for a period of three years on such terms and conditions as may be provided in the Rules of the Institute, and shall be eligible for appointment for not more than two terms.

(3) To ensure continuity of the Council, the term of office of three members of the first Council elected under section 9(1)(a) respectively as a practicing auditor, non-practicing chartered accountant and academic, and one member co-opted under section 9(1) (b), shall be limited to a term of two years only.

(4) A member of the Council may resign from office by giving at least one month's written notice of his or her resignation to the Chairperson, and in the case of the Chairperson to the Vice Chairperson.

(5) The Chairperson or Vice-Chairperson who resigns from office shall also resign from his or her position as President or Vice-President of the Institute.

11. Powers of the Council

(1) The Council shall may do anything for the purpose of discharging the functions of the Institute, including the power to –

- (a) develop a strategic plan for the Institute and provide strategic direction;
- (b) ensure that the objectives of the Institute are achieved on a sustainable basis;
- (c) verify that the Institute's resources are being used responsibly;
- (d) enter into such contracts or transactions as may be necessary or expedient for the purpose of discharging its functions;
- (e) borrow such sums of money or raise such loans as it may require for the purpose of discharging its functions;
- (f) establish and administer such systems or schemes as the Institute may consider necessary or expedient for the performance of its functions;

(g) impose such fees and charges as may be reasonable for services or facilities provided by the Institute;

(h) cooperate with or become a member or associate of an international body, the functions or objects of which are connected to accounting and auditing.

(i) engage in any activity, either alone or in conjunction with any other organisation or agency, whether local or international, that is connected with or that is conducive to the performance of its functions;

(j) recognise any accountability qualifications, as are in the opinion of the Council equivalent to those set by IAESB and adopted by the Institute;

(k) promulgate internal rules and regulations regarding the activities of the Institute; and

(l) do such other acts as are incidental or necessary to any of its functions and the powers conferred on the Institute by this Act.

12. Strategic planning

(1) The Council shall oversee and guide the development of a strategic plan.

(2) The strategic plan shall guide and drive the Institute's activities and priorities for a specified period, be renewed on a cyclical basis, and ensure sustainable operations of the Institute.

(3) Goals to work towards achieving the mission of the Institute shall be identified and strategies to achieve those goals shall be articulated together with a timeframe as to when those strategies and tasks will be completed.

(4) A list of key performance indicators shall be developed, stating specific tasks to be completed within a specific timeframe as well as the Institute's volunteers and employees responsible for the related tasks.

(5) The strategic plan shall be subject to regular review in order to ensure that-

- (a) progress is being made in the implementation of the goals and priorities set by the Council; and
- (b) it remains relevant, taking into account developments within the national and global environment in which the institute operates.

13. Meetings of the Council

- (1) The Council shall meet as often as is necessary and at least once every quarter and at such times and places as the Chairperson shall determine.
- (2) At a meeting of the Council, the Chairperson shall preside and in the absence of the Chairperson the Vice Chairperson shall preside, and in the absence of both the Chairperson and Vice Chairperson, the members of the Council present shall elect a Chairperson from among their number.
- (3) The Council may co-opt at its meetings, such other persons as may be of assistance in relation to any matter before the Council to advise the Council.
- (4) A person co-opted under sub-section (3) shall be entitled to take part in the Council's proceedings in relation to the specific matter for which he or she was co-opted, but shall have no right to vote.
- (5) The quorum for a meeting of the Council is six members.
- (6) Subject to sub-section (4), each Council member shall have one vote and if there is an equality of votes, the Chairperson of the meeting shall have a casting vote.

14. Disclosure of interest by Council members

- (1) A member of the Council who has a personal interest, whether direct or indirect, in the outcome of any deliberations of the Council at any meeting on any matter shall-
 - (a) disclose at the meeting the nature of the interest and the disclosure shall be recorded in the minutes of the meeting; and

(b) withdraw from the meeting without voting on the matter.

(2) A Council member who fails to comply with sub-section (1) may be suspended from office by the Council upon notification by the Chairperson or the Chief Executive Officer until the ensuing General Meeting which may remove such member from office.

15. No transaction of business without meeting

The Council shall not pass any resolution without deliberations at a duly convened meeting.

16. Allowances to Council members

Members of the Council shall not receive any remuneration for their service to the Council but may be refunded out of pocket expenses in accordance with guidelines set by the Council.

17. Committees of the Council

(1) The Council shall establish the following Committees-

- (a) Technical Committee;
- (b) Pre-qualification, Training and Professional Development Committee;
- (c) Finance and Administration Committee;
- (d) Ethics Committee;
- (e) Disciplinary Committee;
- (f) Appeals Committee; and
- (f) such other Committees as the Council may deem appropriate to carry out its responsibilities or as required by this Act.

(2) The Committees shall be responsible for recommending policies to the Council and for providing assistance to sections of

the Secretariat with which they are associated and shall have such terms of reference as the Council shall determine.

(3) A Committee may co-opt any expert it may deem necessary to assist the Committee on any specific matter.

PART III - MANAGEMENT AND ADMINISTRATION OF THE INSTITUTE

18. The Secretariat

(1) The Institute shall establish a Secretariat to conduct the day-to-day operations of the Institute consisting of –

- (a) the Chief Executive Officer; and
- (b) such other officers as it deems necessary to carry out its functions.

(2) The Institute may establish departments and offices as are necessary for its efficient functioning.

(3) The Chief Executive Officer and other officers referred to in sub-section (1) may consult with the Board and any other appropriate parties, as often as it is considered necessary, for the purpose of facilitating the performance of the functions of the Institute.

19. Chief Executive Officer of the Institute

(1) The Chief Executive Officer shall-

- (a) be charged with the implementation of the strategic plan referred to in section 12;
- (b) manage the day to day affairs of the Institute to achieve the objectives of the strategic plan as well as the business plan of the Institute; and
- (c) submit regular reports to the Council on the progress of implementing the strategic plan's goals and priorities and policies of the Council.

(2) A candidate for the position of Chief Executive Officer shall –

- (a) be a person with demonstrated expertise and practical knowledge of the accountancy profession and

internationally accepted accounting and auditing standards and practices;

(b) hold qualifications as a chartered accountant or its equivalent obtained from the Institute or a professional accountancy organisation of equivalent or higher standing;

(c) have at least five years managerial experience; and

(d) meet such other criteria as may be prescribed by the Council.

20. Secretary and other staff

(1) The Council shall appoint a Secretary to the Council from amongst the employees of the Institute.

(2) The Secretary shall-

(a) keep the books and records of the Council and be responsible for the correspondence of the Council;

(b) prepare the agenda for meetings of the Council after consultation with the Chief Executive Officer and Chairperson;

(c) record the minutes of the meetings of the Council and Committees; and

(d) perform such other functions as the Chief Executive Officer and Chairperson may assign to him or her.

(3) The Chief Executive Officer may, in accordance with a process prescribed by the Council, recruit and hire other employees authorised by the Council for the effective performance of the functions of the Institute including-

(a) carrying out administrative, public relations and liaison functions;

(b) providing necessary organisational continuity and historical perspective; and

(c) undertaking operational work to achieve goals set by the Council, as well as an advisory role offering support and

guidance to volunteers.

- (4) The terms and conditions of service of all employees of the Institute including, discipline and removal shall be determined by the Council by prescribed rules.

PART IV - FUNDS AND ACCOUNTABILITY

21. Funds of the Institute

- (1) The Institute shall establish a Fund into which all monies received by it shall be paid, and out of which all payments and charges on the Institute shall be effected.
- (2) The Institute may, for the purposes of sub-section (1) –
- (a) levy such charges or fees as may be reasonable, to register its members and to provide services and facilities to them;
 - (b) receive donations, gifts, grants, subsidies and contributions from any source; and
 - (c) raise funds by all lawful means.

(3) The Institute may-

- (a) maintain accounts in any bank;
- (b) invest its funds in such manner as it thinks fit; and
- (c) engage in any financial activity or participate in any financial arrangement for the purpose of managing or hedging against any financial risk that arises or is likely to arise from such investment in accordance with guidelines set by the Institute.

22. Loans

For the discharge of its functions under this Act or under any other enactment, the Institute may from time to time, raise loans from banks and other financial institutions by mortgage, overdraft or otherwise in accordance with the guidelines of the Institute.

23. Accountability of the Institute

The Institute shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over its assets or assets in its custody and over the expenditure incurred by the Institute.

24. Annual report

- (1) The Council shall not later than three months after the close of its financial year, submit to the members in a general meeting and to the Board and publish an annual report of its affairs and functions during that financial year, which shall include –
- (a) a copy of the Institute's audited annual financial statements prepared in accordance with the standards adopted by the Standards Committee;
 - (b) an overview of the activities of the Institute;
 - (c) the strategic plan of the Institute and an account of the extent to which its objectives have been achieved in that financial year;
 - (d) a profile of Council members and their attendance at meetings of the Council; and
 - (e) such other matters as the Council may determine to maintain public confidence in the accountancy profession.

- (2) The period starting from the coming into force of this Act to 31st December in the following year shall be the first financial year of the Institute, and thereafter the financial year of the Institute shall be from 1st January to 31st December.

25. Appointment of the External Auditor

- (1) The Institute shall at each Annual General Meeting, appoint amongst practicing auditor Members, an external auditor who shall hold office until the next Annual General Meeting.
- (2) Where the external auditor appointed under sub-section (1) is incapable for any reason to discharge the functions of his or her

office, the Council may appoint another person to audit the accounts of the Institute for the remainder of the term of appointment of the external auditor.

(3) A person shall not be qualified to be appointed as an external auditor under sub-section (1) if he or she is –

- (a) a member of the Council; or
- (b) a partner of a member of the Council.

(4) The remuneration of the external auditor shall be determined by the Institute at its Annual General Meeting.

PART V - REGISTRATION

26. Registers

(1) The Institute shall keep, maintain and update as required, the following registers–

- (a) a register of natural persons who are members of the Institute;
- (b) a register of member firms of the Institute; and
- (c) such other registers as the Institute may deem necessary for the purposes of this Act.

(2) The Institute shall prescribe the information that the registers specified under sub-section (1) shall contain.

(3) The Institute shall publish –

- (a) in the Bulletin not later than three months after the end of its financial year, an annual list of members; and
- (b) publish and maintain on the website of the Institute, a current list of all Members.

(4) The register of members shall at all reasonable times be available for inspection by any person on payment of the prescribed fee.

27. Prohibition against practicing without a Practicing Certificate

(1) A person shall not whether directly or indirectly, practice or hold himself or herself out as a chartered accountant or practicing auditor, by himself or herself or in partnership or association with any other person, except in accordance with the terms and conditions of a valid practicing certificate issued by the Institute.

(2) A person who contravenes the provisions of sub-section (1) commits an offence and is liable on conviction to a fine not exceeding twenty thousand dalasis or to imprisonment for a term not exceeding two years or to both.

(3) A conviction for an offence under sub-section (2) shall not be a bar to a further prosecution or conviction if the offence continues.

28. Registration of Chartered Accountants

(1) A person who–

- (a) satisfies the requirements relating to qualifications in the field of accountancy set by IAESB and adopted by the Rules of the Institute; and
- (b) has a minimum of three years' practical experience in the field of accountancy may apply to the Institute to be registered as a chartered accountant in such form or manner as may be prescribed.

(2) The Institute may require an application under this section to be accompanied by such fees and information as may be prescribed in its Rules.

(3) The Institute may register an applicant as a chartered accountant by entering his or her name and the prescribed particulars in the register of Chartered Accountants if the applicant–

- (a) is a person of good character and has not been convicted of an offence involving fraud or dishonesty in any country;
- (b) has successfully undergone the prescribed examination or assessment for the purpose of determining whether he or she possesses adequate professional accountancy knowledge, skills and practical experience

in full compliance with the requirements of the standards issued by IAESB; and

- (c) has paid such fees as the Institute may determine.
- (4) The Institute shall require in its Rules, as a condition for a chartered accountant to be allowed to remain in practice, that the chartered accountant-
 - (a) complies with continuing professional development and other professional requirements as specified in the Rules of the Institute; and
 - (b) demonstrates independence of mind in the conduct of his or her functions as a chartered accountant.
- (5) A person who provides false or misleading information in relation to sub-sections (1) to (4) commits an offence and is liable on conviction to a fine not exceeding ten thousand dalasis or to imprisonment for a term not exceeding one year or to both.
- (6) Conviction for an offence under sub-section (5) shall not be a bar to a further prosecution or conviction if the offence continues.

29. Registration of Practicing Auditors

- (1) Every chartered accountant who intends to practice as an auditor shall apply in writing to the Institute to be registered as a practicing auditor in such form and manner as may be prescribed by the Institute in full compliance with the requirements of the standards issued by IAESB.
- (2) An application under sub-section (1) shall be accompanied by the information and fees prescribed in the Rules of the Institute.
- (3) The Institute may register an applicant under sub-section (1) as a practicing auditor by entering his or her name and the prescribed particulars in the register of Practicing Auditors, if the Institute is satisfied that the applicant -
 - (a) is a chartered accountant;
 - (b) meets the qualification requirements laid down for Practicing Auditors in the Rules of the Institute;

- (c) has made such arrangements as may be provided in the Rules of the Institute, for continuing professional development;
- (d) is a fit and proper person, as defined in the Rules of the Institute;
- (e) has the necessary competence to practice as a practicing auditor in line with requirements of the standards issued by the IAESB, and a period of not more than one year has elapsed since he or she has undertaken continuing professional development as provided by the Rules of the Institute and the date of the application; and
- (f) has agreed to subject himself or herself to quality assurance reviews at such time and in such manner as the Institute may prescribe.
- (4) The Institute shall require, as a condition for a practicing auditor to be allowed to remain in practice, that a practicing auditor-
 - (a) complies with continuing professional development and professional requirements as specified in the Rules of the Institute; and
 - (c) demonstrates independence of mind in the conduct of his or her functions as an auditor.
- (5) A person who provides false or misleading information in relation to sub-sections (1) to (4) commits an offence and is liable on conviction to a fine not exceeding ten thousand dalasis or to imprisonment for a term not exceeding one year or to both.
- (6) Conviction for an offence under sub-section (5) shall not be a bar to further prosecution or conviction if the offence continues.
- (7) Practicing auditors registered with the Institute shall be the only professionals authorised to carry out audits.

30. Refusal to register Chartered Accountants and Practicing Auditors

- (1) The Institute may-
 - (a) refuse to register an applicant as a chartered accountant

where the applicant-

- (i) does not satisfy the requirements specified in section 28(3); or
 - (ii) is otherwise unfit to be registered as a chartered accountant;
- (b) refuse to register an applicant as a practicing auditor where the applicant-
- (i) does not satisfy the requirements specified in section 29(3),
 - (ii) has had his or her licence or approval to practice as a practicing auditor withdrawn, suspended, cancelled or revoked in any jurisdiction, or
 - (iii) is otherwise unfit to be registered as a practicing auditor.

(2) Where the Institute refuses to register an applicant under sub-section (1), it shall inform the applicant in writing of its refusal as soon as is reasonably practicable.

(3) A person aggrieved by the refusal of the Institute to register him or her as a chartered accountant or practicing auditor, may within thirty days of the decision of the Institute apply in writing to the Institute for review of the decision and such application shall set forth any facts or legal argument that would support a decision to register him or her.

(4) The Institute shall issue a decision upholding or reversing its decision within 60 days of receipt of the application for review under sub-section (3).

31. Suspension of Accountants who are mentally disabled

(1) Whenever it appears to the Institute from information on oath that a person registered under this Act has become mentally disabled to such an extent that it would be contrary to the public interest to allow him or her to continue to practice or to act as a chartered accountant or as a practicing auditor, as the case may be, the Institute may if it deems fit, hold an enquiry in respect of such person.

(2) If the Institute after due enquiry finds as a fact that such person has become mentally disabled, it may order the suspension of such person, for a specified period from practicing as a chartered accountant or practicing auditor, as the case may be.

(3) The Institute may order the extension of the period of operation of any order made under this section, or may order its revocation at any time if satisfied that the disability has ceased.

32. Registration of member firms

(1) Every firm that provides or intends to provide accounting and auditing services shall apply to the Institute for registration as a member firm.

(2) An application under sub-section (1) shall be made in such form and manner as may be prescribed.

(3) The Institute shall register the firm and enter its name and prescribed particulars in the register of member firms, upon being satisfied that -

- (a) all of the partners of the firm are registered with the Institute;
- (b) at least two of the partners in the firm are practicing auditors;
- (c) there is a written undertaking by the applicant firm and the partners individually that they shall be bound by the disciplinary provisions of the Rules of the Institute; and
- (d) the applicant firm holds a professional indemnity insurance of such amount as the Institute may determine in its Rules, or provides such other financial guarantee as the Institute may from time to time determine.

(4) A registered auditor shall not practice as an auditor on his or her own account or in partnership with other persons, under the name of a firm unless the Institute has approved the name of the firm.

(5) The Institute shall not approve the proposed name or any

proposed change in the name of an audit firm where the proposed name or proposed change in the name-

- (a) is the same as a firm name already approved by the Institute;
- (b) so closely resembles an existing firm name that it is likely to cause confusion;
- (c) is, in the opinion of the Institute, misleading, offensive or otherwise contrary to the public interest; or
- (d) contravenes the Companies Act or the Business Registration Act.

33. Practicing certificate

- (1) A practicing certificate issued under this Act shall be the property of the Institute.
- (2) Where the Institute registers –
 - (a) a person as a chartered accountant;
 - (b) a person as a practicing auditor; or
 - (c) a firm as a member firm,

it shall issue to the person or the firm, as the case may be, a certificate of registration indicating the part of the register in which that person has been registered.

- (3) A certificate of registration and a practicing certificate shall be issued for a limited period of time in the prescribed form and on payment of the prescribed fees.
- (4) A person who is registered under the provisions of this Act as a chartered accountant or practicing auditor may describe himself or herself as a chartered accountant or practicing auditor as the case may be.
- (5) A chartered accountant is entitled to use the designation "Chartered Accountant" or the initials "C.A."
- (6) A practicing auditor is entitled to use the designation "Practicing Auditor".

- (7) Subject to this section, a practicing certificate shall remain valid for so long as its holder remains registered; and shall cease to be valid if its holder is de-registered by the Institute in which case the certificate shall be immediately returned to the Institute.

34. Cancellation or suspension of registration

- (1) The Institute may suspend or cancel the registration of a chartered accountant, a practicing auditor or a member firm, and order the removal of such accountant, auditor or member firm from the relevant register where the accountant, auditor or firm –
 - (a) has obtained the registration by fraud or misrepresentation;
 - (b) no longer satisfies or has acted in breach of any rule of the Institute;
 - (c) has his or her, or its registration suspended or cancelled by a professional accountancy organisation of which he or she, or it is a member;
 - (d) has acted in breach of the provisions of this Act; or
 - (e) has been convicted of an offence, whether in The Gambia or another jurisdiction-
 - (i) for which he or she, or its representatives has been, or could have been sentenced to imprisonment without the option of a fine; or
 - (ii) involving dishonesty.
- (2) Where the Institute cancels a practicing certificate, it may also cancel the membership in the Institute of the holder of the practicing certificate.
- (3) Where the Institute suspends a practicing certificate, it may suspend the membership of the holder of the practicing certificate for the period for which the certificate has been suspended.
- (4) Where a certificate of registration or practicing certificate is withdrawn or suspended, the Institute shall publish a notice in the Bulletin notifying the public of such withdrawal or suspension within fourteen days.

35. Renewal of registration

- (1) A chartered accountant or practicing auditor wishing to renew his or her practicing certificate upon expiration thereof shall, not less than one month before the date of expiration, make an application to the Institute for the renewal of the certificate in the prescribed form.
- (2) An application under sub-section (1) shall be accompanied by the prescribed information and fees.
- (3) The Institute may approve the renewal of a certificate under this section if the applicant satisfies the requirements specified in section 28(3) and 28(4) or 29(3) and 29(4), as the case may be, or refuse to approve the renewal of the certificate where the applicant does not satisfy the requirements, or is otherwise unfit to be registered.
- (4) Where the Institute refuses to renew a certificate under this section, it shall inform the applicant in writing of its refusal as soon as is reasonably practicable.
- (5) A person aggrieved by the refusal of the Institute to renew his or her certificate may within thirty days of the decision of the Institute, apply in writing to the Institute for review of the decision and such application shall set forth any facts or legal argument that would support a decision to renew his or her certificate.
- (6) The Institute shall issue a decision upholding or reversing the decision of the Institute within sixty days of receipt of the application for review.

36. Change of name or particulars

Every registered chartered accountant, practicing auditor or member firm shall, whenever there is a change in the name or particulars of such accountant or auditor or firm entered in the register of Chartered Accountants, register of Practicing Auditors and register of Member Firms, as the case may be, notify the Institute of such change within thirty days of the change occurring, in such manner as the Institute may require in its Rules.

PART VI - RULES AND COMPLIANCE**37. Rules of the Institute**

- (1) The Institute shall formulate and issue such rules as it considers appropriate to deal with matters set out in sub-section (3) and any other matter that the Institute is required to prescribe by its Rules.
- (2) The Rules shall be approved by the members of the Institute at a general meeting and shall thereafter be binding on every member of the Institute.
- (3) The Rules shall deal with matters relating but not limited to the-
- (a) terms and conditions of membership of the Institute;
 - (b) procedures for inquiring into complaints against members and for instituting disciplinary proceedings;
 - (c) circumstances, conditions and the procedure for appealing against a decision of the Institute;
 - (d) requirements for public practice;
 - (e) ethics requirements which would be set in an ongoing manner in accordance with the standards issued by the IESBA, or its successor body;
 - (f) conduct of the meetings of the Institute;
 - (g) continuous training and education requirements for both chartered accountants and practicing auditors, which should be set in an ongoing manner in accordance with the International Education Standards issued by the IAESB, or its successor body;
 - (h) establishment of classes of membership;
 - (i) imposition of fees; and
 - (j) any other matters deemed necessary for the running of the Institute.
- (4) The Rules of the Institute may from time to time, be amended as the members in general meeting may approve.

38. Disciplinary proceedings of the Institute

- (1) At the first meeting of the Council held after each Annual General Meeting of the Institute, or as soon as possible thereafter, the Council shall appoint a Disciplinary Committee consisting of-
- (a) five members of the Institute; and
 - (b) a legal practitioner who has a minimum of five years experience, nominated by the Gambia Bar Association.
- (2) The Disciplinary Committee shall have both investigation and disciplinary functions.
- (3) A person who is involved in the investigation or disciplinary function of the Institute shall not be involved in both at the same time, or in relation to the same case.
- (4) The Disciplinary Committee shall investigate-
- (a) any complaint against a member of the Institute;
 - (b) allegations of misconduct, impropriety, or material irregularity; and
 - (c) alleged breaches or violations of any law, code, rules and regulations.
- (5) Where the Disciplinary Committee has reason to believe that a professional misconduct or impropriety or a material irregularity, or contraventions or breaches of its code, rules or standards, or relevant laws and regulations may have been, are being, or may be committed, it may institute an investigation of the alleged matter.
- (6) If as a result of the investigation, it is determined in accordance with the Rules and procedures of the Institute that a hearing on the alleged matter should be held, the Disciplinary Committee shall conduct a *viva voce* hearing into the matter in accordance with the Institute's Rules and procedures.
- (7) If after the hearing, the Disciplinary Committee is of the opinion that the case under consideration has been proved wholly or in part, it shall make a finding to that effect and may by order signed by the members make any one or more of the sanctions specified in sub-section (9) against the defendant member or firm

concerned having regard to the nature and seriousness of the complaint.

- (8) All cases brought to the attention of the Disciplinary Committee shall be determined within a reasonable time limit as defined in the Rules of the Institute.
- (9) A Disciplinary Committee may impose any one or more of the following sanctions pursuant to a finding made under sub-section (7)-
- (a) a reprimand or caution;
 - (b) refusal to issue a practicing certificate or certificate of registration;
 - (c) withdrawal of a practicing certificate or certificate of registration;
 - (d) suspension of a practicing certificate or certificate of registration and from membership of the Institute for such period as shall be specified in the order;
 - (e) removal of name from the registers kept by the Institute; or
 - (f) imposition of a fine not exceeding fifty thousand dalasis.
- (10) A member or member firm whose certificate has been withdrawn or suspended, or whose name has been removed from a register under sub-section (9)-
- (a) shall not hold himself or herself out as a chartered accountant, practicing auditor, registered auditor or member firm; and
 - (b) shall be deemed to have his or her membership certificate cancelled until the period of suspension has expired or until his or her name has been restored to a register following application in writing to the Institute.
- (11) The decision of the Disciplinary Committee to suspend or remove the name of any member or member firm from the register, or to withdraw or suspend a practicing certificate or certificate of registration, shall be effective immediately, notwithstanding any appeal which may be pending.

39. Professional misconduct

(1) A member of the Institute commits the offence of professional misconduct if he or she engages in any of the acts or omissions set out below:-

- (a) allowing any other person to practice in his or her name as an accountant unless such person is also an accountant and is in partnership with or employed by such member;
- (b) entering into partnership with any person other than an accountant or securing, either through or by means of a person not qualified to be an accountant or by means which are not open to an accountant, any professional business;
- (c) soliciting clients or professional work in a manner other than that approved by the Institute and as communicated to members from time to time;
- (d) advertising professional attainment or services in a manner other than that approved by the Institute and as advised to members from time to time;
- (e) disclosing information acquired in the course of a professional engagement without the consent of the client, except as required by any law for the time being in force;
- (f) certifying or submitting in his or her name or in the name of his or her firm a report of an examination of financial statements (unless the examination of such statements) and the related records have been made by him or her or a partner or employee in his or her firm;
- (g) expressing an opinion on financial statements of any business or any enterprise in which he or she, or his or her immediate family, firm or a partner in his or her firm has an interest;
- (h) charging in respect of any professional employment, other than customary, fees which are based on a percentage of profits or which are contingent on

results;

- (i) failing to disclose a material fact known to him or her, which is not disclosed in the financial statements, but disclosure of which is necessary for the financial statements to show a true and fair view;
- (j) failing to report a material misstatement known to him or her which appears in the financial statements with which he or she is concerned in a professional capacity;
- (k) failing to obtain sufficient information to warrant the expression of an audit opinion;
- (l) failing to keep the funds of a client in a separate bank account or failing to use such funds for purposes for which they are intended;
- (m) including in any statement, return or form to be submitted to the Institute any particulars known to be false;
- (n) carrying on the business of an accountant through a body corporate in breach of any of the above provisions;
- (o) carrying on the business of an accountant, without having obtained a practicing certificate;
- (p) criminal activity;
- (q) gross negligence in the conduct of professional duties;
- (r) a number of less serious instances of professional negligence that, cumulatively, may indicate unfitness to exercise practicing rights;
- (s) breaches of professional standards;
- (t) unsatisfactory work;
- (u) breaching the provisions of the rules of professional conduct as adopted by the Council from time to time in full compliance with the Code of Ethics for professional accountants issued by the IESBA, or its

successor body; and

- (v) generally, doing any act which is likely to bring the profession of accountancy or the institute into disgrace, contempt or disrespect.
- (2) For the purpose of this Act, "immediate family" includes a spouse (including a common law spouse), minor children (including adopted or foster children), father and mother.

40. Appeals from a decision of the Council and Disciplinary Committee

A member or member firm aggrieved by a decision of the Disciplinary Committee under section 38, may appeal to the High Court in accordance with the rules of that Court.

PART VII - STANDARDS OF PRACTICE FOR ACCOUNTANTS AND AUDITORS

41. Auditor's report and opinion

(1) A person acting in the capacity of practicing auditor or registered auditor to an entity shall not, without such requirements as may be appropriate in the circumstances, in pursuance of any audit carried out by him or her in that capacity, certify, report or express an opinion to the effect that any financial statements, including any annexure thereto, which relates to such entity, presents fairly or gives a true and fair view of, or reflects correctly the affairs of such entity and the results of its operations or the matters dealt with in such financial statement or annexure as the circumstances may require, unless -

- (a) the audit was carried out free of any restrictions whatsoever;
- (b) proper accounting records have been kept in The Gambia in connection with the entity, so as to reflect and explain all its transactions and record all its assets and liabilities correctly and adequately;
- (c) the auditor has obtained all information, vouchers and other documents which in his or her opinion were necessary for the proper performance of the audit;
- (d) in the case of an entity regulated by any written law,

the auditor complied with all the requirements of that law relating to the audit of that entity;

- (e) the auditor has by means of such methods as are reasonably appropriate having regard to the nature of the entity satisfied himself or herself of the existence and location of material assets and liabilities shown on such financial statements or annexure;
- (f) as far as is reasonably practicable having regard to the nature of the entity and of the audit carried out, the auditor is satisfied as to the fairness or the truth or the correctness, as the case may be, of such financial statements or annexure;
- (g) any matter referred to in this section had at the date on which the auditor certified or reported or expressed such opinion, been adjusted to his or her satisfaction; or
- (h) reports from branches not visited are accurate and consistent with underlying records.
- (2) A chartered accountant, practicing auditor or registered auditor shall not, when acting otherwise than in pursuance of an audit, certify, report or express an opinion without such qualification as may be appropriate in the circumstances, to the effect that any account, financial statement (including any annexure thereto) or other document relating to the business or financial affairs of any entity, presents fairly or gives a true and fair view of, or reflects correctly, the matters dealt with therein unless he or she has, mutatis mutandis, complied with the provisions of paragraphs (a), (c), (f) and (g) of sub-section (1).

(3) Where, in the annual report of an entity, it discloses the extent of compliance with any regulatory requirements to which the entity or its officers and directors are subject, the practicing auditor or registered auditor shall report whether the disclosure is consistent with such other regulatory requirements.

42. Time period for opinion

- (1) Any certificate required to be given or report to be made or opinion to be expressed by a chartered accountant, practicing auditor or registered auditor pursuant to any assignment carried out

by him or her shall be given, made or expressed within a period of four weeks after the date on which the assignment was completed.

(2) If such accountant or auditor is unable to give an unqualified certificate or make an unqualified report or express an unqualified opinion, he or she shall within the period specified in sub-section (1) give that certificate or make that report or express that opinion subject to such qualifications as he or she may deem necessary, and may if he or she considers it advisable, endorse on that certificate, report or opinion the reason for any such qualification.

43. Material irregularity

(1) If a person acting in the capacity of a chartered accountant, practicing auditor or registered auditor to an entity is satisfied or has reason to believe that in the conduct of the affairs of such entity, a material irregularity has taken place, which irregularity has caused or is likely to cause financial loss to the undertaking or to any of its members or creditors, he or she shall without delay-

- (a) notify in writing, the officers, partners or all the members of the board of the entity, as appropriate, of the irregularity, by giving particulars of the irregularity; and
- (b) request every person referred to in paragraph (a), either individually or collectively, to-
 - (i) acknowledge receipt, in writing, of the notice, or
 - (ii) take such actions as he or she may deem necessary.

(2) Unless within thirty days after a chartered accountant, practicing auditor or registered auditor has dispatched such a report, he or she has been satisfied by information received that no such irregularity has taken place or is taking place or that adequate steps have been taken for the recovery of any loss caused as aforesaid or for the prevention of any such loss likely to be caused, he or she shall forthwith furnish the Institute with copies of the report and of any acknowledgement of receipt or reply thereto and such other particulars as he or she may deem fit.

(3) The Institute may disclose to the Attorney General, a Public Officer, a member or creditor of the undertaking concerned any information furnished to it pursuant to sub-section (2).

(4) For the purpose of determining whether any irregularity contemplated by this section has taken place or is taking place, an auditor may carry out such investigations as he or she may deem fit.

(5) Nothing in this section shall be construed as conferring upon any person a right of action against a chartered accountant, practicing auditor or registered auditor which, but for the provision of this section, he or she would not have had.

44. Material irregularity prior to bankruptcy

If a person who was acting in the capacity of a chartered accountant, practicing auditor, or registered auditor regarding any entity immediately prior to its bankruptcy or liquidation (whether provisional or final), is satisfied or has reason to believe that at or before the date of the bankruptcy or liquidation, as the case may be-

- (a) a material irregularity in the conduct of the affairs of such entity was taking or had taken place, which irregularity had caused or was likely to cause financial loss to the entity or to any of its members or creditors; and
- (b) such person did not comply with the provisions of sub-section (1)(b)(ii) of section 43 in respect of such irregularity before the said date,

he or she shall forthwith dispatch a report in writing giving particulars of such irregularity to the person appointed as trustee or provisional trustee or as liquidator or provisional liquidator, as the case may be, of such entity and at the same time supply copies of such report to the person in charge of such entity and to the Institute.

45. Independence of Auditors

(1) A practicing auditor or registered auditor shall carry out his or her functions in full independence and shall not-

- (a) act in any manner contrary to any code of professional conduct and ethics adopted by the Institute; and
- (b) engage in any activity that is likely to impair his or her objectivity and professional independence as an auditor.

(2) If a chartered accountant, practicing auditor, registered auditor or his or her partner, a person employed by him or her or his or her partner or a person working under his or her supervision and control or under the supervision and control of his or her partner was responsible for keeping the books, records or accounts of any entity, except to the extent of making closing entries or assisting with any adjusting entries or framing any balance sheet, accounts, statement or other document from existing records, such accountant or auditor shall in certifying or reporting on anything in connection with the business or financial affairs of such entity, indicate that he or she or his or her partner or a person working under his or her supervision and control or under the supervision and control of his or her partner, as the case may be, was responsible for keeping such books, records or accounts.

46. Conflict of interest

Where a practicing auditor, registered auditor or an audit firm considers that it may have a conflict of interest or lack objectivity or professional independence in relation to an entity for which such registered auditor, practicing auditor or audit firm has been engaged as a practicing auditor or registered auditor, such auditor or firm shall withdraw from auditing such entity.

47. Violations

(1) If a person who has been registered as a chartered accountant, practicing auditor or registered auditor-

- (a) fails to perform a duty imposed on him or her to any entity with such a degree of care and skill as in the opinion of the Institute or the Board may reasonably be expected; or
- (b) is, on the basis of prima facie evidence presented to the Institute, pursuant to the provisions of this Act, found to be negligent in the performance of such duty,

the Investigation Committee of the Institute may, whether or not such chartered accountant, practicing auditor or registered auditor is liable to be or has been criminally charged or has been convicted in respect of such failure or negligence, commence its own inquiry on its own initiative and enquire into the circumstances, and if such failure or negligence is proved to its satisfaction, the Disciplinary Committee may impose on that person any of the penalties prescribed under section 38(9).

(2) An action shall not be instituted against a person registered as a chartered accountant or practicing auditor under this Act in respect of any opinion expressed or certificate given or report or statement made or statement, account or document certified by him or her in the ordinary course of his or her duties, unless it is proved that such opinion was expressed or such certificate was given or such report or statement was made or such statement, account or document was certified maliciously, negligently or with fraudulent intent.

(3) In carrying out his or her duties under this section, a chartered accountant, practicing auditor or registered auditor shall adhere to the provisions of the Code of Conduct promulgated by the Institute.

PART VIII - FINANCIAL REPORTING OVERSIGHT BOARD

48. Establishment of the Gambia Financial Reporting Oversight Board

(1) There is established by this Act, the Gambia Financial Reporting Oversight Board.

(2) The Board shall be an agency of the Government of The Gambia.

49. Functions and Authority of the Board

The functions of the Board are to-

- (a) supervise the activities of the auditing profession;
- (b) ensure that the activities undertaken by the Institute are conducted in accordance with the standards and other requirements set by IFAC and its various organs;
- (c) oversee the functioning of the quality assurance review system which may be established to ensure the good quality of audit and assurance services provided by practicing auditors, member firms of the Institute and public auditors;
- (d) monitor compliance and enforce the corporate governance standards for public interest entities issued by the Standards Committee; and

- (e) monitor compliance of public interest entities with the provisions of this Act.

50. Composition of the Board

(1) The members of the Board shall be appointed in accordance with section 175 of the Constitution and shall consist of-

- (a) the Governor of the Central Bank;
- (b) the Auditor General;
- (c) the Director, Directorate of National Treasury;
- (d) two non-practicing experienced chartered accountants nominated by the Institute;
- (e) a legal practitioner nominated by the Gambia Bar Association; and
- (f) one business person nominated by the Gambia Chamber of Commerce and Industry.

(2) The members of the Board appointed under sub-section (1)(a) (b) and (c) may appoint an alternate from the senior management of their institutions as permanent representatives to attend and vote at meetings of the Board in their absence.

(3) The members of the Board shall elect from among their number the Chairperson of the Board.

51. Term of office of members of the Board

Members of the Board appointed under paragraph (d), (e) and (f) of section 50(1) shall hold office for a period of three years and shall be eligible for re-appointment for a further term of three years once.

52. Administration

(1) The Board, with the approval of the Minister, shall within four months of its establishment, appoint a Chief Executive Officer to administer the affairs of the Board.

(2) The Chief Executive Officer, in addition to being accountable to the Board for the proper administration and management of the

functions and affairs of the Board, in accordance with the policies laid down by the Board, shall –

- (a) be responsible for the day to day operations of the Board;
- (b) recruit such employees and consultants on such terms and conditions as may be approved by the Board for the effective and efficient performance of the functions of the Board; and
- (c) prepare the budget and program of activities of the Board for approval.

(3) The Chief Executive Officer may with the approval of the Board, delegate any of his or her functions and any power delegated to him or her under sub-section (2), to such employees as may be designated by the Minister to provide administrative support to the Board.

(4) The Chief Executive Officer shall unless otherwise excused by the Board, attend every meeting of the Board.

(5) A Board member, an executive officer or employee of the Board shall not engage or continue in any profitable pursuit or engage in any activity outside the Board that is in conflict with his or her duties and responsibilities to the Board.

(6) The activity referred to under sub-section (5) shall be disclosed to the Board for a determination as to the existence of a conflict.

(7) Persons providing the administrative services to the Board shall be employees of a government agency designated by the Minister.

(8) Remuneration of the members of the Board shall be determined by the Minister.

(9) In addition to the persons specified in sub-section (7), the Board may use executives and employees of the Institute to conduct its work with the approval of the Council.

53. Funds of the Board

The Board shall derive its funds from-

- (a) funds allocated to it by the Government;
- (b) grants and donations that the Board may receive, upon approval of the Minister;
- (c) fees from registration by public interest entities and registered auditors; and
- (d) such other sources as may be approved by the Minister.

54. Annual reporting by the Board

- (1) The Board shall prepare for each financial year, a financial report pursuant to the rules for agencies of the Government.
- (2) The annual report for a financial year shall report on the Board's operations and affairs during the year, including the outcomes of the Quality Assurance reviews undertaken by the Board.
- (3) The Auditor General shall, if the Minister so directs, examine and report on the accounts of the Board on any aspects of its operations, and the Board shall give the Auditor General all necessary facilities for that purpose.
- (4) The Board shall within three months after the end of a financial year, submit to the Minister a copy of the financial statements and the annual report for the financial year, and a copy of the Auditor General's report on the financial statements and the Minister shall cause both reports to be laid before the National Assembly.

55. Annual budget

The Board shall prepare and submit to the Minister for consideration and approval, in such form and at such time, not later than three months before the commencement of each financial year, as may be prescribed-

- (a) a budget in respect of the ensuing financial year that sets forth the Board's estimated receipts and expenditures and the sums which are likely to be

required by it from the Government during the ensuing financial year; and

- (b) a business plan and its strategy and activity program.

56. Immunity of Board members and Staff

An action, a suit or other proceedings shall not be brought or instituted personally against any member of the Board, the Chief Executive Officer or any person providing administrative services to the Board or quality review services for the Board in respect of any act done in good faith in the course of carrying out his or her duties under this Act.

57. Registration of Public Interest Entities

- (1) The Board shall issue an annual list of all entities that are public interest entities in The Gambia.
- (2) All public interest entities shall register with the Board annually.
- (3) The procedure and fees for registration shall be set forth in rules issued by the Board.

58. Registration of Auditors of Public Interest Entities

- (1) Notwithstanding anything contained in the Companies Act or any other law, a person shall not hold any appointment or offer any services for remuneration as an auditor of a public interest entity, unless he or she is registered by the Board as a registered auditor under this Part.

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- (2) An application to practice as a registered auditor may be made by any person holding a practicing certificate issued by the Institute in such form as may be prescribed.

- (3) An application made under sub-section (2) may be accompanied by such fees and information as may be determined by the Board in its rules.

- (4) Where, after consideration of an application, the Board is satisfied that the applicant -

- (a) is a practicing auditor registered as such by the Institute;
- (b) is a fit and proper person in accordance with the rules of

the Board;

- (c) is a member or employee of a firm and has provided evidence that the firm's quality assurance procedures are appropriate; and
 - (d) meets such requirements as may be specified in the rules and codes of the Board,
- the Board shall register the applicant entitling him or her to practice as an auditor of a public interest entity.
- (5) The Board shall enter the name of the registered auditor and such additional relevant information as it may require, in a Roll of Registered Auditors to be established by the Board.
 - (6) The Board may refuse to register an applicant as a registered auditor where the applicant—
 - (a) does not satisfy the requirements specified in sub-section (4) above;
 - (b) has had his or her licence or approval to practice as an auditor withdrawn, suspended, cancelled or revoked in any country; or
 - (c) is otherwise unfit to be registered as a registered auditor.

59. Certificate of registration

- (1) The Board shall issue to a person who has been registered as a registered auditor pursuant to section 58, a certificate of registration as a registered auditor in the form as may be prescribed.
- (2) A certificate of registration issued in terms of sub-section (1) shall be valid for a period of twelve months.
- (3) A person who is registered under the provisions of this Part may describe himself or herself as a registered auditor and shall be entitled to use the designation "Registered Auditor (The Gambia)".

60. Renewal of registration

- (1) A registered auditor who wishes to renew his or her registration shall not later than three months before its expiration, make a written application to the Board in the form and manner as may be

prescribed by the Board.

- (2) Where the Board is satisfied that the applicant continues to meet the requirements for registration, the Board shall renew the registration.
- (3) The Board may refuse to renew the registration of a registered auditor where the applicant —
 - (a) does not satisfy the requirements specified in section 58(4);
 - (b) has had his or her licence or approval to practice as an auditor withdrawn, suspended, cancelled or revoked in any country; or
 - (c) is otherwise unfit to be registered as a registered auditor.
- (4) Where the Board has not dealt with an application for the renewal of registration under sub-section (2) or (3) before its expiration, the registration shall continue to be in force until the application for renewal is dealt with and any renewal in such case shall be taken to have commenced from the day when the registration would have expired, but for the renewal.

61. Practice in firm with approved name

- (1) A registered auditor who wishes to practice in the name of a firm shall apply in writing to the Board in a form and manner as may be prescribed by the Board.
- (2) The Board may require an application made under sub-section (1) to be accompanied by such fees and information, including a description of the quality control standards implemented by the firm, as may be prescribed by the Board in its rules.
- (3) The Board may before registering the name of an audit firm, review the quality of its public interest entity audits, including the quality control standards implemented in the firm's audit and assurance practice.
- (4) Where in a firm a registered auditor provides auditing services in partnership with other persons in the firm, as part of his or her application for the registration of the name, the registered auditor shall submit to the Board in accordance with the rules of the Board the names of partners who are —

- (a) registered auditors; and
- (b) not registered auditors.

(5) A firm whose name is approved in terms of this section shall inform the Board forthwith of any changes with respect to the partners under paragraph (a) and (b) of sub-section (4).

(6) Where a registered auditor or any other partner resigns or joins a firm, he or she shall forthwith inform the Board in writing of that fact in accordance with the rules of the Board.

62. Review of denial of registration

(1) Where the Board refuses to register a practicing auditor as a registered auditor under sections 58 or 60 or to approve the name of a firm under section 61, it shall by notice in writing, inform the applicant of its determination refusing registration as soon as practicable, but not later than five days after such determination.

(2) An applicant who wishes to apply for a review of the Board's refusal to register him or her or approve the name of a firm shall, within thirty days of receiving notification of the refusal, submit an application for review in writing, to the Board, specifying the grounds for the application, including any facts or legal analyses that may contradict or mitigate the refusal to register or approve a name.

(3) Whenever such application is received, the Board shall issue a decision in writing, either to affirm or to review the refusal and to register the auditor or approve the name within thirty days, and shall forthwith notify the applicant in writing of its decision.

63. Information to be furnished to public

(1) A person who is registered as a registered auditor under this Act shall, subject to the provisions of sub-section (3)-

- (a) notify the Institute, the Board and every person for whom he or she or his or her firm acts as auditor, of any change in the name, composition or address of such firm within fourteen days after the date on which such change takes place; and
- (b) furnish the following information within fourteen days after receiving a request from any person for whom he

or she or his or her firm acts as auditor or who proposes to appoint him or her or his or her firm as auditor-

- (i) every firm name or title under which he or she practices;
- (ii) the place or places of business of all partnerships in which he or she is in public practice as a partner;
- (iii) the full names of all his or her partners; and
- (iv) his or her nationality, forenames or the initial thereof, surname and every surname which he or she may have borne previously, and his or her ordinary business or residential address.

(2) When two or more persons are practicing in partnership, the particulars referred to in sub-section (1) may be furnished in a communication by or in the name of the firm and any such communication shall be regarded as sufficient compliance by the individual partners of that firm with the provisions of that sub-section.

(3) For the purposes of sub-section (1), the expression "every surname which he or she may have borne previously" does not include-

- (a) in the case of a person adopted as a child, his or her surname before his or her adoption;
- (b) in the case of any person, a surname previously borne by him or her which was changed or disused before he or she attained the age of eighteen years or has been changed or disused for a period of not less than twenty years; or
- (c) in the case of a married or divorced woman or a widow, the surname borne by her before her marriage.

64. Change of name

Every registered auditor and registered audit firm shall, where there is a change in the name or particulars of the auditor or firm, as the case may be, recorded in the Roll of Registered Auditors, notify the

Board of such change within thirty days of the change occurring in accordance with the rules of the Board.

65. Quality assurance review of Auditors

- (1) The Board or any of its officers, other countries' accountancy regulatory agencies, regional and sub-regional accountancy bodies and other international accountancy bodies authorised by the Board in writing, may conduct a quality assurance review of the practice of a public auditor for ensuring compliance with quality control and other relevant standards.
- (2) The Institute, or any officer authorised by the Institute in writing, may conduct a quality assurance review of the practice of a practicing auditor for ensuring compliance with quality control and other relevant standards.
- (3) For the purposes of sub-sections (1) and (2), the entities and persons authorised to conduct a quality assurance review may-
 - (a) inspect any relevant book, audit working papers and files, document and record in the possession or under the control of the auditor, his or her partner, employee or associated persons and make copies of or take any abstract of or extract from any such book, document and record; and
 - (b) seek information or clarification from any partner, employee or associated person of the auditor.
- (4) Subject to sub-section (3), every practicing auditor, registered auditor, his or her partner, employee or associated persons shall at the request of the Institute, Board or any officer authorised by either of them in writing, produce any relevant book, audit working papers and files, document or record in his or her possession or under his or her control for the purposes of sub-sections (1) and (2).
- (5) A practicing auditor, registered auditor, a partner, employee or associated person of such practicing auditor or registered auditor who without reasonable cause, conceals information or fails or refuses to produce any relevant book, document or record in his or her possession or under his or her control pursuant to a request made in accordance with sub-section (3) commits an offence and is liable on conviction to a fine not exceeding ten thousand dalasis or to imprisonment for a term not exceeding one year, or to both.

PART IX - ACCOUNTING AND AUDITING STANDARDS

66. The Gambia Accounting, Auditing and Corporate Governance Standards Committee

- (1) The Board shall establish The Gambia Accounting, Auditing, and Corporate Governance Standards Committee.
- (2) The Standards Committee shall comprise-
 - (a) five members elected by the Institute from among its members in accordance with the Rules of the Institute; and
 - (b) four members appointed by the Board.
- (3) The Board shall provide logistical, technical and administrative support for the activities of the Standards Committee.
- (4) The Standards Committee shall be independent in its decision-making and the standards issued by it shall not be subject to approval by any other entity, including the Board.

67. Accounting standards

- (1) The Standards Committee shall-
 - (a) adopt, issue, and keep up-to-date accounting standards and ensure that they are in full compliance with the IFRS and interpretations respectively issued by the International Accounting Standards Board and IFRS Interpretations Committee;
 - (b) adopt, issue and keep up to date public sector accounting and reporting standards and ensure that they are in compliance with pronouncements made by IPSASB
 - (c) adopt, issue and keep up-to-date a separate simplified financial reporting framework and standards for small and medium enterprises in conformity with IFRS for small and medium enterprises;
 - (d) adopt, issue and keep up to date accounting reporting standards for sharia-based financial institutions in line

with standards issued by the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIF) or other internationally accepted sharia standard setting organization recognized by the Standards Committee; and

(e) issue appropriate implementation guidelines to facilitate common adoption of standards.

(2) The Standards Committee may-

(a) define in its rules, the entities that shall be exempt from the standards issued pursuant to sub-section (1)(c) for small and medium enterprises;

(b) with the approval of the Board, participate in cooperative arrangements with qualified agencies of other governments, including those of other countries' accountancy regulatory agencies, regional and sub-regional accountancy bodies, international accountancy bodies, and other international institutions in the development of financial reporting, accounting and auditing standards to assist it in performing the functions described in sub-section (1); and

(c) assist the Institute in developing the pre-qualification and continuous professional development requirements of the Institute so that they address financial reporting standards and assist the members of the Institute with the implementation of the standards.

(3) Every chartered accountant shall, in the preparation of financial statements, comply with the Financial Reporting Standards adopted by the Standards Committee.

68. Auditing standards

(1) The Standards Committee shall adopt, issue, and keep up-to-date, auditing standards, and ensure that they are consistent with international auditing and assurance pronouncements issued by the IAASB, or its successor body.

(2) The Standards Committee may issue rules and guidelines for the purpose of implementing the auditing standards adopted by it.

(3) Every practicing auditor and registered auditor shall, in the exercise of his or her profession, comply with-

(a) auditing standards issued by the Standards Committee; and

(b) any rule, regulation, code or guideline issued under this Act.

(4) The Standards Committee may-

(a) with the approval of the Board, participate in cooperative arrangements with qualified agencies of other governments, including those of other countries' accountancy regulatory agencies, regional and sub-regional accountancy bodies and other international accountancy bodies, to assist it in performing the functions described in sub-sections (1) and (2); and

(b) assist the Institute in developing education and continuous professional development requirements that address auditing standards and assist the members of the Institute with the implementation of the standards.

69. Quality control standards

(1) The Standards Committee shall adopt, issue, and keep up-to-date quality control standards, and ensure that they are consistent with the International Standard on Quality Control (ISQC) issued by the IAASB or its successor body.

(2) The Standards Committee may issue rules and guidelines for the purpose of implementing the quality control standards adopted by it.

(3) Every practicing auditor and registered auditor shall, in the exercise of his or her profession, comply with quality control standards issued by the Standards Committee.

(4) The Standards Committee may-

(a) with the approval of the Board, participate in cooperative arrangements with qualified agencies of other governments, including those of other countries' accountancy regulatory agencies, regional and sub-

regional accountability bodies and other international accountability bodies, to assist it in performing the functions described in sub-sections (1) and (2); and

- (b) assist the Institute in developing education and continuous professional development requirements that address quality control standards and assist the Members with the implementation of the standards.

70. Corporate governance standards

- (1) The Standards Committee shall adopt, issue, and keep up-to-date the corporate governance standards applicable for public interest entities and ensure that they are consistent with internationally accepted principles on corporate governance.
- (2) The Standards Committee may issue additional guidelines to support the development of good corporate governance.
- (3) Every public interest entity shall ensure that it complies with the applicable corporate governance standards.
- (4) The Standards Committee may assist the Institute in developing education and continuous professional development requirements that address corporate governance standards issued under this section.

71. Publication of standards

- (1) Where the Standards Committee intends to publish or amend any financial reporting, auditing or quality control standards, it shall cause a notice to be published and shall invite comments on draft standards from all interested persons.
- (2) A person who wishes to submit any comment shall, within sixty days of the last date of the publication specified in sub-section (1), submit his or her comments in writing to the Standards Committee.
- (3) The Standards Committee may in deciding whether to approve the standards or their amendments, take into account any comment submitted under sub-section (2).

PART X - COMPLIANCE AND MONITORING

72. Compliance by Reporting Entities

Notwithstanding the provisions of any other enactment, where an entity is required to prepare any financial statement or report under any enactment, it shall ensure that the financial statement or report is in compliance with the-

- (a) financial reporting standards issued by the Standards Committee under section 67, 68 and 70; and
- (b) codes, rules or regulations of the Institute and the Board.

73. Monitoring of financial statements and reports

- (1) Where an entity is required under any enactment to file its financial statements and reports with a government department or authority, the relevant government department or authority, or any officer authorised by it in writing, shall review the financial statements and reports of the entity filed with the government department or authority to determine whether the financial statements and reports are in compliance with this Act.
- (2) The relevant government department or authority, or any officer authorised by it in writing, may seek further information or clarification from-

- (a) any officer or director of a reporting entity;
- (b) any employee of a reporting entity responsible for preparing the financial statements and reports; and
- (c) any auditor or audit firm responsible for the audit of the financial statements of that reporting entity.

74. Monitoring of financial statements and reports of Public Interest Entities

- (1) The Board or any officer authorised by it in writing, may review the financial statements and reports of a Public Interest Entity to determine whether the financial statements and reports are in compliance with this Act.
- (2) Where a Public Interest Entity files any general purpose financial

statement or report with any government department or authority, the entity shall also file a copy of the financial statement and report with the Board, in such manner as may be required in the rules of the Board.

(3) The Board or any officer authorised by it in writing, may seek further information or clarification from --

- (a) any officer or director of a public interest entity;
- (b) any employee of a public interest entity responsible for preparing the financial statements and reports of that public interest entity; and
- (c) any auditor or audit firm responsible for the audit of the financial statements of that public interest entity.

(4) The Board may require the filing of any such financial statement or report to be accompanied by such fees and such information as it deems fit.

(5) If an officer, director, or employee of a reporting entity, or an auditor of a reporting entity, without reasonable cause, conceals information or refuses to provide further information or clarifications, he or she commits an offence and is liable on conviction to a fine not exceeding ten thousand dalasis or to imprisonment for a term not exceeding one year or to both.

(6) The Board shall publish quarterly and annually in the Gazette, its findings as to whether the financial statements of Public Interest Entities that were reviewed by the Board during the relevant time period are in compliance with this Act.

(7) The Minister may by notice published in the Gazette for public interest purposes, exempt any reporting entity from the provisions of this section.

75. Delegation of authority

(1) Subject to the provisions of sub-sections (2) and (3), the Board may delegate to the Chief Executive Officer or, a Technical Department or a Committee of the Institute, such of its functions and powers as may be necessary to assist in the effective and efficient management of the Board.

(2) In the absence of the Chief Executive Officer, the functions

and powers delegated to the Chief Executive Officer under sub-section (1) shall be exercised by such employee or employees as may be designated by the Board for that purpose.

(3) The Board may amend or revoke the delegation of its powers and functions made under sub-sections (1) and (2).

76. Rules by the Board

(1) Subject to sub-section (3), the Board may make administrative rules in respect of all matters that by this Act are required or permitted to be made by the Board.

(2) The Board shall ensure that a copy of its rules and of any amendments thereto is available for inspection without charge, or for purchase, by members of the public in every office or premises of the Board.

(3) The rules made by the Board shall be subject to the approval of the Minister, and shall be binding on the Board, all members and all persons to whom the rules apply.

77. Referrals of possible violations to the Institute

Whenever it appears to the Board that there is prima facie proof of conduct on the part of a current or former practicing or registered auditor which violates this Act or the rules and regulations thereunder, the Board may report such conduct to the Chief Executive Officer of the Institute for investigation, and if appropriate, disciplinary action by the Institute under the terms of its disciplinary powers.

PART XI – MISCELLANEOUS PROVISIONS

78. Publications

The Institute shall-

- (a) periodically publish a Bulletin that contains such information the Institute deems necessary;
- (b) maintain an electronic homepage and publish an e-bulletin that contains such information the Institute deems necessary; and
- (c) cause to be published in its Bulletin, on its homepage,

or e-bulletin, the decisions of the Institute whether with respect to the registration of members, the discipline of its members or other activities of the Institute.

79. Regulations

The Minister may on the advice of the Institute, make regulations for the better carrying into effect of the purpose of this Act.

80. Transitional provisions

(1) Any person who on the effective date is-

- (a) resident and working in The Gambia; and
- (b) a member in good standing of an Institute or an association of accountants which is recognised by the Institute,

shall register as a member of the Institute within ninety days from the effective date.

(2) Notwithstanding anything contained in sub-section (1), every person who-

- (a) immediately before the effective date, is a member in good standing of a professional accountancy organisation recognised by the Institute shall upon providing evidence of such membership to the Institute within three months of the effective date, be deemed to be registered as a chartered accountant under this Act; and
- (b) additionally, is offering audit and assurance services to the public may continue to offer such audit and assurance services without being registered as a practicing auditor or registered auditor under this Act-
 - (i) during the period of six months beginning with the effective date, or
 - (ii) where, an application for registration as a practicing auditor or registered auditor is made within that period, until that application is finally disposed of or withdrawn.

81. Compliance with this Act

(1) From the effective date, all financial reporting authorised to be made under any law for the time being in force by any entity shall be made in full compliance with this Act and the standards prescribed under this Act.

(2) Where there is any conflict between this Act or any standards set hereunder in regard to financial reporting, with any financial reporting requirements of any other enactment or subsidiary legislation made thereunder, the provisions of this Act and the standards set hereunder shall prevail and shall be given effect accordingly.

82. Repeal and savings

(1) The Accountants Act, 1991 is hereby repealed and the Accountants Council established under the Accountants Act is dissolved.

[cap 51:07]

(2) Sections 143 to 159 and Schedule Eight and Nine of the Companies Act are hereby repealed with effect from such date as the Minister shall appoint by Order published in the Gazette.

[Cap 94:01]

- (3) Notwithstanding the repeal of the Accountants Act-
- (a) any subsidiary legislation made under the repealed Act in so far as it is not inconsistent with this Act, shall remain in force until it is amended or repealed;
 - (b) any certificate or other authorisation issued under the repealed Act is considered issued under this Act;
 - (c) any action, proceeding, judgment or order pending immediately before the commencement of this Act to which the Accountants Council established under the repealed Act was a party, may be continued and enforced by or against the Institute established under this Act;
 - (d) any complaint, investigation or disciplinary process pending before the Council immediately before the effective date shall be continued under this Act; and

- (e) all rights, assets, funds and liabilities of the dissolved Accountants Council existing immediately before the effective date are hereby transferred to the Institute.

PASSED in the National Assembly this Second day of July
in the year of Our Lord Two Thousand and Thirteen.

D. C. M. Kebbeh
Clerk of the National Assembly

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill
which has passed in the National Assembly and found by me to be a true and
correct copy of the said Bill

D. C. M. Kebbeh
Clerk of the National Assembly