

**FINANCIAL REPORTING ACT**

Act 45 of 2004 – 20 January 2005

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**FINANCIAL REPORTING ACT**

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Financial Reporting Act.

**2. Interpretation**

In this Act—

“annual report” has the same meaning as in the Companies Act;

“annual revenue” means revenue accruing over the preceding 12 months;

“approved auditor” has the same meaning as in the Companies Act;

“audit” has the same meaning as in the International Federation of Accountants (IFAC) Code of Ethics for Professional Accountants;

“audit firm” means a firm which provides audit services;

“auditing standards” means the auditing standards adopted by the IAASB;

“Chief Executive Officer” means the Chief Executive Officer referred to in section 14;

“code” means a code of practice or such other code as may be issued by the Council;

“Code of Corporate Governance” means the Code of Corporate Governance issued by the National Committee on Corporate Governance under Part V;

“Code of Professional Conduct and Ethics” means the Code established under section 46;

“Council” means the Financial Reporting Council established under section 3;

“director” —

- (a) has the same meaning as in section 128 of the Companies Act; and
- (b) includes a member of the Board of a State-owned enterprise;

“entity” means any person or body of persons, whether incorporated or unincorporated;

“financial reporting and accounting standards” means the financial reporting and accounting standards issued by the Council under section 72;

“financial statement” has the meaning assigned to it in the International Financial Reporting Standards (IFRS) adopted by the IASB;

“financial year” has the meaning assigned to it by section 2A of the Finance and Audit Act;

“FIU” has the same meaning as in the Financial Intelligence and Anti-Money Laundering Act;

“IASB” means the International Accounting Standards Board or its successor body;

“IAASB” means the International Auditing and Assurance Standards Board as its successor body;

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

“IFRS” means the International Financial Reporting Standards issued by the IASB and any standards issued by the Board or its successor;

“independence” means the independence of mind and the independence in appearance;

“independence in appearance” means the avoidance of facts and circumstances that are so significant that a reasonable and informed third party, having knowledge of all relevant information, including any safeguard applied, will reasonably conclude that the integrity, objectivity or professional scepticism of a firm or member of the audit team had been compromised;

“independence of mind” means the state of mind that permits the provision of an opinion without being affected by influences that compromise professional judgment, allowing an individual to act with integrity, and exercise objectivity and professional scepticism;

“International Standards on Auditing” means auditing standards issued by the IAASB;

“licensed auditor” means a person who is issued a licence under section 33;

“listed company” has the same meaning as in the Companies Act;

“Mauritius Institute of Directors” means the Mauritius Institute of Directors set up by the National Committee on Corporate Governance under section 65;

“Mauritius Institute of Professional Accountants” means the Mauritius Institute of Professional Accountants established under section 44;

“member of the Mauritius Institute of Professional Accountants” means a person registered as a professional accountant under section 51;

“Minister” means the Minister to whom responsibility for the subject of corporate affairs is assigned;

“National Committee on Corporate Governance” means the National Committee on Corporate Governance established under section 63;

“non-compliance” means any act of omission or commission by an entity or a licensed auditor, either intentional or unintentional, which is contrary to any law, regulation, rule, code or standard;

“officer”, in relation to a public interest entity—

- (a) means a person who is responsible for the preparation of financial statements; and
- (b) includes the Director, the Chief Executive Officer and the Chief Financial Officer;

“Official Bulletin” means the official journal of the Council;

“practice”, in relation to an auditor, means the practice of the auditor or audit firm;

“professional accountancy body” means—

- (a) the Institute or Association specified in section 51 (2); and
- (b) such other accountancy body as the Mauritius Institute of Professional Accountants may recognise;

“professional accountant” means a person registered as such under section 51 (5);

“professional services” means services provided by a professional accountant—

- (a) requiring accountancy or related skills;
- (b) relating to auditing, taxation, management consulting and financial management;

“public accountant” means a professional accountant registered as such under section 52;

“public interest entity”—

- (a) means an entity specified in the First Schedule; but
- (b) does not include the holder of a Category 1 Global Business Licence issued under the Financial Services Act;

“relevant enactment” means—

- (a) the Banking Act;
- (b) the Companies Act;
- (c) the Financial Services Act;
- (d) the Statutory Bodies (Accounts and Audit) Act;

“revenue” has the same meaning as in the IFRS;

“State-owned enterprise”—

- (a) means an entity which operates in the public sector to meet a political, a social or an economic objective; and
- (b) includes every entity specified in the First Schedule.

[S. 2 amended by s. 10 (a) of Act 18 of 2008 w.e.f. 19 July 2008; s. 16 (a) of Act 14 of 2009 w.e.f. 30 July 2009; s. 12 (a) of Act 27 of 2012 w.e.f. 22 December 2012; s. 18 (a) of Act 27 of 2013 w.e.f. 21 December 2013; s. 23 (a) of Act 18 of 2016 w.e.f. 7 September 2016.]

## **PART II – ESTABLISHMENT OF FINANCIAL REPORTING COUNCIL**

### **3. Financial Reporting Council**

(1) There is established for the purposes of this Act the Financial Reporting Council.

(2) The Council shall be a body corporate.

### **4. Objects of Council**

The objects of the Council shall be to—

- (a) promote the provision of high quality reporting of financial and non-financial information by public interest entities;
- (b) promote the highest standards among licensed auditors;
- (c) enhance the credibility of financial reporting; and

- (d) improve the quality of accountancy and audit services.

## **5. Functions of Council**

The functions of the Council shall be to—

- (a) ensure, where applicable, the adoption of IFRS and the International Auditing and Assurance Standards;
- (b) monitor the truth and fairness of financial reporting;
- (c) monitor the practice of auditors with a view to maintaining high standards of professional conduct;
- (d) monitor and enforce compliance with financial reporting, accounting and auditing standards;
- (e) provide advisory, consultancy and informational services on any matter related to its functions;
- (f) license auditors and establish and maintain a register of licensed auditors;
- (g) monitor compliance with the reporting requirements specified in the Code of Corporate Governance and in any other guidelines issued by the National Committee on Corporate Governance;
- (h) ensure coordination and co-operation with international institutions in the development and enforcement of financial reporting, accounting and auditing standards;
- (i) ensure compliance with the standards issued by the IASB and the IFAC;
- (j) participate in, and initiate the organisation of, activities which promote education and training in the fields of accounting and auditing;
- (k) conduct practice reviews of licensed auditors;
- (l) review the financial statements and reports of a public interest entity;
- (m) encourage, and where appropriate, finance research into any matter affecting financial reporting, accounting, auditing, and corporate governance;
- (n) enforce compliance with this Act and the rules of the Council by conducting investigations and where appropriate, impose sanctions on licensed auditors, public interest entities and officers of such entities;
- (o) establish and administer such systems or schemes as the Council may consider necessary or expedient for the discharge of its functions;
- (p) 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 discharge of its functions;

- (q) advise the Minister generally on any matter relating to financial and non-financial reporting, accounting and auditing; and
- (r) perform such other functions as the Council considers necessary for the purposes of this Act.

[S. 5 amended by s. 10 (b) of Act 18 of 2008 w.e.f. 19 July 2008.]

## **6. Powers of Council**

(1) The Council shall have powers to do all things necessary or convenient to be done, for or in connection with the performance of its functions.

(2) Without prejudice to the generality of subsection (1) but subject to this Act, the powers of the Council shall include the power to—

- (a) enter into such contracts as may be necessary or expedient for the purpose of discharging its functions;
- (b) borrow such sums of money or raise such loans as it may require for the purpose of discharging its functions;
- (c) co-operate with, or become a member or an affiliate of, any international body, the objects or functions of which are similar to, or connected with, those of the Council;
- (d) impose such charges or fees as may be required under this Act;
- (e) levy such charges or fees as may be reasonable for services and facilities provided by the Council; and
- (f) issue rules, codes, guidelines and standards relating to financial reporting, accounting, and auditing.

## **7. Constitution of Council**

(1) The Council shall consist of—

- (a) a Chairperson suitably qualified and experienced in the field of business, finance, accountancy or law, who shall be appointed by the Prime Minister;
- (b) a Deputy Governor of the Bank of Mauritius;
- (c) the Chief Executive of the Financial Services Commission;
- (d) the Registrar of Companies;
- (e) an elected member of the Mauritius Institute of Professional Accountants;
- (f) an academic from a tertiary education institution, knowledgeable in accounting and financial reporting matters, who shall be appointed by the Minister;
- (g) a professional from the financial services sector, suitably qualified and experienced in the field of business, finance or law, to be appointed by the Minister;
- (h) the Chairperson of the Mauritius Institute of Professional Accountants;

- (i) the Chairperson of the Mauritius Institute of Directors;
- (j) a representative of the National Committee on Corporate Governance, to be designated by the Minister.

(2) The Council shall not, at any one time, consist of more than 2 members who are licensed auditors.

(3) The Chairperson of the Mauritius Institute of Professional Accountants, the representative of the National Committee on Corporate Governance and the Chairperson of the Mauritius Institute of Directors shall have no voting rights.

(4) An alternate member may be appointed for every member of the Council, except for the Chairperson.

(5) Every member shall be paid such fees as the Council may, with the approval of the Minister, determine.

[S. 7 amended by s. 23 (b) of Act 18 of 2016 w.e.f. 7 September 2016.]

### **8. Disqualification from membership**

No person shall be appointed or shall continue to hold office as a member of the Council if he—

- (a) is convicted of an offence involving dishonesty or fraud;
- (b) is incapacitated by physical or mental illness;
- (c) is otherwise unable or unfit to discharge the functions of a member.

### **9. Term of office**

(1) Every member shall, subject to subsections (4) and (5), hold office for a period of 3 years.

(2) A member may be eligible for reappointment but may not serve for more than 6 out of every 8 years.

(3) A member whose term has expired shall continue to hold office until his successor has been appointed.

(4) In the computation of the total period for which a member has held office, any period during which the member has held office after the expiry of the member's term until the appointment of a successor shall not be taken into account.

(5) The Minister may, when appointing the first Council, appoint any member for a period of 2 years.

(6) A member may resign from the Council at any time by giving not less than one month's written notice to the Minister.

(7) For the purpose of this section—

“member” means a member of the Council appointed under section 7 (1) (f) and (g).



**10. Vacation of office**

The seat of a member shall become vacant—

- (a) where he resigns;
- (b) where he becomes disqualified from membership under section 8;
- (c) where he no longer holds the office by virtue of which he became a member;
- (d) where he has been absent without any leave from the Council for 3 consecutive meetings or three quarters of the meetings of the Council during a financial year; and
- (e) in the case of alternate members, if he has been absent without any leave from the Council for 3 consecutive meetings or three quarters of the meetings of the Council which he was delegated to attend during a financial year.

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### **11. Filling of vacancies**

(1) Any vacancy of the seat of a member referred to in section 7 (1) (a), (f) and (g) shall be filled not later than 15 days from the date of the occurrence of the vacancy.

(2) Any person appointed under subsection (1) shall hold office for the remainder of the term for which the vacating member was appointed.

### **12. Meetings of Council**

(1) The Council shall meet as often as is necessary and at least once every 3 months at such time and place as the Chairperson shall determine.

(2) Where at least 3 members give notice to the Chairperson in writing, to convene a meeting of the Council for any purpose specified in the notice, the Chairperson shall, within 15 days of the receipt of that notice, convene a meeting for that purpose.

(3) In the absence of the Chairperson at a meeting of the Council, the members present shall elect a member to act as Chairperson of the meeting.

(4) In case of prolonged absence of the Chairperson, the Council may authorise any member of the Council to exercise any power or perform any function conferred on the Chairperson under this Act.

(5) The Council may co-opt a person to assist the Council in dealing with a specific matter where it is satisfied that the person's experience or qualifications are likely to help the Council.

(6) A person co-opted under subsection (5) shall be entitled to take part in the Council's proceedings in relation to the specific matter for which he was co-opted and shall have no right to vote.

(7) Subject to this Act, the Council may determine its own procedure generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes.

(8) At any meeting of the Council, 5 members shall constitute a quorum.

### **13. Decisions of Council**

(1) Subject to subsection (2), a decision at a meeting of the Council shall be adopted by a simple majority of the members present and entitled to vote and, in case of an equality of votes, the Chairperson shall have a casting vote.

(2) Every decision of the Council in relation to the suspension or withdrawal of the licence of an auditor shall be approved by at least three quarters of members present and entitled to vote.

### **14. The Chief Executive Officer and other staff of Council**

(1) The Council—

- (a) shall, with the approval of the Minister, appoint a Chief Executive Officer on such terms and conditions as it may determine;

- (b) may appoint such employees or consultants on such terms and conditions as it may determine for the effective performance of its functions; and
- (c) may appoint, on such terms and conditions as it may determine, suitably qualified and experienced persons to form part of the panels of experts established under section 17.

(2) The Chief Executive Officer shall be a professional accountant.

(3) The Chief Executive Officer shall be responsible to the Council for the proper administration and management of the functions and affairs of the Council, in accordance with the policies laid down by the Council.

(4) The Chief Executive Officer shall—

- (a) prepare and submit, at the appropriate time, the annual budget and programme of activities of the Council for its approval; and
- (b) in the discharge of his functions under the Act, conduct, with the approval of the Council, such enquiries or investigations as he may deem appropriate.

(5) The Chief Executive Officer may, with the approval of the Council, delegate any of his functions, and any power delegated to him under section 15, to such employee as may be designated by the Council.

(6) The Chief Executive Officer shall, unless otherwise directed by the Council, attend every meeting of the Council.

[S. 14 amended by s. 10 (c) of Act 18 of 2008 w.e.f. 19 July 2008.]

## **15. Delegation of powers**

(1) Subject to subsections (2) and (3), the Council may delegate to the Chief Executive Officer, or a technical committee of the Council consisting of employees, such of its functions and powers under this Act as may be necessary to assist in the effective management of the Council, except—

- (a) the power to enter into any transaction in respect of capital expenditure of an amount exceeding one million rupees; and
- (b) the powers of the Council referred to in section 6 (2) (b), (d) and (f).

(2) Subject to subsection (3), no document relating to any transaction referred to in subsection (1) (a) shall be executed or signed by or on behalf of the Council unless it is signed by the Chairperson, or in his absence, by any other member appointed by the Council for that purpose, and the Chief Executive Officer.

(3) In the absence of the Chief Executive Officer, the functions and powers delegated to him under subsection (1) shall be exercised by such employee as may be designated by the Council for that purpose.

(4) The Council may withdraw or amend the delegation of its powers and functions made under subsection (1).

## 16. Committees

(1) The Council may establish one or more committees to assist it in the performance of its functions.

(2) Any committee established under subsection (1) may, at any time, be dissolved or reconstituted by the Council.

(3) The committee shall consist of such number of persons, whether members of the Council or not, as the Council considers necessary.

(4) Every member of a committee shall be appointed by the Council on such terms and conditions as it deems fit.

## 17. Panel of experts

(1) The Council shall, for the purposes of this Act, establish the following panels of experts—

- (a) a Standards Review Panel;
- (b) a Financial Reporting Monitoring Panel;
- (c) an Audit Practice Review Panel; and
- (d) an Enforcement Panel.

(2) The Council shall determine the number of persons who may be appointed in respect of each panel.

(3) The panels shall consist of employees of the Council and such other suitable and qualified persons as may be appointed by the Council.

[S. 17 amended by s. 10 (d) of Act 18 of 2008 w.e.f. 19 July 2008.]

## 18. Standards Review Panel

The Standards Review Panel shall be responsible for developing, renewing, improving, and adopting financial reporting and accounting standards and auditing standards, and for making appropriate recommendations to the Council on the standards.

[S. 18 amended by s. 10 (e) of Act 18 of 2008 w.e.f. 19 July 2008.]

## 19. Financial Reporting Monitoring Panel

(1) The Financial Reporting Monitoring Panel shall be responsible for reviewing, analysing and identifying any failure on the part of any public interest entity to comply with any financial reporting and accounting standard, code or guideline issued under this Act, and with such other financial reporting and accounting standards as may be specified under the relevant enactments.

(2) The Financial Reporting Monitoring Panel shall, in the discharge of its functions under subsection (1), inform the public interest entity in writing that it may make representations to the panel.

(3) Subject to this Act and the rules made by the Council, the Financial Reporting Monitoring Panel shall conduct its monitoring exercise in such manner as it thinks fit.

(4) The Financial Reporting Monitoring Panel shall, where it identifies a failure on the part of the public interest entity, pursuant to the discharge of its duties under subsection (1), submit its findings and recommendations to the Enforcement Panel for consideration.

## **20. Audit Practice Review Panel**

(1) The Audit Practice Review Panel shall—

- (a) conduct practice reviews of licensed auditors and audit firms and any other entity, which assisted or is assisting the licensed auditors or the audit firms in discharging their duties;
- (b) determine, when conducting practice reviews, whether a licensed auditor or an audit firm has complied with the Code of Professional Conduct and Ethics and any applicable auditing standards, as required under this Act.

(2) The Audit Practice Review Panel shall, when conducting a practice review, inform the licensed auditor, audit firm, and any other entity which assisted or is assisting the licensed auditor or the audit firm in the discharge of his or its duties, that representations may be made to the panel.

(3) The Audit Practice Review Panel shall, pursuant to the discharge of its duties under subsection (1), submit its findings and recommendations to the Enforcement Panel for consideration.

(4) Subject to this Act and the rules made by the Council, the Audit Practice Review Panel shall conduct its practice review in such manner as it thinks fit.

## **21. Enforcement Panel**

(1) The Enforcement Panel shall consider any findings and recommendations referred to it by the Financial Reporting Monitoring Panel, the Audit Practice Review Panel, or the Council and shall, on the basis of the findings and recommendations, determine the appropriate action to be taken.

(2) The Enforcement Panel shall, within 15 days of the receipt of the findings and recommendations referred to in subsection (1), notify the public interest entity, the licensed auditor or audit firm, as the case may be, of its decision.

## **22. Objections to decisions of Enforcement Panel**

Any public interest entity, licensed auditor or audit firm who wishes to object to the decision of the Enforcement Panel shall, within 14 days of being notified of the decision, lodge its or his objection in writing with the Council, specifying the grounds of objection.

### 23. Review Committee

(1) The Council shall, within 14 days of the receipt of the objection from the public interest entity, licensed auditor or audit firm, establish an *ad hoc* Review Committee to consider the grounds of objection raised by the public interest entity, the licensed auditor or the audit firm, as the case may be.

(2) The Review Committee shall consist of a Chairperson and 2 other members, who shall have not less than 10 years' proven experience and knowledge in the field of business, finance, accountancy or law.

(3) The Chairperson and other members of the Review Committee shall not, in the discharge of their functions and duties under this Act, be subject to the direction or control of the Council.

(4) The members of the Review Committee shall be appointed by the Council on such terms and conditions as it thinks fit.

(5) In considering any ground of objection, the Review Committee may require—

- (a) the public interest entity, the licensed auditor or the audit firm, as the case may be, to make written representations within a period of 14 days of being notified; and
- (b) any of the panels of experts to provide such clarification as it thinks fit.

(6) Where the public interest entity, the licensed auditor or the audit firm fails to make written representations to the Review Committee within the period of 14 days, the Review Committee may, on good cause shown by the entity, auditor or the firm, as the case may be, extend the delay for making representations under subsection (5) (a).

(7) The Review Committee shall make a determination within 60 days of the date on which the members of the Review Committee are appointed.

(8) (a) The Review Committee may confirm, amend, vary or quash the decision of the Enforcement Panel.

(b) Any determination of the Review Committee shall be by simple majority of the members of the Committee.

(c) The Review Committee shall make a report of its findings and recommendations to the Council.

(9) The Council shall endorse the recommendation of the Review Committee, unless it considers that the recommendation is manifestly unreasonable.

(10) The Council shall inform the party having lodged an objection of its final decision as soon as is reasonably practicable.

[S. 23 amended by s. 10 (f) of Act 18 of 2008 w.e.f. 19 July 2008.]

#### **24. Rules and codes of practice**

(1) The Council shall make and issue such rules or codes of practice to establish its procedures and policies for the purpose of regulating licensed auditors and financial reporting by public interest entities.

(2) The Council may revise such rules or codes by revoking, varying or adding to the provisions of the rules or codes of practice, as the case may be.

#### **25. Code of Ethics**

The Council shall adopt a Code of Ethics to establish the rules and standards of conduct to be observed by every member of the Council, Panel, Committee, or an employee or consultant of the Council, in the discharge of their respective functions and duties.

#### **26. Co-operation mechanism**

(1) The Council may enter into a Memorandum of Understanding with such regulatory body as it considers appropriate in order to exchange or share information for the purpose of discharging its functions under this Act.

(2) The Council may enter into a Memorandum of Understanding with the Bank of Mauritius, the Financial Services Commission and the Registrar of Companies for the purposes of assisting them in the discharge of their functions.

#### **27. Disclosure of information**

(1) Every member of the Council, Committee or a member of a panel of experts, or an employee of, or a consultant employed by the Council, shall, before he begins to perform any duties under this Act, take an oath of confidentiality in the form set out in the Second Schedule.

(2) No person who is or has been—

- (a) an employee of, or a consultant employed by, the Council;
- (b) a member of a panel of experts established under section 17; or
- (c) a member of the Council or any committee established under this Act,

shall disclose any information relating to the affairs of the Council or of any other person, which he has obtained in the performance of his duties or the exercise of his functions under this Act, unless such disclosure is made—

- (i) with the written authorisation of the person from whom the information was obtained or, where the information is the confidential information of a third person, with the written authorisation of such person;
- (ii) for the purpose of the administration or enforcement of this Act; or
- (iii) in compliance with the requirement of any Court or the provisions of any enactment.



(3) No person who is or has been—

- (a) an employee of, or a consultant employed by, the Council;
- (b) a member of a panel of experts established under section 17; or
- (c) a member of the Council or any Committee established under this Act,

shall, for his own personal benefit or for the personal benefit of any other person, make use of any information, whether directly or indirectly, which has been obtained by him in the performance of his duties or the exercise of his functions.

(4) For the purposes of this section, “disclosing or making use of any information” includes permitting any other person to have access to any record, document or other thing which is in his possession or under his control by virtue of his being or having been a member of the Council or Committee, or a member of a panel of experts, or an employee of or a consultant employed by the Council.

(5) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 12 months.

[S. 27 amended by s. 10 (g) of Act 18 of 2008 w.e.f. 19 July 2008.]

## **28. Protection from liability**

No liability, civil or criminal, shall be incurred by the Council, any member of the Council or of a Committee or a panel of experts, or any employee of the Council in respect of any loss arising from the exercise in good faith by the Council, the member of the Council or Committee or panel, or the employee of the Council in the performance of its or his duties or the exercise of its or his functions.

## **29. Accountability of Council**

(1) The Council shall, subject to subsection (5), submit to the Minister an annual report on its affairs and functions during that financial year, within 4 months of the close of its financial year, and such report shall include—

- (a) a copy of its audited annual financial statements, together with the report of the Director of Audit thereon;
- (b) an overview of the activities of the Council;
- (c) an account of the extent to which the objects of the Council have been achieved in that financial year;
- (d) a profile of the members of the Council, their attendance of meetings of the Council, and their remuneration; and
- (e) a profile of the Chief Executive Officer, the senior employees and members of the Committees and Panels, and their respective remuneration.

(2) The Council shall ensure that its annual financial statements are prepared in compliance with the IFRS issued by IASB.

(3) The annual financial statements of the Council shall be audited by the Director of Audit.

(4) The Minister shall, at the earliest available opportunity, lay a copy of the annual report before the National Assembly.

(5) —

[S. 29 amended by s. 12 (b) of Act 27 of 2012 w.e.f. 22 December 2012.]

### **30. Funding**

(1) The Council shall establish a General Fund into which all monies received by the Council shall be paid, and out of which all payments and charges on the Council shall be effected.

(2) The Council shall derive its funds from—

- (a) funds allocated to it by Government;
- (b) fees or other charges levied under this Act; and
- (c) such other source as the Minister may approve.

(3) The Council shall, not later than 3 months before the commencement of each financial year, submit to the Minister an estimate of its income and expenditure for that financial year.

### **31. Exemptions**

Notwithstanding any other enactment, the Council shall be exempt from the payment of any duty, levy, charge, fee, rate or tax.

### **32. Powers of Minister**

The Minister may give such directions to the Council, not inconsistent with this Act, as he considers necessary in the public interest and the Council shall comply with those directions.

## **PART III – LICENSING OF AUDITORS**

### **33. Licensing of auditors**

(1) Subject to this section, no person shall hold any appointment, or offer any services for remuneration, as an auditor, unless he holds a licence under this Act.

(1A) Subsection (1) shall not apply to the auditor of a small private company under the Companies Act except where the company opts for its accounts to be audited by a licensed auditor.

(1B) No foreign auditor shall be, or shall act as, the auditor of a company holding a Category 1 Global Business Licence under the Financial Services Act unless—

- (a) he is authorised or licensed to be, or to act as, an auditor by the regulatory body of the foreign jurisdiction;
- (b) the authorisation or licence, together with a photocopy, is submitted to the Council; and
- (c) he obtains the prior written approval of the Council.

(1C) Where a foreign auditor obtains an approval under subsection (1B), he shall—

- (a) be deemed to be an auditor licensed under this section; and
- (b) be governed by this Act.

(2) Every person who wishes to obtain a licence shall make a written application to the Council.

(3) An application made under subsection (2) shall be accompanied by such fees and such information as the Council may require.

(4) Where, after consideration of an application, the Council is satisfied that the applicant—

- (a) holds a practising certificate issued by the Mauritius Institute of Professional Accountants under section 55 (2);
- (b) is a fit and proper person; and
- (c) meets such requirements as may be specified in the rules of the Council,

the Council shall issue a licence to the applicant authorising him to practise as an auditor.

(5) The Council shall enter the name of the licensed auditor and such particulars as it considers relevant in the Register of Licensed Auditors.

(6) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 33 amended by s. 12 (a) of Act 15 of 2006 w.e.f. 7 August 2006; s. 10 (h) of Act 18 of 2008 w.e.f. 19 July 2008; s. 16 (b) of Act 14 of 2009 w.e.f. 30 July 2009; s. 12 (c) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **34. Duration of licence**

(1) Every licence issued under section 33 shall be valid for such period as the Council may determine.

(2) Every licensed auditor who wishes to renew his licence shall, not later than 3 months before the expiry of the licence, make a written application to the Council in such form and manner as the Council may determine.

(3) Where the Council is satisfied that the applicant continues to meet the requirements for the issue of a licence, the Council shall renew the licence.

(4) Where the Council has not dealt with an application for the renewal of a licence under subsection (2) before the expiry of the licence, the licence 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 licence would have expired but for the renewal.

#### **35. Audit practice by firm**

(1) No licensed auditor shall practise as an auditor, on his own account, or in partnership with other persons, in the name of a firm unless the name of the firm has been approved by the Council.

(2) Any licensed auditor who wishes to practise in the name of a firm shall apply in writing to the Council, in such form and manner as the Council may require, for the approval of the name of the firm.

(3) An application made under subsection (2) shall be accompanied by such fees as the Council may determine and such information as the Council may require.

(4) The Council 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 Council;
- (b) so closely resembles a firm name that it is likely to cause confusion; or
- (c) is, in the opinion of the Council, misleading, offensive or otherwise contrary to public interest.
- (d) —

(5) Where a licensed auditor provides auditing services in partnership with other persons in a firm, the firm shall submit to the Council, at the end of each calendar year, a list of the names of the partners who are licensed auditors and those partners who are not licensed auditors.

(6) Where a licensed auditor or any other partner resigns or joins a firm, the firm shall forthwith inform the Council in writing of that fact.

[S. 35 amended by s. 12 (b) of Act 15 of 2006 w.e.f. 7 August 2006.]

### **35A. Obligation to comply with guidelines issued by FIU**

Every licensed auditor shall comply with the relevant guidelines issued by FIU under the Financial Intelligence and Anti-Money Laundering Act.

[S. 35A inserted by s. 12 (d) of Act 27 of 2012 w.e.f. 22 December 2012.]

### **36. Change of name**

(1) Every licensed auditor and audit firm shall, where there is a change in his name or the name of the firm, as the case may be, or in any of his or its particulars recorded in the Register of Licensed Auditors, notify the Council of such change within 30 days of the change occurring, in such manner as the Council may require.

(2) Any person who fails, without reasonable excuse, to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

### **37. Unauthorised audit practice**

No licensed auditor shall—

- (a) employ a person who has been suspended from practising as a licensed auditor or a public accountant to carry out work in connection with his audit practice, unless the Council consents to such employment;
- (b) practise under the name of a firm, unless prior notification has been made to the Council—
  - (i) in the case of a partnership, of the first names and initials of the partners of the firm;

- (ii) where a letterhead is used, of a copy of the letterhead;
  - (iii) where the name of the firm is similar to, or includes the name of a regional or international network, or where the name of the firm mentions that it is part of a network in its letterhead or any other document, the nature of such association or relationship with the regional or international network; and
- (c) sign any account, statement, report or other document which purports to represent work performed by the licensed auditor, unless he is satisfied and is prepared to take full responsibility for the work done.

**38. Refusal to license auditors**

Where the Council refuses to issue a licence to an applicant under section 33 or 35, it shall, by notice in writing, inform the applicant of its refusal as soon as practicable.

**39. Auditor's report and opinion**

(1) Where an auditor makes a report on the financial statements of an entity which he has audited, he shall express a clear written opinion in his report, giving details as to whether—

- (a) the financial statements as a whole give a true and fair view of the matters to which they relate; and

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- (b) the financial statements comply with—
  - (i) this Act or any other relevant enactment; and
  - (ii) the financial reporting and accounting standards.

(2) No licensed auditor shall, in his report, express an opinion unless he complies with the auditing standards.

(3) The licensed auditor shall report on the extent of compliance with the Code of Corporate Governance disclosed in the annual report of the public interest entity and on whether the disclosure is consistent with the requirements of the Code.

[S. 39 amended by s. 16 (c) of Act 14 of 2009 w.e.f. 30 July 2009; s. 12 (e) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **40. Material irregularity**

(1) Where, during the course of the audit of a public interest entity, a licensed auditor is satisfied, or has reason to believe, that a material irregularity has taken or is taking place, he shall, without delay—

- (a) notify, in writing, the officers and all the members of the Board of the public interest entity of the irregularity, by giving particulars of the irregularity; and
- (b) request every person referred to in paragraph (a), either individually or collectively, to take such action as he may determine, and to acknowledge receipt, in writing, of the notice.

(2) The licensed auditor shall, within 30 days of the issue of the notice referred to in subsection (1), notify the Council and the Mauritius Institute of Professional Accountants of the material irregularity referred to in subsection (1), together with such other information as he may determine, unless he is satisfied that the officers or the members of the Board of the public interest entity referred to in subsection (1) have taken adequate steps to remedy the irregularity.

(3) For the purposes of this section—

“material irregularity” means any unlawful act or omission committed by any person responsible for the management of a public interest entity, which—

- (a) represents a material breach of any fiduciary duty owed by such person to the public interest entity or the conduct or management thereof;
- (b) has caused or is likely to cause material financial loss to the public interest entity or to any partner, member, shareholder, creditor or investor of the public interest entity in respect of his or its dealings with that entity; or
- (c) is fraudulent or amounts to theft.

[S. 40 amended by s. 12 (f) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **41. Independence of auditor**

An auditor shall carry out his functions in full independence and shall not—

- (a) act in any manner, contrary to the Code of Professional Conduct and Ethics; or
- (b) engage in any activity which is likely to impair his independence as an auditor.

#### **41A. Rotation of audit firm**

(1) An audit firm, appointed by a listed company, shall not audit the accounts of that company for a continuous period of more than 7 years.

(2) (a) Where an audit firm has audited the accounts of a listed company for a continuous period of less than 7 years up to 7 September 2016, it may continue to audit the accounts of that company for the period remaining out of the 7 years.

(b) Where an audit firm has audited the accounts of a listed company for a continuous period of 7 years or more and is, on 7 September 2016, auditing the accounts of that company, it may, notwithstanding subsection (1), continue to audit the accounts of that company subject to such conditions and for such time as may be prescribed.

(3) Notwithstanding subsections (1) and (2), an audit firm may be exempted from the application of this section where it meets such conditions as may be prescribed.

[S. 41A inserted by s. 23 (c) of Act 18 of 2016 w.e.f. 7 September 2016.]

#### **42. Conflict of interest**

Where an auditor considers that he may have a conflict of interest in relation to an entity for which he has been engaged as an auditor, he shall disclose to the entity the nature of the conflict of interest in order for the entity to determine the extent of the conflict and to decide whether to continue retaining the services of the auditor.

#### **43. Sanctions on licensed auditors**

(1) The Council may cancel or suspend a licence issued to an auditor under section 33 where the auditor—

- (a) has obtained the licence by fraud or misrepresentation;
- (b) no longer satisfies the requirements of section 33;
- (c) has acted in breach of this Act or any rule, code, guidelines and standards relating to auditing issued by the Council;

(2) Notwithstanding subsection (1), where a licensed auditor commits a breach of this Act or any rule, code, guidelines or standards relating to auditing issued by the Council, the Council may issue a warning to the licensed auditor.



(3) Where, in the opinion of the Chief Executive Officer, a licensed auditor has not conducted the audit of an entity in compliance with the International Standards on Auditing, the Council shall report the matter to the entity.

[S. 43 amended by s. 18 (b) of Act 27 of 2013 w.e.f. 21 December 2013.]

#### **PART IV – THE MAURITIUS INSTITUTE OF PROFESSIONAL ACCOUNTANTS**

##### **44. Establishment of Mauritius Institute of Professional Accountants**

(1) There is established for the purposes of this Act the Mauritius Institute of Professional Accountants.

(2) The Mauritius Institute of Professional Accountants shall be a body corporate.

##### **45. Objects of Mauritius Institute of Professional Accountants**

The objects of the Mauritius Institute of Professional Accountants shall be to—

- (a) supervise and regulate the accountancy profession; and

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- (b) promote the highest standards of professional and business conduct of, and enhance the quality of services offered by, professional accountants.

**46. Functions of Mauritius Institute of Professional Accountants**

(1) The Mauritius Institute of Professional Accountants shall—

- (a) establish, publish and review a Code of Professional Conduct and Ethics for professional accountants, which shall be consistent with and contain all the principles of IFAC's Code of Ethics for Professional Accountants;
- (b) keep and maintain—
  - (i) a Register of Professional Accountants;
  - (ii) a Register of Public Accountants;
  - (iii) a Register of Member Firms; and
  - (iv) such other registers as the Mauritius Institute of Professional Accountants may consider necessary for the purposes of this Act;
- (c) lay down the requirements for its membership;
- (d) consider any application for registration made under this Act;
- (e) conduct, or arrange for the conduct of, such examinations as it may determine for the purposes of registering professional accountants;
- (f) require any person registered under this Act to follow such continuing professional educational programmes as it may determine;
- (g) inquire into any written complaint made against any professional accountant, on its own initiative or at the request of any person;
- (h) institute disciplinary action for any breach of the Code of Professional Conduct and Ethics, rules of the Mauritius Institute of Professional Accountants, relevant guidelines issued by FIU and this Act and regulations made under this Act;
- (i) prepare the rules of the Mauritius Institute of Professional Accountants;
- (j) issue all certificates and notices required to be issued under this Act; and
- (k) perform such other duties or functions as it may determine to promote the highest professional standards among, and improve the quality of professional services offered by, its members.

(2) Where the Mauritius Institute of Professional Accountants is notified of a material irregularity pursuant to section 40 (2), and is satisfied that an offence has been, is being or is likely to be committed, it shall take appropriate disciplinary action against its members, as the case may be, and report the matter to the relevant authorities.

[S. 46 amended by s. 12 (g) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **47. Board of Mauritius Institute of Professional Accountants**

(1) The Mauritius Institute of Professional Accountants shall be administered and managed by a Board in accordance with this Act and its rules.

(2) Subject to subsection (5), the Board of the Mauritius Institute of Professional Accountants shall consist of not more than 7 members who shall be elected by the general assembly.

(3) The Board of the Mauritius Institute of Professional Accountants shall elect from amongst its members a Chairperson and 2 Vice-chairpersons.

(4) No person shall be eligible to be a member of the Board of the Mauritius Institute of Professional Accountants unless he is a member of the Mauritius Institute of Professional Accountants.

(5) The Board of the Mauritius Institute of Professional Accountants shall consist of not more than 2 members of any one of the professional accountancy bodies.

(6) Every member of the Board of the Mauritius Institute of Professional Accountants shall hold office for a period of 3 years on such terms and conditions as may be provided in the rules of the Mauritius Institute of Professional Accountants and shall be re-eligible for appointment for not more than 3 terms.

(7) The Board shall appoint one-third of the number of members of the first Board for a period of one year, 2 years, and 3 years respectively to ensure continuity of the Board of the Mauritius Institute of Professional Accountants.

#### **48. Meetings of Board**

(1) The Board of the Mauritius Institute of Professional Accountants shall meet as often as is necessary and at least once every month and at such time and place as the Chairperson shall determine.

(2) In the absence of the Chairperson at a meeting of the Board of the Mauritius Institute of Professional Accountants, the members present shall elect a member to act as Chairperson for that meeting.

(3) The Board of the Mauritius Institute of Professional Accountants may co-opt such other person as may be of assistance in relation to any matter before the Board of the Mauritius Institute of Professional Accountants.

(4) A person co-opted under subsection (3) shall be entitled to take part in the Board's proceedings in relation to the specific matter for which he was co-opted, but he shall have no right to vote.

(5) At any meeting of the Board of the Mauritius Institute of Professional Accountants, 4 members shall constitute a quorum.

#### **49. Powers of Board**

(1) The Board of the Mauritius Institute of Professional Accountants shall have the power to do anything for the purpose of discharging the functions of the Mauritius Institute of Professional Accountants under this Act or under the rules of the Mauritius Institute of Professional Accountants.

(2) Without prejudice to the generality of subsection (1) but subject to this Act, the powers of the Board shall include the power to—

- (a) enter into such contracts as may be necessary or expedient for the purpose of discharging its functions;
- (b) become a member or an affiliate of an international body, the functions or objects of which are similar to or connected with those of the Mauritius Institute of Professional Accountants;
- (c) establish and administer such systems or schemes as the Mauritius Institute of Professional Accountants may consider necessary or expedient for the discharge of its functions;
- (d) 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 discharge of its functions;
- (e) impose such fees and charges as may be prescribed in the discharge of its functions under this Act;
- (f) recognise any accountancy qualifications, as are in the opinion of the Board equivalent to those of a member of the professional accountancy body; and
- (g) do such other acts as are incidental or necessary to any of its functions and powers.

[S. 49 amended by s. 12 (h) of Act 27 of 2012 w.e.f. 22 December 2012.]

## 50. Registers

(1) The Mauritius Institute of Professional Accountants shall—

- (a) record in the Register of Professional Accountants the name and all relevant particulars of every registered professional accountant;
- (b) record in the Register of Public Accountants the name and all relevant particulars of every registered public accountant;
- (c) record in the Register of Member Firms the name and all relevant particulars of every registered member firm;
- (d) record such other information in the appropriate register as it may determine; and
- (e) give public notice, not later than 3 months after the end of every financial year, of a list of—
  - (i) professional accountants with their names and addresses; and
  - (ii) public accountants and member firms with their names, business addresses, and business registration numbers under the Business Registration Act.

(2) The Register of Professional Accountants, the Register of Public Accountants and the Register of Member Firms shall at all reasonable times be available for inspection by any person, on payment of such fee as may be prescribed.

[S. 50 amended by s. 15 of Act 17 of 2007; s. 12 (i) of Act 27 of 2012 w.e.f. 22 December 2012.]

## **51. Registration of professional accountants**

(1) No person shall hold himself out as a professional accountant or use any description or designation likely to create the impression that he is a professional accountant or be employed in Mauritius, unless he is registered as a professional accountant with the Mauritius Institute of Professional Accountants.

(2) Every member of—

- (a) the Institute of Chartered Accountants in England and Wales;
- (b) the Institute of Chartered Accountants of Scotland;
- (c) the Institute of Chartered Accountants of Ireland;
- (d) the Association of Chartered Certified Accountants;
- (e) the Institute of Chartered Accountants of India;
- (f) the Chartered Institute of Management Accountants; and
- (g) the South African Institute of Chartered Accountants,

shall apply to the Mauritius Institute of Professional Accountants to be registered as a professional accountant.

(3) A person who is a member of a professional accountancy body other than those specified in subsection (2) and—

- (a) satisfies the requirements relating to qualifications in the field of accountancy; and
- (b) has a minimum of 3 years' practical experience in the field of accountancy,

may apply to the Mauritius Institute of Professional Accountants to be registered as professional accountant, in such form and manner as the Mauritius Institute of Professional Accountants may determine.

(3A) (a) Every member of a professional accountancy body referred to in subsection (2) or (3) shall, at the time of making his application to a person for employment, submit to the person a certified copy of his certificate of registration as a professional accountant.

(b) No person shall employ a member referred to in subsection (2) or (3) unless that member produces, for inspection, his certificate of registration as a professional accountant.

(c) —

(4) (a) An application made under this section shall be accompanied by such fee as may be prescribed and such information as the Mauritius Institute of Professional Accountants may determine.

(b) Every member of a professional accountancy body referred to in subsections (2) and (3) who is employed by Government, a local authority under the Local Government Act or the Rodrigues Regional Assembly under the Rodrigues Regional Assembly Act shall be exempt from the payment of fees referred to in paragraph (a) and section 57 (3) during the period of his employment.

(5) The Mauritius Institute of Professional Accountants shall register the applicant as a professional accountant and enter his name and such particulars as the Mauritius Institute of Professional Accountants considers relevant, in the Register of Professional Accountants where the applicant—

- (a) is a citizen of Mauritius, or where he is a non-citizen, holds a work permit or is legally exempted from holding a work permit;
- (b) is a member of a professional accountancy body;
- (c) is of good character and has not been convicted of an offence involving fraud or dishonesty in any country;
- (d) has successfully undergone such examination or assessment as the Mauritius Institute of Professional Accountants may determine for the purpose of determining whether he possesses adequate professional accountancy knowledge and skills; and
- (e) has paid such fees as may be prescribed.

(6) Any person who contravenes subsection (1) or (3A) (b) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

[S. 51 amended by s. 12 (j) of Act 27 of 2012 w.e.f. 22 December 2012; s. 18 (c) of Act 27 of 2013 w.e.f. 22 December 2012.]

## **52. Registration of public accountants**

(1) No person shall—

- (a) use along his name the title of his professional qualifications in any report, statement or other document; or
- (b) hold himself out as a public accountant, or use any description or designation likely to create the impression that he is a public accountant,

unless he is registered as a public accountant.

(1A) (a) Every professional accountant who intends to practise as a public accountant shall apply in writing to the Mauritius Institute of Professional Accountants in such form and manner as the Mauritius Institute of Professional Accountants may determine.

(b) No professional accountant shall practise or offer his services for remuneration as a public accountant unless—

- (i) he is registered as a public accountant;
- (ii) he displays in a conspicuous place at each of his business premises his practising certificate issued under section 55 (2) or a photocopy of that certificate; and

(iii) he submits to the person to whom the services are to be supplied a photocopy of his practising certificate.

(c) —

(2) (a) An application made under subsection (1) shall be accompanied by such fee as may be prescribed and such information as the Mauritius Institute of Professional Accountants may determine.

(b) Any person who fails to comply with subsection (1) or (1A) or paragraph (a) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

(3) The Mauritius Institute of Professional Accountants shall register an applicant under subsection (1) as a public accountant and enter his name and such particulars as the Mauritius Institute of Professional Accountants considers relevant in the Register of Public Accountants, where it is satisfied that the applicant—

- (a) meets the requirements laid down in the rules of the Mauritius Institute of Professional Accountants;
- (b) has made such arrangements as may be provided in the rules of the Mauritius Institute of Professional Accountants, for continuing professional education;
- (c) is a fit and proper person;
- (d) has the necessary competence to practise as a public accountant and a period of more than 2 years has elapsed between the date he has undertaken any education and training as provided by the rules of the Mauritius Institute of Professional Accountants and the date of the application.

(4) The Mauritius Institute of Professional Accountants may require, as a condition for a public accountant to be allowed to remain in practice, that the public accountant complies with such continuing educational and professional requirements as may be specified in the rules of the Mauritius Institute of Professional Accountants.

[S. 52 amended by s. 12 (k) of Act 27 of 2012 w.e.f. 22 December 2012.]

### **53. Refusal to register professional or public accountants**

(1) On receipt of an application made under section 51 or 52, the Mauritius Institute of Professional Accountants may refuse to register an applicant—

- (a) as a professional accountant where the applicant—
  - (i) does not satisfy any of the requirements specified in section 51 (5); or
  - (ii) is otherwise unfit to be registered as a professional accountant;



- (b) as a public accountant where the applicant—
  - (i) has had his licence or approval to practise as a public accountant withdrawn, suspended, cancelled or revoked in any country; or
  - (ii) is otherwise unfit to be registered as a public accountant.

(2) Where the Mauritius Institute of Professional Accountants refuses to register an applicant under this section, it shall, as soon as is reasonably practicable, inform the applicant in writing of its.

#### **54. Registration of member firms**

(1) (a) No person shall hold himself out as a firm providing professional services, or use any description or designation likely to create the impression that the person is a firm providing professional services, unless the person is registered as a member firm under this section.

(b) No professional accountant in a firm providing professional services shall use along his name the title of his professional qualifications in any report, statement or other document of the firm unless the firm is registered as a member firm under this section.

(1A) (a) Every firm which provides or intends to provide professional services shall apply for registration to the Mauritius Institute of Professional Accountants.

(b) No firm shall provide professional services or offer its services for remuneration as a firm providing professional services unless—

- (i) it is registered as a member firm under section 55 (1) (b);
- (ii) it displays in a conspicuous place at each of its business premises its practising certificate issued under section 55 (2) or a photocopy of that certificate; and
- (iii) it submits to the person to whom the services are to be supplied a photocopy of its practising certificate.

(c) —

(2) (a) An application under subsection (1) shall be made in writing to the Mauritius Institute of Professional Accountants in such form and manner as the Mauritius Institute of Professional Accountants may determine.

(b) An application made under subsection (1) shall be accompanied by such fee as may be prescribed and such information as the Mauritius Institute of Professional Accountants may determine.

(c) Any person who fails to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

(3) The Mauritius Institute of Professional Accountants shall register the firm and enter its name and such particulars as it may determine in the Register of Member Firms, on being satisfied that—

- (a) at least half of the partners of the firm are registered with the Mauritius Institute of Professional Accountants;
- (b) 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 Mauritius Institute of Professional Accountants;
- (c) the applicant firm holds a professional indemnity insurance or provides such other financial guarantee as the Mauritius Institute of Professional Accountants may from time to time determine.

[S. 54 amended by s. 12 (l) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **55. Certificate of registration and practising certificate**

(1) Where the Mauritius Institute of Professional Accountants registers—

- (a) a person as a professional accountant;
- (b) a firm as a member firm,

it shall issue to the person or firm, as the case may be, a certificate of registration.

(2) Where the Mauritius Institute of Professional Accountants registers a person as a public accountant, it shall issue to him a practising certificate.

(3) A certificate of registration and a practising certificate shall be issued in such form and on payment of such fee as may be prescribed.

[S. 55 amended by s. 12 (m) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **55A. Obligation to comply with guidelines issued by FIU**

Every professional accountant, public accountant and member firm shall comply with the relevant guidelines issued by the FIU under the Financial Intelligence and Anti-Money Laundering Act.

[S. 55A inserted by s. 12 (n) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **56. Cancellation or suspension of registration**

(1) The Mauritius Institute of Professional Accountants may suspend or cancel the registration of a professional accountant, public accountant or member firm, and order the removal of his or its name from the relevant register where—

- (a) the person or firm has obtained his or its registration by fraud or misrepresentation;
- (b) the person or firm no longer satisfies or acts in breach of any rule of the Mauritius Institute of Professional Accountants;
- (c) the registration of that person is suspended or cancelled by a professional accountancy body of which he is a member;

- (ca) the professional accountant, public accountant or is member firm found guilty following disciplinary action instituted under section 46 (1) (h); or
- (d) the person or firm acts in breach of this Act.

(2) Where the Mauritius Institute of Professional Accountants cancels a practising certificate, it may also cancel the membership of Mauritius Institute of Professional Accountants of the holder of the practising certificate.

(3) Where the Mauritius Institute of Professional Accountants suspends a practising certificate, it may suspend the membership of the holder of the practising certificate, of the Mauritius Institute of Professional Accountants for the period for which the certificate has been suspended.

[S. 56 amended by s. 12 (o) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **57. Renewal of registration**

(1) Any person wishing to renew his practising certificate on expiry thereof may, not less than one month before the date of expiry, make an application to the Mauritius Institute of Professional Accountants for the renewal of the certificate, in such form as the Mauritius Institute of Professional Accountants may approve.

(2) Any member firm wishing to renew its certificate of registration on expiry thereof may, not less than one month before the date of expiry, make an application to the Mauritius Institute of Professional Accountants for the renewal of the certificate in such form as the Mauritius Institute of Professional Accountants may approve.

(3) An application made under subsections (1) and (2) shall, subject to section 51 (4) (b), be accompanied by such fee as may be prescribed and such information as the Mauritius Institute of Professional Accountants may determine.

[S. 57 amended by s. 12 (p) of Act 27 of 2012 w.e.f. 22 December 2012; s. 18 (d) of Act 27 of 2013 w.e.f. 22 December 2012.]

#### **58. Change in particulars of Register**

Every registered accountant and member firm shall, whenever there is a change in his or its name or in any of his or its particulars in the Register of Professional Accountants, the Register of Public Accountants and Register of Member Firms, as the case may be, notify the Mauritius Institute of Professional Accountants of such change within 30 days of the change occurring in such manner as the Mauritius Institute of Professional Accountants may determine.

#### **59. Rules of Mauritius Institute of Professional Accountants**

(1) The Mauritius Institute of Professional Accountants shall prepare and issue such rules as it may determine.

(2) The rules shall be binding on every member of the Mauritius Institute of Professional Accountants.

(3) The rules shall deal with matters relating to the—

- (a) terms and conditions of the membership of Mauritius Institute of Professional Accountants;
- (b) procedures to institute disciplinary proceedings;
- (c) circumstances and conditions for an appeal against a decision of the Mauritius Institute of Professional Accountants;
- (d) requirements for public practice;
- (e) conduct of the meetings of the Mauritius Institute of Professional Accountants; and
- (f) need for continuous training and education for both professional and public accountants.
- (g) —

(4) The rules of the Mauritius Institute of Professional Accountants may, from time to time, be amended as the general assembly may approve.

[S. 59 amended by s. 12 (q) of Act 27 of 2012 w.e.f. 22 December 2012.]

## **60. Fund and property of Mauritius Institute of Professional Accountants**

(1) The Mauritius Institute of Professional Accountants shall establish a fund into which all money received by it shall be paid and out of which all payments and charges on the Mauritius Institute of Professional Accountants shall be effected.

(2) The Board of the Mauritius Institute of Professional Accountants may, for the purposes of subsection (1)—

- (a) levy such charges or fees as may be prescribed, to register its members and to provide services and facilities to its members;
- (b) receive donations, gifts, grants, subsidies and contributions from any source; and
- (c) raise funds by all lawful means.

(3) The Mauritius Institute of Professional Accountants may, with the approval of the general assembly—

- (a) invest its funds in such manner as it may determine; and
- (b) 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.

(4) For the discharge of its functions under this Act or any other enactment, the Mauritius Institute of Professional Accountants may, from time to time, with the approval of the general assembly, raise loans from banks and other financial institutions by mortgage, overdraft or otherwise.

[S. 60 amended by s. 12 (r) of Act 27 of 2012 w.e.f. 22 December 2012.]

**61. Accountability of Mauritius Institute of Professional Accountants**

(1) The Mauritius Institute of Professional Accountants 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 monies are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Mauritius Institute of Professional Accountants and over the expenditure incurred by the Mauritius Institute of Professional Accountants.

(2) The Mauritius Institute of Professional Accountants shall—

- (a) within 3 months of the close of its financial year, submit to its members an annual report on its affairs and functions during that financial year, which shall include—
  - (i) a copy of its audited annual financial statements;

*continued on page F9 – 29*



- (ii) an overview of the activities of the Mauritius Institute of Professional Accountants;
  - (iii) an account of the extent to which the objects of the Mauritius Institute of Professional Accountants have been achieved in that financial year;
  - (iv) a profile of Board Members of the Mauritius Institute of Professional Accountants, and their attendance of meetings of the Mauritius Institute of Professional Accountants; and
  - (v) such other matters as the Board of the Mauritius Institute of Professional Accountants may determine to maintain public confidence in the accountancy profession;
- (b) file a copy of the annual report referred to in paragraph (a) with the Council within 3 months of the close of its financial year.

(3) The period starting from the commencement of this Act to 30 June in the following year shall be the first financial year.

## **62. Appointment of auditor**

(1) The Mauritius Institute of Professional Accountants shall, at every annual general assembly, appoint an auditor who shall hold office until its next annual general assembly.

(2) Where the auditor appointed under subsection (1) is incapable, for any reason, to hold his office, the Board may appoint another person to audit the accounts of the Mauritius Institute of Professional Accountants.

(3) A person shall not be eligible for appointment under subsection (1) unless he is a licensed auditor.

(4) No person shall be qualified to be appointed as an auditor where he is—

- (a) a member of the Board of the Mauritius Institute of Professional Accountants; or
- (b) a partner of a member of the Board of the Mauritius Institute of Professional Accountants.

(5) The remuneration of the auditor shall be determined by the Mauritius Institute of Professional Accountants at its general assembly.

## **PART V – THE NATIONAL COMMITTEE ON CORPORATE GOVERNANCE**

### **63. Establishment of National Committee on Corporate Governance**

There is established for the purposes of this Act the National Committee on Corporate Governance.

### **64. Objects of National Committee on Corporate Governance**

The objects of the National Committee on Corporate Governance shall be to—

- (a) establish principles and practices of corporate governance;

- (b) promote the highest standards of corporate governance;
- (c) promote public awareness about corporate governance principles and practices;
- (d) act as the national coordinating body responsible for all matters pertaining to corporate governance.

#### **65. Functions of National Committee on Corporate Governance**

The National Committee on Corporate Governance shall—

- (a) assess the needs for corporate governance in the public and private sectors;
- (b) organise and promote the organisation of workshops, seminars and training in the field of corporate governance;
- (c) issue the Code of Corporate Governance and guidelines, and establish a mechanism for the periodic re-assessment of the Code and guidelines;
- (d) provide assistance and guidance in respect of the adoption of good corporate governance;
- (e) establish links with regional and international institutions engaged in promoting corporate governance;
- (f) co-operate with the Council and with any other person or institution in order to fulfil its objects;
- (g) set up the Mauritius Institute of Directors;
- (ga) cooperate with the Council on corporate governance matters relating to State-owned enterprises; and
- (h) advise the Minister on any matter relating to corporate governance.

[S. 65 amended by s. 23 (d) of Act 18 of 2016 w.e.f. 7 September 2016.]

#### **66. Composition of National Committee on Corporate Governance**

(1) (a) The National Committee on Corporate Governance shall consist of—

- (i) a chairperson;
- (ii) the Chief Executive Officer; and
- (iii) not more than 9 other members.

(b) The chairperson and the members referred to in paragraph (a) (iii) shall be appointed by the Minister from amongst persons having wide experience or expertise in legal, financial, corporate and business matters.

(2) Every member of the National Committee on Corporate Governance shall hold office for a period of 3 years on such terms and conditions as the Minister may determine, and shall be eligible for reappointment.

(3) The National Committee on Corporate Governance may co-opt any person who may be of assistance in relation to any matter before it.



(4) The Minister may terminate the appointment of any member of the National Committee on Corporate Governance on any of the grounds specified in section 37 (3) (b) (i), (iii), (iv) and (v) of the Interpretation and General Clauses Act.

(5) Every member shall be paid such fees as the Minister may determine.

[S. 66 amended by s. 23 (e) of Act 18 of 2016 w.e.f. 7 September 2016.]

*continued on page F9 – 31*



#### **67. Meetings of National Committee on Corporate Governance**

(1) The National Committee on Corporate Governance shall meet as often as is necessary but at least once every 3 months, and at such time and place as the Chairperson may determine.

(2) The National Committee on Corporate Governance shall, subject to this Act, regulate its meetings and its procedures at meetings in such manner as it may determine.

(3) In the absence of the Chairperson at a meeting of the National Committee on Corporate Governance, the members present shall elect a member to act as chairperson for that meeting.

#### **68. Funding of National Committee on Corporate Governance**

(1) The National Committee on Corporate Governance may receive any money appropriated from the Consolidated Fund and any other money lawfully accruing to the National Committee on Corporate Governance from any other source.

(2) The National Committee on Corporate Governance shall establish a General Fund into which all monies received by it, and out of which all payments required to be made by it, shall be paid.

(3) The National Committee on Corporate Governance shall, not later than 3 months before the commencement of each financial year, submit to the Minister its plan of action and an estimate of its expenditure for that financial year.

#### **69. Accountability of National Committee on Corporate Governance**

(1) The National Committee on Corporate Governance shall, within 3 months of the close of its financial year, submit to the Minister a report on its affairs and functions during that financial year.

(2) The report referred to in subsection (1) shall include—

- (a) an overview of the activities of the National Committee on Corporate Governance; and
- (b) an account of the extent to which the objectives set by this Act had been achieved in that financial year by the National Committee on Corporate Governance.

(3) A copy of the report shall be filed with the Council within 3 months of the close of its financial year.

#### **70. Objects of Mauritius Institute of Directors**

The Mauritius Institute of Directors shall—

- (a) promote the highest standards of corporate governance, and of business and ethical conduct of directors serving on the boards of companies and public interest entities;
- (b) assess the needs of directors and organise conferences, seminars, workshops and training; and

- (c) co-operate with the Council and the National Committee on Corporate Governance and with other institutions and organisations having objects similar to those of the Mauritius Institute of Directors in order to fulfil its objects.

[S. 70 amended by s. 10 (i) of Act 18 of 2008 w.e.f. 19 July 2008.]

#### **71. Annual report of Mauritius Institute of Directors**

(1) The Mauritius Institute of Directors shall file a copy of its annual report with the Council and the National Committee on Corporate Governance within 3 months of the close of its financial year.

(2) The annual report shall include—

- (a) the audited annual financial statements; and
- (b) an overview of the activities of the Mauritius Institute of Directors during that financial year.

(3) —

### **PART VI – SETTING OF STANDARDS AND MONITORING**

#### **72. Financial reporting and accounting standards**

(1) The Council shall, in relation to statutory bodies specified in Part II of the Second Schedule to the Statutory Bodies (Accounts and Audit) Act, develop, issue and keep up-to-date financial reporting and accounting standards, and ensure consistency between the standards issued and the International Financial Reporting Standards.

(2) The Council shall specify, in the financial reporting and accounting standards, the minimum requirements for recognition, measurement, presentation and disclosure in annual financial statements, group annual financial statements or other financial reports which every public interest entity shall comply with, in the preparation of financial statements and reports.

(3) The Council shall specify in the financial reporting and accounting standards, the minimum requirements for recognition, measurement, presentation and disclosure in annual financial statements, group annual financial statements or other financial reports, with which every entity, other than a public interest entity, shall comply in the preparation of its financial statements and reports.

[S. 72 amended by s. 16 (d) of Act 14 of 2009 w.e.f. 30 July 2009; s. 12 (s) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **73. Auditing standards**

(1) —

(2) The Council may issue rules and guidelines for the purposes of implementing—

- (a) the financial reporting and accounting standards referred to in section 72; and
- (b) the auditing standards.

(3) Every licensed auditor shall, in the exercise of his profession, comply with—

- (a) such minimum requirements as shall be specified by the Council in the auditing standards;
- (b) any rule and guideline issued under this Act.

[S. 73 amended by s. 16 (e) of Act 14 of 2009 w.e.f. 30 July 2009.]

#### **74. Publication of standards, rules and guidelines**

(1) Where the Council intends to publish or amend any financial reporting and accounting standards referred to in section 72 or any rules and guidelines referred to in section 73, it shall cause a notice to be published in—

- (a) the *Gazette*; and
- (b) not less than 2 daily newspapers for 3 consecutive days,

inviting comments from all interested persons.

(2) Any person who wishes to submit any comment shall, within 21 days of the last date of the publication specified in subsection (1), submit his comments in writing to the Council.

(3) The Council may, in deciding whether to approve the financial reporting and accounting standards referred to in section 72 or any rules and guidelines referred to in section 73 or their amendments, have regard to any comment submitted under subsection (2).

[S. 74 amended by s. 16 (f) of Act 14 of 2009 w.e.f. 30 July 2009.]

#### **75. Compliance by public interest entities**

(1) Where a public interest entity is required under any enactment to prepare a financial statement or report, it shall ensure that the financial statement or report is in compliance with the financial reporting requirements of this Act or any other relevant enactment, any regulations or rules made under this Act and with the IFRS.

(2) Every public interest entity shall adopt corporate governance in accordance with the National Code of Corporate Governance.

(3) Every public interest entity under subsection (2) shall submit to the Council a statement of compliance with the Code of Corporate Governance and where there is no compliance, the statement shall specify the reasons for non-compliance.

[S. 75 repealed and replaced by s. 16 (g) of Act 14 of 2009 w.e.f. 30 July 2009; amended by s. 12 (t) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **76. Monitoring of financial statements, annual report and report on corporate governance**

(1) Where a public interest entity is required under any enactment to file its financial statements, annual report and its report on corporate governance with a Government department or authority, the Council or any officer authorised by it in writing may review the financial statements, annual report and its report on corporate governance of a public interest entity filed with the Government Department or authority to determine whether the financial

Statements, annual report and its report on corporate governance are in compliance with this Act.

(1A) Every public interest entity shall, not later than 6 months after the closing of its accounting year, submit to the Chief Executive Officer its financial statements, annual report and its report on corporate governance in respect of that year.

(2) The Council, or any officer authorised by it in writing, may seek further information or clarification from—

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

(3) —

(4) Nothing in this section shall be taken to compel the production by any public interest entity, its employee and the auditor responsible for the audit of the financial statements, of any book, document, record or material containing—

- (a) any information which is confidential under the Banking Act or any other enactment; and
- (b) a privileged communication by or to a legal practitioner in that capacity,

except in so far as the disclosure of the information is made according to law.

(5) Any person who fails to comply with subsection (1A) or with any requirement under subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

[S. 76 amended by s. 10 (j) of Act 18 of 2008 w.e.f. 19 July 2008; s. 12 (u) of Act 27 of 2012 w.e.f. 22 December 2012.]

## **77. Practice review of auditors**

(1) The Council, or any officer authorised by it in writing, may review the practice of an auditor and may, for that purpose—

- (a) inspect any relevant book, document and record in the possession, or under the control of the auditor, his partner or employee 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 or employee of the auditor.

(2) Subject to subsection (3), every auditor shall, at the request of the Council, or any officer authorised by it in writing, produce any relevant book, document or record in his possession or under his control for the purposes of subsection (1).

(3) Nothing in this section shall be taken to compel the production by an auditor of a book, document, record or material containing—

- (a) any information which is confidential under the Banking Act or any other enactment; and
- (b) a privileged communication by or to a legal practitioner in that capacity,

except in so far as the disclosure of the information is made according to law.

#### **78. Power of investigation**

(1) The Council may investigate or cause to be investigated—

- (a) any complaint of dishonest practice, negligence, professional misconduct, or malpractice made against a licensed auditor; or
- (b) any breach of the Code of Professional Conduct and Ethics by a licensed auditor; or
- (c) any material irregularity notified to it pursuant to section 40 (2).

(2) Where the Council investigates a complaint—

- (a) it shall notify the auditor whose conduct, act or omission is under investigation, of the nature of the complaint;
- (b) it may summon and hear the auditor;
- (c) it may summon and hear witnesses;
- (d) it may call for relevant documents and make such copies thereof as it thinks fit; and
- (e) it may review any financial statement and report filed with any Government department or authority.

(3) Every public interest entity or auditor shall, subject to subsections (4) and (5), produce any relevant book, record or document in his possession or under his control to the Council where the Council is conducting an investigation for the purposes of subsection (1).

(4) A person may refuse to answer a question put to him or refuse to furnish any information, document, record or book, where the answer to the question or the production of the document, record or book might tend to incriminate him.

(5) Nothing in this section shall be taken to compel the production by the auditor, the public interest entity or its officer of any book, document, record or any other material containing—

- (a) any information which is confidential under the Banking Act or any other enactment; and
- (b) privileged communication by or to a legal practitioner in that capacity,

except in so far as the disclosure of the information is made according to law.

(6) The Council shall refer the findings of any investigation under subsection (1) to the Enforcement Panel for the determination of the appropriate sanction to be imposed.

#### **79. Sanctions on public interest entities**

(1) Where the Council reaches a final decision under section 23, to the effect that a public interest entity has failed to comply with any financial reporting and accounting standard, code, Code of Corporate Governance or guideline issued under this Act, and with such other financial reporting and accounting standards as may be specified under the relevant enactments, the Council may issue a warning to the public interest entity or serve a notice on the public interest entity for an immediate restatement of its financial statement.

(2) Where a notice is served on a public interest entity under subsection (1), it shall, within 30 days of the service of the notice, restate its financial statements and resubmit them to the Council and to the Government department or authority.

(3) Any public interest entity which fails to comply with the notice referred to in subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees, and the Council may refer the matter to the Registrar of Companies or the relevant Government department or authority for appropriate action.

[S. 79 amended by s. 12 (v) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **80. Publication**

The Council shall—

- (a) periodically publish an Official Bulletin which shall contain—
  - (i) the rules made by the Council; and
  - (ii) such other information as the Council may deem necessary;
- (b) cause to be published in the *Gazette* and in a daily newspaper a notice relating to the rules of the Council which have been made, altered or revoked.

(2) The Council may cause to be published in the *Gazette*, in its Official Bulletin or in a daily newspaper, its findings or decisions under sections 21 (2), 23 (7), 43 and 79.

#### **81. Referral to police**

Without prejudice to the powers of the Council under this Act, where an investigation carried out by, or on behalf of the Council, reveals that an offence may have been committed, the matter under investigation shall be referred to the Police.

#### **82. Appeals**

Any person aggrieved by a final decision of the Council or the Mauritius Institute of Professional Accountants may appeal to the Supreme Court by way of judicial review.



**PART VII – MISCELLANEOUS MATTERS**

**83. – 85. –**

**86. Regulations**

(1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.

(2) The Minister may, by regulations, amend the Schedules.

(3) Regulations made under subsection (1) may provide for the levying of fees and charges referred to in sections 49, 50, 51, 52, 54, 55, 57 and 60.

[S. 86 amended by s. 12 (w) of Act 27 of 2012 w.e.f. 22 December 2012.]

**87. –**

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**FIRST SCHEDULE**

[Section 2]

**ENTITIES**

1. Entities listed on the Stock Exchange of Mauritius
2. Financial institutions, other than cash dealers, regulated by the Bank of Mauritius
3. Financial institutions regulated by the Financial Services Commission, from the following categories—
  - (a) insurance companies, other than companies conducting external insurance business, licensed under the Insurance Act;
  - (b) collective investment schemes and closed-end funds, registered as reporting issuers under the Securities Act;
  - (c) CIS managers and custodians licensed under the Securities Act;
  - (d) persons licensed under section 14 of the Financial Services Act to carry out leasing, credit finance, factoring and distributions of financial products to the extent that the services supplied are by retail
4. (1) Any company which has, during 2 consecutive preceding years, at least one of the following—
  - (a) an annual turnover exceeding 500 million rupees; or
  - (b) total assets exceeding 500 million rupees.

(2) Any group company which has, during 2 consecutive preceding years, at least one of the following—

- (a) an annual turnover exceeding one billion rupees; or
- (b) total assets exceeding one billion rupees,

excluding subsidiaries, provided that the ultimate holding company complies with the Corporate Governance Code for Mauritius (2016)

5. Agricultural Marketing Board established under the Mauritius Agricultural Marketing Act

6. Beach Authority established under the Beach Authority Act

7. Central Electricity Board constituted under the Central Electricity Board Act

8. Central Water Authority established under the Central Water Authority Act

9. Gambling Regulatory Authority established under the Gambling Regulatory Authority Act

10. Irrigation Authority established under the Irrigation Authority Act

11. Mauritius Broadcasting Corporation established under the Mauritius Broadcasting Corporation Act

12. Mauritius Cane Industry Authority established under the Mauritius Cane Industry Authority Act

13. Mauritius Meat Authority established under the Meat Act

14. Mauritius Ports Authority established under the Ports Act

15. National Transport Corporation established under the National Transport Corporation Act

16. Road Development Authority established under the Road Development Authority Act

17. Rose Belle Sugar Estate Board established under the Rose Belle Sugar Estate Board Act

18. State Trading Corporation established under the State Trading Corporation Act

19. Sugar Insurance Fund established under the Sugar Insurance Fund Act

20. Waste Water Management Authority established under the Waste Water Management Authority Act

[First Sch. repealed and replaced by s. 10 (k) of Act 18 of 2008 w.e.f. 19 July 2008; s. 12 (x) of Act 27 of 2012 w.e.f. 22 December 2012; amended by s. 18 (e) of Act 27 of 2013 w.e.f. 21 December 2013; GN 249 of 2016 w.e.f. 1 July 2017.]

**SECOND SCHEDULE**

[Section 27]

**OATH OF CONFIDENTIALITY**

**IN THE SUPREME COURT OF MAURITIUS**

I, ....., being appointed Chairperson/member of Council/member of Committee/member of a Panel of Experts/Chief Executive Officer/Secretary/employee/consultant\* do hereby swear/solemnly affirm\* that I will, to the best of my judgment, act for the furtherance of the objects of the Council and shall not, on any account and at any time, disclose, otherwise than with the authorisation of the Council or where it is strictly necessary for the performance of my duties, any information of a confidential nature obtained by me in virtue of my official capacity.

.....  
Signature

Taken before me, .....  
Master and Registrar,  
Supreme Court on .....

(\* *Delete as appropriate*)

[Second Sch., previously Third Sch., renamed by s. 10 (l) of Act 18 of 2008 w.e.f. 19 July 2008.]

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