

**THE INSTITUTE OF CHARTERED ACCOUNTANTS
OF NAMIBIA**

CONSTITUTION

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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NAMIBIA

CONSTITUTION

1 NAME

The name of the Institute is THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NAMIBIA.

2 DEFINITIONS

In this Constitution:-

- (a) "Absentee member" means a member who is ordinarily resident outside the Republic of Namibia for a full calendar year;
- (b) "Annual general meeting" means the general meeting of the Institute required to be held once in each year in terms of this Constitution;
- (c) "By-Laws" means the By-laws of the Institute in force from time to time under this Constitution;
- (d) "Chief Executive Officer" means the Chief Executive Officer of the Institute and shall include the person who occupies such position from time to time, by whatever title he or she may be known;
- (e) "Council" means the Council of the Institute;
- (f) "Honorary Life member" means a member who has been elected as such by the Council in terms of By-law 26;
- (g) "Institute" means The Institute of Chartered Accountants of Namibia;
- (h) "Long service member" means a member who has been elected as such by the Council in terms of By-Law 26;
- (i) "Meetings" means meetings of members of the Institute;
- (j) "Member" shall, unless the contrary intention appears, means a person who has satisfied the requirements for qualification of membership pursuant to this Constitution and By-Laws;
- (k) "Month" means a calendar month;

- (l) "Namibia" means the Republic of Namibia;
- (m) "Officer" means an executive staff member appointed by the Council and designated as such;
- (n) "PAAB" means the Public Accountants' and Auditors' Board established in terms of Section 2 of the Public Accountants' and Auditors' Act;
- (o) "Registered Accountant and Auditor" means any person whose name is enrolled on the register of accountants and auditors established and maintained by the PAAB;
- (p) "Registered address" in respect of any member means the address of such member as last recorded in terms of the By-Laws;
- (q) "Secretariat" means the officers and employees appointed by the Council acting in that capacity by direction of the Council;
- (r) "Trainee accountant" means a person who has satisfied the requirements for registration as a trainee accountant pursuant to this Constitution and who is a registered trainee accountant of the Institute;
- (s) "year" means a year commencing on 1 January.

Unless inconsistent with the context, words and expressions in the masculine gender include the feminine and words signifying the singular number include the plural.

3 LEGAL PERSONA

The Institute is a body corporate with perpetual succession capable of suing and being sued in its own name and performing such acts as are necessary for or incidental to the achievement of its objects and the exercise of its powers or the performance of its functions and duties under this Constitution or under any statute of Namibia.

4 MEMBERSHIP AND DESIGNATIONS

- (a) Only a chartered accountant who is a member in good standing is entitled to use the designations reserved for members of the Institute as per this Constitution.
- (b) Nothing in this Constitution or By-laws shall be construed as conferring upon a trainee accountant any rights to use any of the designations reserved for members of the Institute.

5 OBJECTS

The objects of the Institute are:-

- (a) to promote the common interests of the members of the Institute by means other than the carrying on by the Institute of any trading or other profit making activities, or the participation by the Institute in any business, profession or occupation carried on by any of its members, or the provision to any of its members of financial assistance or of any premises or continuous services or facilities required by its members for the purpose of carrying on any business, profession or occupation.
- (b) to pursue a pipeline of trainee accountants who are representative of the country's economically active population, both in terms of race and gender.
- (c) to advance the theory and practice of accountancy in all its aspects.
- (d) to preserve at all times the professional independence of members of the accountancy profession.
- (e) to insist upon a high standard of professional behaviour on the part of members and trainee accountants of the Institute and to preserve and maintain the integrity and status of the profession, to take any steps which may be thought necessary to stop or prevent improper conduct and practices by members and trainee accountants, for this purpose to hold enquiries into the conduct of members and trainee accountants and to take disciplinary action against members and trainee accountants, including the termination of their membership or registration and their expulsion from the Institute.
- (f) to consider and pass comment on actual or impending legislation in Namibia affecting the accountancy profession or otherwise and to apply for, petition for, or promote any Act of Parliament or other legislative enactment desirable for the betterment or enhancement of the profession of accountancy.
- (g) to provide for research into accounting, auditing, financial management and kindred matters and to provide members and trainee accountants with information on developments in professional thought and methods both inside and outside Namibia.
- (h) to provide opportunities for an exchange of views among members and trainee accountants.
- (i) to implement steps to enable the accountancy profession as far as is practicable to speak with one voice on matters of national or international importance affecting the profession.
- (j) to promote and develop on behalf of members and trainee accountants a public relations forum designed to inform the general public about the accountancy profession and to give a proper appreciation of its functions and problems.
- (k) to liaise and co-operate with professional and regulatory bodies impacting the accountancy profession.

- (l) to apply for membership of and to co-operate with national and international bodies representing the interests of the accounting profession.
- (m) to publish, distribute and sell a journal to members of the Institute, trainee accountants, students of accountancy, members of other professions and interested members of the public, and to publish, distribute and sell to any of these persons books, pamphlets or other publications relating to the professional affairs of the Institute or of its members or relating to the accountancy profession.
- (n) to organise and control as far as may be necessary, national and international congresses of chartered accountants.
- (o) to provide, in support of lifelong learning and continuous professional development, products and services for members, trainee accountants, members of other professions and interested members of the public, and to charge reasonable fees to persons attending such courses.
- (p) to co-operate with and, if necessary, assist financially by way of grant or otherwise, those education institutions which provide education and training for persons wishing to qualify as Chartered Accountants.
- (q) to publish from time to time a list of members of the Institute.
- (r) to establish or acquire and maintain a library containing books, journals and periodicals of interest to and for the use of members and others.
- (s) to assist and collaborate in the formulation and/or prescription of financial reporting standards (by whatever name they may be known) for Namibia.
- (t) to assist and co-operate with the PAAB with regard to the monitoring of the Institute's professional development programme.
- (u) to assist and collaborate with representative bodies of professional institutes and associations in regard to the profession of accountancy.
- (v) to provide for the amicable settlement or adjustment of professional disputes, including disputes between members of the public which relate directly or indirectly to the profession of accountancy.
- (w) to establish or support or administer, or to aid in the establishing or supporting or administering of, associations, funds and trusts calculated to benefit employees and members of the Institute or their dependants or employees as well as students at educational institutions who are studying towards qualifying as Chartered Accountants and teachers of those students.

- (x) to establish and, where appropriate, to register approved training schemes and trainers, to regulate service under such training schemes, to prescribe the fees which shall be payable in respect of such training schemes, and to insist upon a high standard of training.
- (y) to co-operate at all times with the Namibian Qualifications Authority established in terms of the Namibian Qualifications Authority Act 29 of 1996 or its successor authority.
- (z) to co-operate at all times with the Namibia Training Authority established in terms of the Vocational Education and Training Act 1 of 2008 or its successor authority.
- (aa) to prescribe syllabi in respect of examinations and relevant competency assessments for trainee accountants and for persons wishing to become members or trainee accountants; to prescribe, or conduct or make arrangements for the conduct of, such examinations and competency assessments, including examinations and competency assessments of a tertiary institution in Namibia or elsewhere, or of any institution approved by the Council in its discretion; to exempt from the obligation to pass any such examination or competency assessment any person who has passed and other examination or competency assessment prescribed or approved by the Council; and to prescribe the fees which are payable by such persons in respect of such syllabuses, examinations or competency assessments or in respect of such exemptions.
- (bb) to prescribe the education and training assessment requirements to be obtained by any person wishing to become a member or trainee accountant, or entitling any person to exemption from the requirements to be complied with by such persons, as well as the fees which shall be payable to the Institute in respect of such exemptions.
- (cc) to prescribe the degrees, diplomas, and other qualifications to be obtained by any person wishing to become a member or trainee accountant, or entitling any person to exemption from the requirements to be complied with by such persons, as well as the fees which shall be payable to the Institute in respect of such exemptions.
- (dd) to conduct programmes to promote and facilitate the education and training of Chartered Accountants so that new members reflect the demographics of Namibia.
- (ee) to play an active role in promoting a transformed, dynamic and globally competitive CA profession that will reflect the demographics of the Namibian population and contribute to the establishment of an equitable society.
- (ff) to establish, conduct and participate in corporate social responsibility projects for the chartered accountancy profession in line with the requirements of any professional charter.
- (gg) to facilitate or conduct or participate in projects that enhance the standing of the profession or that promote the profession or its leadership role in the community.

- (hh) generally to do and to undertake and advise on all matters which may be expedient and in the interests of the members of the Institute and the general public in relation to matters of concern to the profession of accountancy.
- (ii) to establish entities or partnerships to achieve any of the above objectives.
- (jj) generally to do such other things as may be incidental or conducive to the attaining of the above objects.

6 COUNCIL

- (a) The affairs of the Institute shall be managed by a Council consisting of seven elected members of the Institute resident in Namibia.
- (b) One-third of the elected members of the Council, excluding the President and Vice-President elected in terms of Clause 8(a), shall retire from office at the termination of each Annual General Meeting but shall be eligible for re-election thereto. If the number of elected members of the Council, excluding the President and Vice-President, be not a multiple of three, then the number nearest to one-third shall retire and such one-third or other nearest number shall be those who have been longest in office since the date of their last election. As between two or more elected members who have been in office an equal length of time the members to retire shall be determined by lot at any meeting of the Council. The places of retiring elected members shall be filled at each Annual General Meeting and at such meeting any vacancy not already filled by Council in term of Clause 6 (h) shall also be filled.
- (c) The Council shall elect from amongst its members a President and Vice-President who will also act as Chairperson and Vice-Chairperson respectively in accordance with Clause 8 below.
- (d) The Council shall have the right at any time to co-opt a maximum of five additional non-voting members to the Council whenever it deems such additional appointments necessary, provided that such co-option is agreed to by two-thirds (rounded upwards to the nearest whole number) of the members of the Council as then constituted.
- (e) The Council shall have the right to recuse, suspend or remove any member of the Council whenever it deems it appropriate to do so.
- (f) The Council shall, not less than fourteen clear days before each Annual General Meeting, send to each member at his registered address a notice calling for nominations for election to Council.
- (g) Save as hereinafter provided, each candidate for election to the Council by members in Annual General Meeting shall be nominated by written nomination signed by two members of the Institute and accepted in writing by such candidate stating that he

is resident in Namibia and delivered to the Secretariat not less than three clear days before the day appointed for the Annual General Meeting.

- (h) Any casual vacancy occurring in the Council may be filled by the Council. The person so appointed shall be subject to retirement at the same time as if he had become a member of the Council on the day on which the member in whose place he is appointed was last elected a member of the Council.
- (i) Subject to the entrenched rights, the provisions of paragraph 6(a) above shall not be amended unless such amendment is agreed to by three-fourths (rounded upwards to the nearest whole number) of the members of the Council as then constituted, and thereafter approved by not less than three-fourths of the members of the Institute who are present in person or by proxy at a General Meeting of which the requisite notice has been given with full particulars of the proposed amendments.

7 POWERS OF THE COUNCIL

- (a) In managing the affairs of the Institute the Council shall be entitled to exercise all the powers of the Institute and/or delegate any or all powers of the Institute to the Chief Executive Officer, except such powers as are expressly reserved by the provisions of this Constitution to the Institute in general meeting.
- (b) Without in any way limiting the scope of its powers as generally described in Sub-Clause (a) hereof and in addition to powers given to it elsewhere in this Constitution, the Council shall have the power in the name of and on behalf of the Institute:
 - (i) to receive and accept donations, grants and other moneys;
 - (ii) to purchase or otherwise acquire, take on lease or hire, exchange, improve, sell, mortgage, pledge, let, dispose of or otherwise deal in property of any description whatsoever;
 - (iii) to raise or borrow or secure any sum of money or the performance of any obligation in such manner and upon such terms and conditions as it deems fit and, in particular, by the execution of mortgage or notarial bonds or the issue of debentures or debenture stock charged upon all or any of the property of the Institute;
 - (iv) to invest the funds of the Institute or any portion thereof in such securities and in such manner as the Council may from time to time determine and to vary or transpose such investments in its discretion;
 - (v) to open and operate banking accounts and savings accounts with registered banking institutions and registered building societies;
 - (vi) to apply and use the funds of the Institute to promote the objects of the Institute;

- (vii) to institute and defend legal proceedings;
- (viii) to appoint and remove any person as an officer or employee of the Institute and to determine his/her designation, duties, salary and other terms of employment;
- (ix) to pay reasonable travelling subsistence and other expenses incurred in connection with the affairs of the Institute by any member of the Institute or its Council or any officer or employee of the Institute;
- (x) to enter into contracts and to authorise the settling of the terms of and the signature of any contract or any other document;
- (xi) to interpret any clause of the Constitution if any dispute arises as to its meaning, such interpretation being binding on the members of the Institute if accepted by not less than four members of the Council;
- (xii) to prescribe the form of the instrument appointing a proxy;
- (xiii) to appoint such officers and employees of the Institute on such terms and conditions as it shall deem fit and may remove them or any of them and appoint another or others in their place;
- (xiv) to make such rules (not inconsistent with the Constitution) as may be considered by it necessary for the performance of the respective functions of the Investigation Committee and the Disciplinary Committee;
- (xv) to prescribe, from time to time, rules of professional conduct; and
- (xvi) generally to do whatever the Council deems necessary to enable it to carry out the objects of the Institute and to exercise the powers and to perform the functions and discharge the duties given to or imposed upon it in terms of this Constitution.

8 ELECTION OF PRESIDENT AND VICE PRESIDENT

- (a) The Council shall elect at the meeting immediately following the Annual general meeting from amongst its members a President and Vice-President to hold office until the election of their successors, whom will also act as Chairperson and Vice-Chairperson respectively.
- (b) The person elected as President shall have served on the Council for a period of not less than 2 years immediately prior to his or her election as President.
- (c) No member shall be entitled to hold office as President or Vice-President for more than two consecutive terms of Office.

9 INVESTIGATION AND DISCIPLINARY COMMITTEES

The Council shall appoint an Investigation Committee and a Disciplinary Committee, with their respective chairpersons, which shall have the powers to carry out the duties and exercise the functions granted to those committees under the By-Laws.

10 OTHER COMMITTEES

The Council may appoint other Committees to assist it in the performance of its functions and duties and may appoint such of its members and such persons who are not members of the Council or the Institute as it may deem fit, to be members of any such Committee.

11 FUNDS OF THE INSTITUTE

- (a) The Institute shall, subject to the provisions of this Constitution, apply its funds and income solely for investment purposes or in promoting the objects of the Institute.
- (b) The Institute shall not distribute any profits or gains by way of dividend or otherwise to its members or to any other person.
- (c) Should the Institute be wound up, a person who has ceased to be a member or trainee accountant of the Institute or the executors, administrators, heirs or assigns of such person, shall in no circumstances have any claim to or against the Institute by reason only of such previous membership or training contract.
- (d) Should the Institute be wound up, its funds shall be dealt with in accordance with the provisions of this Constitution.

12 ANNUAL GENERAL MEETING

- a) The Annual General Meeting of the Institute shall be held at such place in Namibia as determined by the Council, for the purposes of transacting the following business:
 - i) the election of members of the Council; and
 - ii) the consideration of the annual financial statements; and
 - iii) the consideration of reports by the President and the Chief Executive Officer;
 - iv) the consideration of a report by the auditors;
 - v) the appointment of the auditors, and
 - vi) such other business as may be transacted at an ordinary annual general meeting.
- b) The annual general meeting shall be held on a date and at a time determined by the Council, but no later than 30 June in each year.
- c) Twenty-one days' notice of an annual general meeting, specifying the place, date and time of the meeting and the business to be dealt with, shall be sent to each member at his or her registered address. The accidental omission to give notice to any

member shall not invalidate the proceedings at any such meeting.

- d) The quorum at an annual general meeting shall be 20% of members in person or by proxy. Unless ten members are personally present within fifteen minutes of the time appointed for the meeting the meeting shall stand adjourned for the same time, at the same place and on the same day of the next week, and if such day be a public holiday, to the next business day thereafter unless the meeting shall have been convened on requisition of members of the Institution terms of Sub-Clause (a), in which case the meeting shall be dissolved.
- e) At an adjourned meeting the members present shall form a quorum and shall have full power to transact the business of the meeting which could have been transacted had the meeting been held on the date for which it was called.
- f) Every member of the Institute who is not in arrear in payment of his annual subscription or any contribution or charge payable by him to the Institute shall be entitled to be present in person or by proxy at an annual general meeting. Each such member shall have one vote. Proxies in the form laid down by the Council shall be lodged with the Secretariat of the Institute not less than forty-eight hours before the time of the meeting.
- g) Every motion proposed and seconded at an annual general meeting of the Institute shall be decided by a show of hands, provided that a poll shall be taken upon demand of not less than five members made immediately on the declaration by the Chairman of the result of the show of hands. Unless a poll is demanded a declaration by the Chairman that a resolution or amendment has, on a show of hands, been carried or carried unanimously, or lost, and an entry to that effect in the minutes of the proceedings of the Institute shall be conclusive evidence of the fact without proof of the number or the proportion of the votes recorded in favour of or against such resolution or amendment.
- h) A poll shall be taken in such a manner as the Chairman directs and the result of the poll shall be deemed to be the resolution of the meeting.
- i) Scrutinisers not being proposers or seconders of the resolution shall be appointed by the Chairman to declare the result of the poll and their declaration, which shall be announced by the Chairman of the meeting, shall be deemed to be the resolution of the meeting at which the poll was demanded, and an entry to that effect in the minutes of the proceedings shall be conclusive evidence of the result.

This clause shall not apply to the election of members of Council which shall be decided by ballot of those present in person or represented by proxy.

13 SPECIAL GENERAL MEETING

- (a) The Council may, whenever it thinks fit, and shall, on the receipt of a written requisition expressing the objects of the proposed meeting and signed by not less

than 5% of the members in good standing specifying the business required to be dealt with at that meeting (which business shall be expressed in the form of a resolution which shall be voted on at that meeting without amendment), call a special general meeting.

- (b) The notice calling such special general meeting shall be issued by the Council within 21 days of the receipt of the request, and the provisions of Clause 12 (c) to (i) relating to the annual general meeting, shall apply mutatis mutandis to such a special general meeting.

14 BY-LAWS

- (a) The By-laws of the Institute shall be those annexed hereto.
- (b) The Council may from time to time amend these By-Laws and make new By-Laws.
- (c) The Council, in amending and making new By-Laws, may cover any matter which the Council considers necessary or expedient to prescribe for the better execution of this Constitution and the furtherance of the objects of the Institute.

15 INDEMNITIES

- (a) Every member of the Council or of any Committee appointed by it and every officer and employee of the Institute shall be indemnified by the Institute against any claims made against him and any losses and expenses incurred by him in or about the execution of his duties, except claims, losses or expenses arising from his own fraud or wilful default.
- (b) No member or trainee accountant of the Institute shall have any claim against the Institute, or against a member of the Council or of any committee appointed by it, or against any officer or employee of the Institute, in respect of anything done bona fide by it or them or any of them in the execution of their duties.
- (c) No legal proceedings, whether criminal or civil, shall lie against the Institute, the Council or any member or officer thereof in respect of any act or duty performed in accordance with this Constitution.

16 LIMITATIONS OF LIABILITY

- (a) A member or trainee accountant of the Institute shall not have any liability for any commitment undertaken by the Institute. All persons shall be deemed to contract or deal with the Institute on this basis.
- (b) The liability of a member or trainee accountant is limited to the payment to the Institute of any outstanding fees, subscriptions and contributions and settlement of any other debts to the Institute which he may have incurred.

17 AMENDMENT OF CONSTITUTION

- (a) The Constitution may from time to time be amended provided such amendments are approved by not less than two-thirds of the members of the Institute who are present in person or by proxy at a General Meeting of which the requisite notice has been given with full particulars of the proposed amendments.
- (b) Such General Meeting shall be held in accordance with the provisions of Clause 12 (c) to (i) above, *mutatis mutandis*.

18 AMALGAMATION

With the approval of not less than two-thirds of members who are present in person or by proxy at a General Meeting duly convened and constituted for that purpose, the Institute may amalgamate or incorporate or join with other bodies of accountants in the Republic of Namibia or elsewhere, whether or not incorporated by statute, provided these other bodies have objects similar to those of the Institute. For this purpose the Institute may take over and assume the assets and liabilities of the aforesaid bodies of accountants including books, records, documents and coats of arms or may make over part or all of the assets and liabilities of the Institute.

19 WINDING UP

- (a) The Institute may be wound up in terms of the provisions of this Constitution by a resolution of not less than two-thirds of the members who are present in person or by proxy at a general Meeting duly convened and constituted for that purpose.
- (b) Members or trainee accountants shall not have any claim in respect of any surplus there may be on winding up of the Institute, which shall be dealt with in terms of this Constitution.
- (c) Upon a resolution to wind up the Institute having been passed in terms of the Constitution, the Council shall, by simple majority vote, appoint a liquidator or liquidators and may give such directions as to the method of winding up as they think fit: Provided that any funds or assets of the Institute remaining after the payment of the debts and expenses of the Institute and the costs of winding up shall be distributed to or amongst such kindred or related associations, bodies or institutions with objects similar to those of the Institute, including educational institutions (but excluding individual members or trainee accountants or firms or companies controlled by members or trainee accountants) as the Council shall decide, provided that such associations, bodies or institutions are themselves exempt from liability to pay income tax.