

# ACCOUNTANTS (AMENDMENT) ACT, 2020

No. 8



of 2020

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### **An Act to amend the Accountants Act.**

*Date of Assent:* 29.10.2020

*Date of Commencement:* ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Accountants (Amendment) Act, 2020, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and  
commencement

General  
amendment to  
Cap. 61:05

Amendment  
of section 2 of  
the Act

2. The Accountants Act (in this Act referred to as “the Act”) is amended by substituting for —

- (a) the words “professional accountant” wherever they appear in the Act, the words “certified professional accountant or chartered accountant”;
- (b) the words “professional accounting services” wherever they appear in the Act, the words “professional accountancy services”; and
- (c) the word “Treasurer” wherever it appears in the Act, the words “Audit Committee Chairperson”.

3. The Act is amended in section 2 by —

- (a) substituting for the definitions of “accountant”, “member firm” and “professional accounting services”, the following new definitions —

“accountant” means a person that performs or holds himself or herself out to perform professional accountancy services or other accountancy services for a salary or fee;

“member firm” means a body corporate, a partnership or an individual which or who provides professional accountancy services or other accountancy services and is registered in accordance with section 33;

“professional accountancy services” means services provided by a certified professional accountant or a chartered accountant;

- (b) deleting the definition of the words, “audit firm”, “Botswana Professional Accountancy Qualification” and “professional accountant”; and

- (c) inserting in their correct alphabetical order, the following new definitions —

“accounting technician” means a person who is not a chartered accountant or a certified professional accountant but satisfies the Institute’s membership requirements as provided for in the Rules of the Institute;

“Appeals Committee” means the Independent Accounting Appeals Committee established under section 47 (1) of the Act;

“Botswana Chartered Accountancy Qualification” means the professional accountancy qualification established by the Institute under section 6, a holder of which shall have successfully completed the professional accountancy qualification examination conducted or arranged for conduct by the Institute.

“certified professional accountant” means a member of the Institute who is not a chartered accountant but who is a member of an IFAC recognised accountancy body and satisfies any Institute requirements;

“chartered accountant” means a member of the Institute who has attained membership by virtue of possessing the Botswana Chartered Accountancy Qualification or through transitional arrangements with, the former Botswana Institute of Accountants;

“continuous professional development” means relevant career enhancement training where, in order for a member to be in good standing he or she must acquire the minimum number of verifiable and non-verifiable hours in a year, as provided for in the rules of the Institute;

“member in good standing” means a member appearing in the Register of Members of the Institute and who is compliant with continuous professional development requirements and whose fees due to the Institute are fully paid up; and

“other accountancy services” means services provided by accounting technicians.

**4. Section 6 (1) of the Act is amended —**

Amendment  
of section 6 of  
the Act

- (a) in paragraph (a), by substituting for the words “Botswana Professional Accountancy Qualification”, the words “Botswana Chartered Accountancy Qualification”;
- (b) by deleting —
  - (i) paragraph (c) (i),
  - (ii) paragraph (e) (ii),
  - (iii) the words “certified auditors” appearing at paragraph (h),
  - (iv) at paragraph (g), the words “and practising certificates”, and
  - (v) at paragraph (u), the words “and auditors”;
- (c) in paragraph (o), by substituting for the word “audit”, the word “accounting”; and
- (d) by substituting for paragraph (v), the following new paragraph —  
“(v) conduct or arrange for the conduct of practice review of member firms;”.

**5. Section 7 of the Act is amended —**

Amendment  
of section 7  
of the Act

- (a) by substituting for subsection (2), the following new subsection —  
“(2) Without prejudice to the generality of subsection (1), The Council shall consist of the following persons —
  - (a) three persons appointed by the Minister, who shall not be the Auditor General or the Accountant General; and
  - (b) six persons registered under this Act, 50 percent of whom shall be citizens of Botswana, who shall be elected by members of the Institute at the annual general meeting of the Institute.”.
- (b) by substituting for subsection (3), the following new section —  
“(3) The Council shall appoint a Secretary who shall —
  - (a) be suitably qualified and experienced;
  - (b) attend all meetings of the Council but shall have no right to vote;
  - (c) be responsible for the recording of the Council’s proceedings and decisions;

- (d) be accountable to the Council for his or her functions and responsibilities; and
- (e) report directly to the Chief Executive.”
- Amendment of section 9 of the Act**
- 6.** Section 9 (2) of the Act is amended by substituting for paragraph (e), the following new paragraph —
- “(e) adopt codes, guidelines and standards relating to financial reporting and accounting;”.
- Amendment of section 10 of the Act**
- 7.** Section 10 of the Act is amended in —
- (a) subsection (2) by substituting for the word “two” appearing therein the word “three”; and
- (b) subsection (3) by substituting for the word “four” appearing therein the word “two”.
- Amendment of section 11 of the Act**
- 8.** Section 11 (2) is amended in paragraph (a) by substituting for the word “two” appearing therein the word “three”.
- Amendment of section 13 of the Act**
- 9.** Section 13 (2) of the Act is amended by substituting for the word “six”, the word “12”.
- Amendment of section 15 of the Act**
- 10.** Section 15 is amended by substituting for subsection (2), the following new subsection —
- “(2) The President, Vice President and Audit Committee Chairperson shall hold office for a period of three years from the date of their election, and shall be eligible for re-election for two further terms.”.
- Amendment of section 18 of the Act**
- 11.** Section 18 of the Act is amended by substituting for subsection (5) the following new subsection —
- “(5) The quorum at any meeting of the Council shall be formed by a simple majority of the Council members.”.
- Amendment of section 20 of the Act**
- 12.** Section 20 of the Act is amended by substituting for subsection (2) the following new subsection —
- “(2) The quorum at any meeting of a committee shall be formed by a simple majority of the members of the committee.”.
- Amendment of section 25 of the Act**
- 13.** Section 25 of the Act is amended —
- (a) in subsection (1) by —
- (i) deleting the words “fully paid-up” which appear therein, and
- (ii) inserting immediately after the words “Institute” where it first appears, the words “in good standing”;
- (b) by inserting immediately after subsection (1), the following new subsection —
- “(1A) Notwithstanding the generality of subsection (1), where a member of the Institute in good standing is not of a class of membership of a fellow or associate of the Institute as stated in the rules of the Institute, and is not registered in accordance with this section, such member shall not be entitled to vote at any general or special meeting in person or by proxy.”; and
- (c) by substituting for subsection (2), the following new subsection —

**“(2) The Council shall submit for approval to each annual general meeting, a statement as to financial position of the Institute, statement of comprehensive income, statement of changes in reserves and statement of cash flows together with the report of the auditor.”.**

**14. Section 27 of the Act is amended —**

Amendment  
of section 27  
of the Act

**(a) by substituting for subsection (1), the following new subsection —**

**“(1) The Council shall, on the recommendation of the Chief Executive appoint the senior staff of the Institute.”;**

**(b) in subsection (2) by substituting for the word “Directors”, the words “senior staff”; and**

**(c) in subsection (4) by substituting for the word “Minister”, the words “Chief Executive”.**

**15. Section 29 of the Act is amended —**

Amendment  
of section 29  
of the Act

**(a) in subsection (1), by deleting paragraph (b); and**

**(b) in subsection (3) by —**

**(i) substituting for the word “three” appearing in paragraph (a), the words “four”,**

**(ii) deleting the words “and certified auditors” appearing in paragraph (a) (i); and**

**(iii) deleting the words “, certified auditors” appearing in paragraphs (b) and (c).**

**16. Section 30 of the Act is amended by —**

Amendment  
of section 30  
of the Act

**(a) substituting for subsection (1), the following new subsection —**

**“(1) A person shall not —**

**(a) hold himself or herself out as a certified professional accountant, chartered accountant, or provider of other accountancy services or as holding a designation likely to create the impression that he or she is a certified professional accountant, chartered accountant or provider of other accountancy services unless he or she is registered with the Institute as a certified professional accountant, chartered accountant or provider of other accountancy services; or**

**(b) employ, contract for the services of or otherwise engage any certified professional accountant, chartered accountant or provider of any other accountancy services unless such certified professional accountant, chartered accountant or provider of any other accountancy services is a member in good standing of the Institute.”.**

**(b) substituting for subsection (2), the following new subsection —**

**“(2) A person may apply to the Institute to be registered as a member in such form as may be prescribed if he or she —**

**(a) has fulfilled the qualification criteria of the Institute for chartered accountants in that he or she —**

- (i) holds the Botswana Chartered Accountancy Qualification, and
- (ii) has satisfied the practical training requirements; or
- (b) has fulfilled the qualification criteria of the Institute for certified professional accountants in that he or she is a member of an IFAC recognised professional accountancy body and —
  - (i) satisfies the Institute’s requirements relating to qualifications in the field of accountancy, and
  - (ii) has a minimum of three years’ practical experience in the field of accountancy; or
- (c) has fulfilled the qualification criteria of the Institute for accounting technicians in that he or she —
  - (i) satisfies the Institute’s requirements relating to qualifications in the field of accountancy, and
  - (ii) has a minimum of two years’ practical experience in the field of accountancy.”.

Deletion of section 31 of the Act

**17.** The Act is amended by deleting section 31.

Amendment of section 32 of the Act

**18.** Section 32 of the Act is amended —

- (a) in subsection (1) —
  - (i) by deleting the words “or 31” appearing therein, and
  - (ii) by deleting paragraph (b); and
- (b) in subsection (3), by deleting the words “or certified auditor” appearing therein.

Amendment of section 33 of the Act

**19.** Section 33 of the Act is amended in subsection (1) by inserting immediately after the word “services”, the words; “or other accounting services”.

Substitution of section 35 of the Act

**20.** The Act is amended by substituting for section 35, the following new section —

“Certificate of registration

**35.** (1) Where the Institute registers —

- (a) a person as a member of the Institute;
- (b) a person as a certified professional accountant or chartered accountant; or
- (c) a firm as a member firm,

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

(2) A certificate of registration issued under subsection (1) shall be issued in such form and upon payment of such fees as may be determined by the Institute in its rules.”.

Amendment of section 36 of the Act

**21.** Section 36 of the Act is amended —

- (a) in subsection (1) by deleting the words “and a practising certificate” appearing therein;
- (b) by deleting subsection (3); and
- (c) by substituting for subsection (4), the following new subsection —
  - “(4) An application under subsection (2) shall be accompanied by such fees and such information as may be determined by the Institute in its rules.”.

- 22.** Section 37 of the Act is amended by deleting subsections (2) and (3). Amendment  
of section 37  
of the Act
- 23.** Section 41 of the Act is amended by deleting the words “or a practising certificate” appearing in paragraphs (b), (e) and (f). Amendment  
of section 41  
of the Act
- 24.** Section 45 of the Act is amended in — Amendment  
of section 45
- (a) subsection (1) —
- (i) by deleting the words “or practising certificate” appearing at paragraph (e), and
- (ii) inserting immediately after paragraph (d), the following new paragraph —
- “(e) that he or she pays an administrative fine as the Committee may determine.”; and
- (b) subsection (2) by deleting the words “or certified auditor” appearing therein.
- 25.** The Act is amended by substituting for section 47, the following new section — Substitution of  
section 47 of  
the Act
- “Independent Accounting Appeals Committee** 47. (1) There is hereby established an Appeals Committee which shall hear and determine appeals —
- (a) made from decisions of the Council, or any of its committees; and
- (b) against disciplinary decisions made by the Council.
- (2) The Appeals Committee established under subsection (1) shall consist of —
- (a) the chairperson, who shall be a legal practitioner admitted to practice in the courts of Botswana and who qualifies to be appointed as a High Court judge; and
- (b) four other members, appointed from among persons with qualifications and experience in —
- (i) accounting,
- (ii) commerce,
- (iii) academia, or
- (iv) professions relevant to the work of the Appeals Committee.
- (3) The members of the Appeals Committee shall be appointed by the Minister for a term of three years, and shall be eligible for re-appointment for a further term of three years.
- (4) The members of the Appeals Committee shall be paid such allowances and remuneration as shall be determined by the Minister.
- (5) The provisions of sections 21 and 22 shall, with the necessary modifications, apply to members of the Appeals Committee.”.

Insertion of section 47A, 47B and 47C in the Act

**26.** The Act is amended by inserting immediately after section 47, the following new sections —

“Secretary of Appeals Committee

**47A.** (1) The Minister shall appoint a secretary to the Appeals Committee to facilitate the conduct of its business.

(2) The Secretary to the Appeals Committee shall attend meetings of the Appeals Committee but shall have no right to vote.

(3) A person shall, when so requested by the Secretary, furnish the Secretary with any information that may be necessary for the carrying out of the functions of the Appeals Committee.

Co-option of experts

**47B.** The Appeals Committee may invite any suitably qualified person to attend the proceedings of the Appeals Committee or otherwise assist it with its deliberations, but any such person shall have no voting right.

Proceedings of Appeals Committee

**47C.** (1) The Appeals Committee shall meet as and when necessary, and at such time and place as the Chairperson may determine.

(2) The Appeals Committee shall determine its own procedure for hearing appeals made in terms of section 47 (1).”.

Amendment of section 48 of the Act

**27.** Section 48 of the Act is amended by deleting subsection (3) (c).

Amendment of section 50 of the Act

**28.** Section 50 of the Act is amended in subsection (1) by inserting immediately after the word “*Gazette*” the words “or a local newspaper”.

Amendment of section 57 of the Act

**29.** Section 57 of the Act is amended in subsection (3) by substituting for the word “Minister” appearing therein, the word “Council”.

Deletion of section 60 of the Act

**30.** The Act is amended by deleting section 60.

Amendment of Schedule to the Act

**31.** The Schedule to the Act is amended by inserting immediately after paragraph (u), the following new paragraphs —

“(v) unlawfully failing to account for money or property or unreasonably delaying an accounting of any money or property received for or on behalf of a client or any other person when called upon to do so;

(w) wilfully refusing or failing to perform or conform with any of the provisions of this Act which is his or her duty to do so; and

(x) contravening any of the requirements of the Code of Conduct and Ethics.”.

**PASSED** by the National Assembly this 10th day of September, 2020.

**BARBARA N. DITHAPO,**  
*Clerk of the National Assembly.*