

**Institute of Accounting and Commerce
(Amended 2009)**

AMENDMENTS TO BY-LAW 19: ETHICAL CODES

Amend By-law 19 to read as follows:

19(1) The Board may from time to time frame, adopt and amend codes of conduct for members and in doing so may frame, adopt and amend such codes for the sub-grades of members provided for in By-law 11 *as well as for members who are accounting officers and who have been given practice numbers by the Companies and Intellectual Property Registration Office.*

Add the following sub By-laws to By-law 19:

- (1) A A code of conduct for accounting officers may contain sanctions for any failure to comply with or contravention of a code of conduct for accounting officers as such failure and/or contravention shall be misconduct and be dealt with in terms of By-laws 20 to 31.

- (1) B As soon as may be practicable after the adoption of a code of conduct for accounting officers as contemplated in sub By-law (1), the Institute, shall cause a copy of such code of conduct to be sent, in writing, to every member who is an accounting officer and every person applying for membership which would lead to that new member being accepted as an accounting officer. The code of conduct sent to existing and potential members shall be accompanied by a form on which the addressee must sign a receipt for the code and return that receipt to the registered office of the Institute. A signature of receipt shall bind the addressee to observe and fulfil all the provisions of the code of conduct.

Any existing accounting officer member who fails or refuses to sign the receipt referred to above shall be charged with misconduct. Any potential accounting officer member who refuses or fails to accept the provisions of the code shall be refused membership of the Institute.

ETHICS

The IAC as an Ethical Body (amended June 2009)

1. The directors, members and employees of the Institute as well as for members who are Accounting Officers and who have been given practice numbers by the Companies and Intellectual Property Registration Office (*CIPRO*) commit themselves to conduct their affairs and business according to a high ethical standard and in conjunction with the Institute of Accounting and Commerce (IAC) **guidelines to Professional Administrative and Managerial Practice**

1.1 An IAC Member Shall:

- 1) Strive to the best of their ability to serve the needs of their clients efficiently and professionally
- 2) Conduct themselves in a manner consistent with the high standards and good reputation of Accountants and the Institute. They shall act with fairness and integrity towards all persons with whom their work is connected, towards other members and in compliance with the letter and the spirit of current statutory and other legal requirements.
- 3) In regard to the affairs of the client, act and perform their professional functions in good faith, honestly and diligently
- 4) Always maintain objective, professional standards and ensure that the legitimate interest of the client being advised is paramount in any recommendations and advice given. Always ensure that the clients' interest will rank ahead of any other business pressure on or business commitment they may have.
- 5) Not attempt to sway the clients judgments to obtain commercial or pecuniary benefit for their employer, associates or themselves
- 6) Only accept that number of clients as an Accounting or partnership of Accounting Officers, may effectively and professionally service
- 7) When requested or by law required to do so, to advise a client on the financial management of a close corporation, company or business entity;
- 8) Not act recklessly or maliciously injure, or attempt to injure, whether directly or indirectly, the professional reputation of another person or company
- 9) Not disclose any aspect of the business affairs of a client to a third party except as required by law or underwritten authority granted by the client

- 10) Ensure that any privileged information from my clients or other relevant source in the course of any assignment is kept confidential
- 11) Report to the client any dishonest or criminal activity discovered in the course of their professional duties
- 12) Have proper regard for the professional standards expected of them and shall not continue in work for which they are not competent without first obtaining such or assistance as is necessary to enable the work to be carried out competently
- 13) Maintain professional independence at all times without control of influence from others and, in event of any potential or current conflict of interest arising, inform all interested parties and offer to withdraw
- 14) Not allow any person to use their practice number even if they are in partnership with such a person;
- 15) Only charge a client for professional services rendered or charge a client fees for professional services at a rate markedly higher than the average rate of fees charged by Professional Accountants for such services;
- 16) Not use any information gained during the provision of professional services to a client, for personal gain either for themselves or for any other person whatsoever;
- 17) Improperly obtain or attempt to obtain work; including failing to send a letter of professional courtesy to the previous accountant of any new or prospective client I may engage.
- 18) Not discriminate against any client, or any employee or contractor of a client, on the basis of race, gender, sex, medical status, marital status, ethnic or social origin, colour, age, disability, religion, culture or language
- 19) I will uphold the honour and integrity of the IAC as a professional body and in so doing undertake to pay my membership subscriptions within 14 days of being invoiced or by no later than 31 December each year, for the ensuing year
- 20) Return my certificate, which always remains the property of IAC, within 21 days, should my membership lapse or be terminated for any reason and will no longer display any certificate in my possession or be entitled to use any designatory letters.

Ethical Codes

20. (1) The Board may from time to time frame, adopt and amend these codes of conduct for members and in doing so may frame, adopt and amend such codes for the sub-grades of members provided for in By-law 11 and **the guidelines to Professional Administrative and Managerial Practice.**
- (2) There shall be a Code of Conduct for Directors, which shall commit all directors to good and honest corporate governance.
- (3) Every member and director shall be given a copy of the code applicable to him or her and shall sign for the receipt thereof, which signed receipt shall be *prima facie* proof that the person concerned has read and understood the code in question.
- (4) Any breach of any code provided for in this By-law, shall be deemed to be misconduct.

MISCONDUCT

By-laws made in accordance with paragraph 6(c) of the Memorandum of Association and Article 36(k) of the Articles.

Misconduct: What is

21. Without in any way limiting the meaning of the term misconduct, such term includes any director or member who:
- (a) Breaches any code of conduct referred to in By-law 19 or 19.1 or
- (b) Bring the good name of the Institute into disrepute or public contempt or ridicule; or
- (c) Is found guilty by a court of law of an offence relating to dishonestly, corruption or violence; or
- (d) Takes or uses assets or property of the Institute for his or her use or for the use of his or her spouse, partner or a family member; or
- (e) Wastes the resources of the Institute in fruitless expenditure or who without the prior authority of the Board, incurs expenditure which is not provided for in the budget of the Institute; or
- (f) Falsifies any document including a document relating to an educational qualification, for the purpose of his or her or another person becoming a

member of the Institute or in a particular grade of membership of the Institute.

By-Laws 21 Misconduct

21(g) Punishable Acts and Practices

The following acts and practices, whether of commission or of omission, upon the part of any person who is or was a member of the Institute at the time of the alleged acts or practices, shall constitute a punishable offence by such member or former member, found guilty thereof after proper enquiry, as provided for in the By-laws and Code of Conduct, shall be liable for penalties.

1. Contravening any provision of the Constitution, and/or the Code of Conduct and/or the By-laws;
2. Certifying or reporting or expressing an opinion, without such qualification as may be appropriate under the circumstances, to the effect that any account, financial statement (including annexure thereto) or other document relating to the business or financial affairs of any undertaking, fairly presents, or gives a true and fair view or reflects correctly the matters dealt with therein, as per relevant and appropriate legislation unless:
 1. He\she has carried out his work free of any restrictions whatsoever;
 2. He\she has obtained all information, vouchers and other documents, which he deemed necessary for the proper performance of his duties; or
 3. He\she is satisfied, as is reasonably practicable, having regard to the nature of the undertaking, as the case may be.
 4. Unduly delaying to report on work performed by him;
3. Negligently conducting himself in connection with any work performed by him, including work or employment in connection with any office of trust that he has undertaken or accepted;
4. Associating himself with any accounts, statements, reports or other documents, without taking reasonable steps to ensure the correctness thereof;
5. Directly or indirectly paying a person a monetary or other consideration as remuneration for obtaining work or for inducing other persons to provide him with work;
6. Accepting, directly or indirectly, any commission, brokerage fee or other remuneration in respect of professional or commercial business referred to others as part of his service to any client, except with the knowledge and consent of that client;

7. Improperly obtaining or attempting to obtain work; including failing to send a letter of professional courtesy to the previous accountant of any new or prospective client he/she may engage.
8. Divulging to any third party, whether orally or in writing or otherwise, any confidential information, which he may have obtained in the course of his professional relationship with his client or employer;
9. Advertising services, except as provided for in the Code of Conduct and the By-laws where applicable;
10. Wilfully refusing or failing to perform or conform with or to carry out any of the provisions of these Bylaws or the Code of Conduct of the Institute;
11. Committing a breach of the Code of Conduct prescribed by the Institute;
12. Unlawfully failing to account for, 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;
Signing any account, statement, report or other document which purports to represent work performed by him, unless such work was performed by him, or was performed under his personal supervision or direction, or was performed by or under the personal supervision or direction of one or more of his partners
13. Performing work in connection with any matter which is the subject of dispute or litigation, on condition that payment for such work shall be made only if such dispute or litigation ends favourably for the party for whom such work is performed;
14. Conducting himself in a manner which, in the opinion of the Disciplinary Committee, is discreditable, dishonourable, dishonest, irregular or unworthy, or which is derogatory to the Institute, or tends to bring the profession of accountancy into disrepute;
15. Failing to notify the Institute of any change in the particulars of the office of the member, as registered with the Institute, within a period of twenty-one (21) days after such change;
16. Failing to perform any professional duties with the degree of care and skill which may reasonably be expected of a member of the Institute; or
Failing to comply with prescribed standards of professional ethics or otherwise conducting himself in a manner that tends to bring the Institute into disrepute.

These Acts and Practices are not limited to the above punishable offences and should also be read in conjunction with the Code of Ethics for Professional Accountants by the International federation of Accountants (IFAC).

NB! Gender

Where it refers in the text to the masculine it also refers to feminine.

Procedure for dealing with Misconduct

22. (1) Any member or director of the Institute who has good reason to believe that another member or director of the Institute has committed misconduct shall notify the Chief Executive Officer who shall forthwith notify the President.
- (2) The President and the Chief Executive Officer shall examine the case put before them and if of the opinion that it is a *prima facie* case of misconduct, the President shall take the following steps:
 - (a) From among the number of directors establish a panel consisting of two directors and an independent person who must be a person with knowledge of law who shall be the chairman of the panel;
 - (b) In consultation with the chairman of the panel select a venue for a hearing and a date or dates when the hearing will take place;
 - (c) In writing notify the member or director concerned of: the nature of the charge against him or her together with any documentary evidence on the matter; the date, time and place where the hearing is to be held; and inform the member or director concerned that he or she may be accompanied by and be represented by another person who may be a legal practitioner;
 - (d) Appoint an employee, director or member to lead the evidence against the member or director concerned.

Powers and Duties of the Panel

23. The panel shall convene on the date and at the time and place designated for the hearing and so given to the member in the notice referred to in By-law 22(2)(c).
24. Should the member or director concerned fail to appear at the hearing or should such person, verbally or in writing state that he or she will not attend the hearing, the panel shall on the evidence before it attempt to determine the matter and report thereon to the President.

25. Should the member or director concerned appear at the hearing, the following procedure shall be followed:
- (a) The person appointed in terms of By-law 22(2)(d) shall place before the panel all documentary evidence relating to the charge of misconduct and call and examine any witness to give evidence thereon;
 - (b) Thereafter the person charged with misconduct may personally or through his or her representative produce documentary evidence and call and examine witnesses, including himself or herself, in rebuttal of the charge against him or her;
 - (c) Either party may cross-examine a witness called by the other party.
26. (1) The chairman of the panel shall enquire from any person giving evidence whether he or she wishes to do so under oath or affirmation but is not obliged to do so.
- (2) Should a person referred to in (1) above agree to give evidence under oath, such oath shall be administered by the chairman of the panel in the following form:
- “I (name) do swear that the evidence I give will be the truth to the best of my knowledge”.***
- (3) Should a person referred to in (1) above agree to give evidence under affirmation, such affirmation shall be administered by the chairman of the panel in the following form:
- “I (name) affirm that the evidence I give will be the truth to the best of my knowledge”.***
- (4) In weighting the evidence of a witness the panel shall be entitled to take into account whether it was given on oath or affirmation or otherwise.
27. The chairman of the panel shall regulate its proceedings and shall be responsible for the keeping of good order during such proceedings and may require that any person from the venue who is disruptive or unruly be ejected there from. The said chairman may from time to time adjourn the proceedings of the panel.
28. The Chief Executive Officer shall ensure that a proper record is kept of the proceedings of the panel.

At the Conclusion of a Hearing

29. (1) After all evidence has been heard and the parties concerned have addressed the panel on the charge(s) before it, the panel shall consider and evaluate all the evidence and reach a finding on the matter.
- (2) The panel may find that the member or director concerned is guilty as charged or not guilty or that insufficient evidence has been adduced on which to base a finding of guilty or not guilty.
- (3) Where the panel finds the member or director concerned guilty as charged, it shall also determine an appropriate penalty as provided for in By-law 28 and report accordingly to the President, with a copy to the member or director concerned.
- (4) Where the panel is unable to reach a finding of either guilty or not guilty, it shall so report to the President.

Penalties

30. (1) The penalty for misconduct, depending on the seriousness of the misconduct and its effect on the integrity or viability of the Institute may be:
 - (a) loss of membership; or
 - (b) suspension of membership; or
 - (c) a reprimand; or
 - (d) a written warning; and or
 - (e) a monetary fine, including a fine to recover the cost of holding such hearing.
- (2) Where the penalty is loss of membership, the membership of a member shall cease on the day that the President in terms of By-law 31 in writing confirms the penalty by the panel to that effect and the member concerned shall forthwith surrender his or her membership certificate to the Chief Executive Officer who shall make a note to that effect in the Member's Register. Where the member found guilty of misconduct is also a director, such person shall with immediate effect also cease to be a director and the company secretary shall make an appropriate entry to that effect in the records of the Institute.
- (3) A penalty in the form of a reprimand or written warning shall be conveyed to the person concerned under the hand of the President.

Duties of the President

31. Upon receipt of the findings of the panel in terms of By-law 24 or By-law 29(3) or the findings of the Board in respect of an appeal, the President may after a period of ten (10) days confirm the finding and penalty or refer the matter back to the panel for reconsideration, in which event the panel shall reconvene and after further considering the matter report again to the President who must either confirm the finding and penalty or, in writing to the Board give reasons why he or she does not accept such finding and penalty, with recommendations as to what the finding and penalty should be. In the event of the President reporting to the Board as aforesaid, the matter shall be treated as an appeal in terms of By-law 32.

Appeal

32. (1) Any member or director charged with misconduct who is aggrieved at the finding and penalty determined by the panel may, within ten (10) days of being informed thereof, appeal to the Board.
- (2) Any appeal to the Board in terms of (1) above shall be in writing and shall set out the basis of the appeal, whether it is against the finding or the penalty or both and state the relief sought by the appellante.
- (3) The Board shall consider any appeal referred to it including the reference of a matter to it by the President in terms of By-law 31 and in connection therewith may call and examine any witness or call for and examine any document which it may consider relevant to the matter under consideration, after which it may:
 - (a) confirm the finding and penalty determination of the panel; or
 - (b) vary the finding and penalty determination of the panel; or
 - (c) set aside the finding and penalty determination of the panel,and refer the matter to the President for consideration in terms of By-law 31.
- (4) The effect of any finding by the Board in terms of By-law 24 or By-law 29(3) shall be suspended if an appeal is made until the appeal has been determined and the penalty confirmed or otherwise.

Discharge of Panel

33. Once a charge of misconduct has finally been dealt with, the panel shall be discharged from office on the date that the President takes a final decision.

Repeal and commencement

34. (1) All prior By-laws of the Institute are hereby repealed.
- (2) The provisions of these By-laws commence in operation on the date of their adoption by the Board.

Citation

35. These By-laws shall be called the IAC By-laws, 2009.