



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 922

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 169

1994

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 10 of 1994: Public Accountants' and Auditors' Amendment Act, 1994

**PUBLIC ACCOUNTANTS' AND AUDITORS'
AMENDMENT ACT, 1994**

ACT

To amend the Public Accountants' and Auditors' Act, 1951 so as to define certain expressions; to make different provision for the composition of the Public Accountants' and Auditors' Board; to validate certain acts done by the Institute of Chartered Accountants of Namibia since the date of Namibia's independence in the name of the Public Accountants' and Auditors' Board; and to provide for incidental matters.

(Signed by the President on 10 September 1994)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Amendment of section 1 of Act 51 of 1951, as amended by section 1 of Act 30 of 1962 and section 1 of Act 53 of 1975.

1. Section 1 of the Public Accountants' and Auditors' Act, 1951 (in this Act referred to as the principal Act), is amended -

(a) by the insertion after the definition of "examining board" of the following definition;

" 'Institute' means the Institute of Chartered Accountants of Namibia;";

(b) by the deletion of the definition of "Republic"; and

(c) by the addition of the following definition:

" 'University' means the University of Namibia established by section 2 of the University of Namibia Act, 1992 (Act 18 of 1992)".

2. Section 3 of the principal Act is amended -

(a) by the substitution for subsection (1) of the following subsection:

"(1) The board shall consist of ten members appointed by the Minister, of whom -

(a) one shall be the Auditor-General;

Amendment of section 3 of Act 51 of 1951, as amended by section 2 of Act 47 of 1956, section 2 of Act 30 of 1962, section 1 of Act 68 of 1965, section 15 of Act 80 of 1971, section 2 of Act 53 of 1975 and section 1 of Act 9 of 1988.

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(b) four shall be officers in the public service who, in the opinion of the Minister, are in the performance of their duties concerned to a considerable extent with certificates, reports or opinions furnished by accountants or auditors;

(c) one shall be a senior lecturer in accounting at the University, nominated for appointment by the Council of the University; and

(d) four shall be persons nominated for appointment by the Institute."

(b) by the substitution for subsection (3) of the following subsection:

"(3) When an appointment is to be made of a member of the board referred to in paragraph (c) or (d) of subsection (1), the Minister shall by notice in writing request the Council of the University or the Institute, as the case may be, to nominate, within thirty days from the date the notice is given, a person or persons for appointment."

(c) by the substitution for subsection (4) of the following subsection:

"(4) If a nomination is not received by the Minister within the required period, the Minister may appoint any person whom the Minister thinks fit to be a member of the board and a member so appointed shall be deemed to have been appointed upon a nomination by the Council of the University or the Institute, as the case may be."

(d) by the substitution for subsection (5) of the following subsection:

"(5) The Minister may for each of the members of the board referred to in paragraphs (b), (c) and (d) of subsection (1) appoint, in the same manner as such a member, a person to be the alternate of the member, and the Auditor-

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General may designate any officer of his or her office to be his or her alternate, and any such alternate of a member, may, in the event of the absence of such member from a meeting of the board, attend and take part in the proceedings of that meeting."

Substitution of section 4 of Act 51 of 1951, as amended by section 2 of Act 68 of 1965, section 16 of Act 80 of 1971 and section 3 of Act 53 of 1975.

3. The following section is substituted for section 4 of the principal Act:

"Qualifications of members and vacation office.

4. (1) No person shall be eligible for nomination or appointment as a member of the board referred to in paragraph (d) of subsection (1) of section 3, or as alternate to such a member, unless he or she is registered as an accountant and auditor under this Act.

(2) The office of a member of the board appointed under paragraph (c) or (d) of subsection (1) of section 3 shall become vacant if such member -

- (a) resigns in writing to the Minister;
- (b) is convicted of an offence and sentenced to imprisonment without the option of a fine;
- (c) is absent from three consecutive meetings of the board without its leave;
- (d) being a member appointed under the said paragraph (c), ceases to be a senior lecturer in accounting at the University;
- (e) being a member appointed under the said paragraph (d), ceases to be registered as an accountant and auditor under this Act;
- (f) is removed from office by the Minister under the provisions of subsection (3).

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(3) A member of the board appointed under paragraph (c) or (d) of subsection (1) of section 3 may be removed from office by the Minister if the Minister is of the opinion that such member -

(a) is incapacitated by physical or mental illness; or

(b) is otherwise unable or unfit to discharge the functions of a member of the board.

(4) The Minister may at any time, in his or her discretion, terminate the appointment of a member of the board referred to in paragraph (b) of subsection (1) of section 3.

Amendment of section 5 of Act 51 of 1951.

4. Section 5 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) Every member of the board, other than the Auditor-General, shall, subject to subsection (2) of section 4, hold office for a period of one year from the date of his or her appointment, but shall on termination of the period for which he or she was appointed continue to hold office for a further period not exceeding three months until his or her successor has been appointed.”.

Amendment of section 6 of Act 51 of 1951, as substituted by section 3 of Act 47 of 1956 and amended by section 4 of Act 53 of 1975.

5. Section 6 of the principal Act is amended by the deletion of subsection (3).

Amendment of section 12 of Act 51 of 1951, as amended by section 2 of Act 9 of 1988.

6. Section 12 of the principal Act is amended by the substitution for subsection (4) of the following subsection:

“(4) The board shall refund to the Treasury any transport and subsistence allowances paid out of public funds to a member of the board appointed in terms of paragraph (a) or (b) of subsection (1) of section 3, or a person appointed or designated [by such member] under subsection (5) of that section to act in his or her stead, or a member of a committee of the board (not being a member

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of the board) who is in the full-time service of the State, whilst engaged in connection with the business of the board or a committee thereof.”

Amendment of section 29 of Act 51 of 1951, as amended by section 13 of Act 47 of 1956.

7. Section 29 of the principal Act is amended by the deletion of subsection (2).

Amendment of Act 51 of 1951.

8. The principal Act is amended -

(a) by the substitution -

- (i) in subsection (3) of section 11, for the words “each society”;
- (ii) in paragraph (d) of subsection (3) of section 24, for the words “a society”;
- (iii) in section 27, for the words “any society or organized body of professional accountants”; and
- (iv) in subsection (1) of section 29, for the words “any society” and the words “that society”,

of th words “the Institute”; and

(b) by the substitution for the words “the Republic”, wherever they occur, of the word “Namibia”.

Validation of certain acts done in the name of the Public Accountants' and Auditors' Board.

9. Anything done by the Institute of Chartered Accountants of Namibia since the date of Namibia's independence and until the first composition of the Board after the commencement of this Act in accordance with section 3 of the principal Act, as amended by this Act, and which purports to have been done in the stead and on behalf of the Public Accountants' and Auditors' Board and in the exercise or performance of any power, duty or function conferred or imposed on that Board by the principal Act, is hereby validated and shall be deemed to have been done by that Board.

Short title.

10. This Act shall be called the Public Accountants' and Auditors' Amendment Act, 1994.