

THE  
INSTITUTE OF  
CHARTERED  
ACCOUNTANTS  
OF SCOTLAND



**RULES**  
December 2008

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF SCOTLAND**  
**(Incorporated by Royal Charter in 1854)**

**RULES**

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# RULES OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF SCOTLAND

## I DEFINITIONS AND INTERPRETATION

### Definitions

1. In these Rules, unless inconsistent with the subject or context:-
  - (1) “Approved practical experience” means experience specified by the Council in Bye-laws made under Rule 16(2) below.
  - (2) “Approved service” means service approved by the Qualification Board and obtained (save as otherwise provided in these Rules or in the Bye-Laws) by a CA Student after attaining the age of seventeen years under a registered training contract at an authorised training office.
  - (3) “Authorised Training Office” (“ATO”) means an office which is for the time being authorised in accordance with Bye-laws made under these Rules to train CA students.
  - (4) “The Bye-Laws” mean Bye-Laws made by the Council in accordance with these Rules.
  - (5) “CA Student” means a person who is serving under a registered training contract or who has completed the period of service required under such a contract and who remains eligible either to sit for the Institute’s Examination or, having successfully sat that examination, to apply for membership of the Institute. For the purpose of this definition, no decision of the Discipline Tribunal under Rule 72(1)(B) other than a decision under sub-paragraph (i) of that Rule shall cause a person to cease to be a CA Student.
  - (6) “The Council” means the Council of the Institute.
  - (7) “The English Institute” means The Institute of Chartered Accountants in England and Wales.
  - (8) “The Institute” means The Institute of Chartered Accountants in Scotland.
  - (9) “The Irish Institute” means The Institute of Chartered Accountants in Ireland.
  - (10) “Member” means a member of the Institute.
  - (11) “Practising Certificate” means a Practising Certificate issued annually by the Institute and for the time being in force. “Insolvency Permit” means a permit to act as an insolvency practitioner as defined in the Insolvency Act 1986 as amended, consolidated or replaced from time to time or any Statutory Instrument or Regulations made thereunder as amended, restated or consolidated from time to time, issued annually in accordance with the provisions of Bye-laws made under these Rules, and for the time being in force.
  - (12) “Practising member” and “member in practice” mean a member who is in practice as a professional accountant, either on his own account or as a partner in a firm, who maintains, or jointly maintains with his partner or partners, a means of conducting the said practice. “Practice” is the provision of services, including accounting and related

services, the necessary skills for which have been acquired by a member through his training and qualification, to persons other than his employer for a fee. In any case where a doubt arises as to whether a member is in practice the decision of the Council shall be final. A member who, gratuitously or for nominal fees, only provides accountancy services outside the “regulated areas” to charitable, communal or sporting bodies, or to similar bodies of a non-profit making nature, is not to be regarded as engaging in practice. For the purpose of Rule 10A alone, “member engaged in practice” means a member who, as the context requires, is engaged in practice as a professional accountant, either on his own account or with others, as a partner or director in a Firm, or is a person who has real or ostensible authority to bind the Firm, and ‘Firm’ in this context alone means a body corporate (whether its liability is limited or unlimited), a sole practice with one or more employees who have real or ostensible authority to bind the Firm, a partnership, or a limited liability partnership.

- (13) “Continuing Professional Development” shall mean the obligation on members, as the Council shall from time to time prescribe in Bye-laws, to acquire and maintain knowledge to assist them in discharging their professional obligations.
- (14) “Prescribed” means prescribed by the Bye-Laws.
- (15) “Registered Training Contract” means a training contract in a form prescribed by the Qualification Board and registered with the Institute in accordance with these Rules and Bye-Laws made hereunder, made between the candidate for membership on the one hand and the person, firm, body or undertaking at whose authorised training office the candidate is to be trained. A training contract which was registered prior to the coming into effect of this amended definition shall, for the purposes of these Rules, be deemed to be a registered training contract as now defined.
- (16) “Training Contract” means a training contract in the form prescribed by the Qualification Board.
- (17) “Place of business” in relation to a member means the member’s place of business or employment or, if the member has more than one place of business or employment, the member’s principal place of business or employment as specified by the member from time to time in writing to the Secretary or if the member does not have a place of business or employment his residence: and reference to the electoral area in which a member practises shall be construed as a reference to the electoral area in which such member has or is deemed to have his place of business.
- (18) “Electoral areas” means the electoral areas referred to in Rule 46(1)(a).
- (19) “The Accountant’s Magazine” shall mean the official journal of the Institute.
- (20) “Designated Boards” means Boards and Committees which have been so designated by the Council.
- (21) “Electoral Area Representative” means a member of Council elected according to the provisions of Schedule B to the Rules (and the term “electoral area seat” shall be construed accordingly).
- (22) “Open Council seat holder” means a member of Council appointed under Rule 46A(1) (and the term “open Council seat” shall be construed accordingly).

- (23) “Disciplinary Scheme” means, as appropriate, the AIDB Scheme, or the Joint Disciplinary Scheme established pursuant to the Supplementary Charter of 1992, as either may from time to time be amended.
- (24) “The AIDB Scheme” means the scheme of that name referred to in Rule 84(3) and “AIDB” Participant” means a participant in the AIDB Scheme.
- (25) “Firm” means a body corporate, a partnership, a limited liability partnership or an unincorporated practice of a sole practitioner registered with the Institute.

## **Interpretation**

2. The Interpretation Act 1978 shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

## **II MEMBERSHIP**

### **Members**

3. (a) The members of the Institute shall be the members of the Society of Accountants in Edinburgh, the members of the Institute of Accountants and Actuaries in Glasgow and the members of the Society of Accountants in Aberdeen on the date of the grant on 28 April 1951 of the Supplementary Royal Charter to The Society of Accountants in Edinburgh (which, *inter alia*, changed the name of the said Society to its present name of “The Institute of Chartered Accountants of Scotland”) and such other persons as may thereafter have been or hereafter be admitted as members in accordance with the Rules for the time being in force.
- (b) The provisions of the Charter, Rules and Bye-laws for the time being in force relative to disciplinary matters shall apply to each member on and following his admission and at any time following cessation of membership. In addition, the Charters, Rules and Bye-laws shall similarly apply to each person who undertakes or is bound by them in the context of the Audit Regulations of the Institute or otherwise.

## **III DESCRIPTIONS AND DESIGNATORY LETTERS**

### **Members**

4. The professional designation of a member shall be “Chartered Accountant”, indicated by the use after his name of the designatory letters “CA”.

### **Firms**

5. The Council shall by Bye-law prescribe the circumstances in which and conditions upon which a firm or body corporate at least 50% (or such other figure as the Privy Council may from time to time approve upon the application of the Council of the Institute) of whose partners or directors are members of the Institute or of the Institute of Chartered Accountants in England and Wales, or of the Institute of Chartered Accountants in Ireland, may use the designation “Chartered Accountants” or the letters “CA” and no member shall permit or be a party to the use of that designation or those letters by any firm or body corporate otherwise than in accordance with those Bye-laws.

## IV ADMISSIONS

### Admissions

6. (1) All admissions to membership shall be by the Council, which, except so far as otherwise expressly provided by these Rules, shall have power to decide conclusively whether any applicant is or is not eligible for membership.
- (2) In relation to any application for admission the Council may require such evidence as it thinks fit as to the character, suitability and fitness of the applicant for admission.
- (3) If, upon consideration of any application for admission (other than an application by a member of the English Institute or the Irish Institute under Rule 8), it appears to the Council that there may be some reason why the applicant, although eligible, should not be admitted, the Council shall refer the application to the Investigation and Professional Conduct Enforcement Committee, whereupon the reference from the Council shall be dealt with in like manner as a complaint at the instance of the Council and the provisions of Chapter XII shall, *mutatis mutandis*, apply.

### Eligibility for Admission

7. (1) A CA Student shall be eligible for admission to membership if, in accordance with these Rules and the Bye-Laws, and subject to such exemptions as are therein provided, he shall have:-
  - (a) satisfied the Council as to the completion by him of the prescribed period of approved service as a CA Student;
  - (b) satisfied the Council as to his fulfilment of his obligations under Rule 28 or any Bye-Laws made thereunder;
  - (c) passed the various parts of the Institute's Examinations;
  - (d) applied for admission within one year, or such longer period as the Council may in special circumstances allow, from the date of passing his final examination, or from the date of completion of service under training contract whichever is the later. The date of passing any examination shall be deemed to be the date of the appropriate meeting of the Test of Professional Expertise Board (TPE Board);
  - (e) subscribed a minute of adherence to the Rules and Bye-Laws in force at the time of such admission or which may thereafter from time to time be made; and
  - (f) complied with such other conditions as may from time to time be prescribed.
- (2) In relation to an application for admission allowed by the Council to be made more than two years from the date of the applicant's final Examination Certificate, the Council may require payment by the applicant of such sum (if any) as the Council may think fit towards or in respect of any subscription which would have been or become due had he been admitted on a date two years after the date of his final Examination Certificate.

**Membership for Members of the English and Irish Institutes and Members of Overseas Accountancy Bodies**

- 8. Notwithstanding any other provision of these Rules, the Council shall have power in its absolute discretion to admit to membership of the Institute:-
  - (a) any member of the English Institute or of the Irish Institute upon such terms and conditions as the Council from time to time considers appropriate, provided that such terms and conditions are also approved by the Council of the other Institute in question; and
  - (b) any qualified member of any accountancy body outside the United Kingdom and the Republic of Ireland upon such terms and conditions as the Council from time to time considers appropriate provided that such accountancy bodies shall first have been approved by the Lords of Her Majesty’s Most Honourable Privy Council.

8A It shall be competent to the Council to prescribe in Bye-laws the obligations of members to undergo Continuing Professional Development and to confirm to it their compliance with such Bye-laws.

**Membership Certificates**

- 9. Every person on being admitted to membership shall receive a certificate of membership under the seal of the Institute in such form as shall from time to time be prescribed.

**V FEES AND SUBSCRIPTIONS**

**Amounts**

10. Subject to the provisions of Rule 11, the amounts of the fees payable on application for admission to membership, by way of annual subscription, and on the issue or renewal of a practising certificate shall be such amounts as may from time to time be determined by the Institute in general meeting.

10A (1) Each member engaged in practice in the United Kingdom shall, in addition to the fees payable under Rule 10, pay an annual levy towards the cost of organising, financing and maintaining the Disciplinary Scheme. The levy shall be such amount as the Council may determine but (i) shall not exceed the sum set out in the following table save as provided in paragraph (3) below and (ii) in the event of the sums sought being less than the maximum, shall nevertheless be raised from members in the different categories set out in the table in the proportions the sums shown therein bear one to another.

if he is a sole practitioner with no employees who have real or ostensible authority to bind the firm	Nil
if he is in a Firm comprising two or three members engaged in practice in the United Kingdom	£50
if he is in a Firm comprising four to six members engaged in practice in the United Kingdom	£100
if he is in a Firm comprising seven to eleven members	

engaged in practice in the United Kingdom	£150
if he is in a Firm comprising twelve to sixteen members engaged in practice in the United Kingdom	£200
if he is in a Firm comprising seventeen to twenty-five members engaged in practice in the United Kingdom	£300
if he is in a Firm comprising twenty-six to fifty members engaged in practice in the United Kingdom	£400
if he is in a Firm comprising fifty-one or more members engaged in practice in the United Kingdom	£500

provided that:-

- (a) where a member is engaged in practice in more than one Firm and/or that Firm is associated with others in practice under the same, or substantially the same, name in the United Kingdom he shall pay the annual levy appropriate to the total number of other members engaged in practice plus himself in all such firms;
  - (b) in assessing a member's levy under proviso (a) above no member engaged in practice shall be counted more than once;
  - (c) where a member is also a member of any of the other participants in the said Scheme and is liable under this paragraph (or any similar provision in the constitution of any of the other participants) to pay an annual levy, he shall be so liable in respect of one only of the participants and (except in so far as his liability may already be determined under the terms and conditions for the time being in force pursuant to Rule 8) shall declare to the Councils of the participants concerned to which of the participants his payment shall be made. Such declaration shall remain in force unless such a member makes a different declaration in response to a request for a report under paragraph (4).
- (2) In the event of a dispute as to the quantum of the levy to be paid by any member, the decision of the Council shall be final.
  - (3) The Council may increase or reduce the amount of the levy in paragraph (1) of this Rule provided that any increased levy shall not exceed twice the amount of the corresponding levy set out in that paragraph.
  - (4) The annual levy shall become due and payable on 1 January in each year and the amount thereof applicable to each member for that year shall be assessed by each member engaged in practice reporting in the form and at the time required by the Council the total number of such members, excluding himself, in any Firm in which he is so engaged and/or with which his Firm is associated.
  - (5) A member who fails to pay the levy applicable to him before 31 March in the year in which it becomes due shall thereupon cease to be entitled to renewal of a practising certificate unless the Council has, in his case, otherwise decided.

## **Reduction of Subscriptions**

11. (1) The Council may in its discretion on the application of any member reduce or waive the annual subscription payable for any year by such member provided that he:-
  - (a) is not less than fifty-seven years of age; and
  - (b) has retired from practice or other business activities.
- (2) The Council shall, on the application of a member, waive the annual subscription payable for any year by such member on being satisfied that he has completed fifty years' membership, or has attained the age of seventy-five years, and, in either case, has retired from practice or other business activities.
- (3) In special cases the Council may in its discretion reduce or waive the annual subscription of any member notwithstanding that the conditions specified in paragraph (1) or paragraph (2) of this Rule are not fulfilled.

### **Payment**

12. (1) The fee for registration of a training contract (which fee shall be repaid if the registration of the training contract is refused under paragraph (2) of Rule 23) shall be deposited with the Institute on application for registration and the admission fee for admission to membership (which fee shall be repaid if the application for admission is unsuccessful) shall be so deposited on application for admission.
- (2) Annual subscriptions of members shall be due and payable on 1 January in each year, or (subject to paragraph (3) of this Rule) in the case of members admitted after that date, as a deposit on the date of application for admission.
- (3) The rate of subscription applicable to a member for any year shall be determined by reference to his status on 1 January in that year or, if his admission was effected on a subsequent date, to his status on such date save that a person admitted to membership after 30 September in any year shall not be liable for any subscription for that year.

### **Effect of Non-Payment of Annual Subscription**

13. (1) Annual subscriptions shall be due and payable as at the date of submission to the Institute of the member's intention to renew membership, and in any event not later than 1 January in each year to which the application relates unless the Council directs otherwise. Failure to pay the annual subscription as it falls due in terms of this Rule shall render the member liable to removal from membership without further notice, or from such date as the Council may direct.
- (2) On the removal of membership in accordance with this Rule the Council may cause the names and other particulars of those concerned to be published in CA MAGAZINE and in the annual report of the Council.
- (3) Members so removed from membership shall be entitled to be re-instated to membership, if they apply to the Council in writing before the end of the year for which the subscription was due and on payment of a re-instatement fee of such sum (assessed by reference to the circumstances of the case but not exceeding £250) as the Council may direct.

- (4) An application for re-instatement to membership made after the year in which the subscription was due shall be treated as an application for re-admission to membership in terms of Rule 81.

### **Information from Members**

14. (1) It shall be the duty of each member to supply the Council with such information relative to his address and practice or employment as the Council may reasonably require for record purposes and for the purpose of ensuring that the provisions of these Rules which relate to annual subscriptions are complied with, and in particular each member shall notify to the Secretary each year his place of business.
- (2) A member or CA Student shall without delay notify the Secretary by pre-paid recorded delivery post of any conviction of that member or CA Student by the criminal courts of any country. Such conviction may render the member or CA Student liable to disciplinary action in terms of Rule 58(5)(a).
- (3) It shall be the duty of each Firm, and consequently each principal to whom these Rules apply, to supply the Council with such information relative to the Firm on such occasions and in such form as the Council may reasonably require from time to time, including but not limited to the Firm's Annual Return (or similar document).

### **Resignation**

15. Any member may tender his resignation of membership by sending notice in writing to the Council through the Secretary and, on its acceptance by the Council, but not until then, he shall cease to be a member: provided that any member whose notice of resignation shall not have been received prior to 1 February in any year shall remain liable for the annual subscription applicable to him in respect of that year, save that in any case in which it may seem reasonable so to do the Council may remit the whole or any part of such subscription.

## **VI PRACTICE AND PRACTISING CERTIFICATES**

### **Public Practice**

16. (1) A member of the Institute shall not engage in practice in the European Union, or in the Channel Islands or the Isle of Man, unless he either holds a practising certificate and complies with the Bye-laws made by the Council under paragraph (2) of this Rule or is exempt from the need to hold a practising certificate under those Bye-laws.
- (2) The Council shall from time to time make Bye-laws prescribing, *inter alia*, the conditions for eligibility, issue, renewal, suspension and withdrawal of a practising certificate, exemption from the need to hold a practising certificate and all matters pertaining thereto, the circumstances in which a member is regarded as engaging in practice and otherwise regulating such practice. A member shall not engage in practice in the European Union, or in the Channel Islands or the Isle of Man, otherwise than in accordance with such Bye-laws.
- (3) The Council shall appoint a Practitioner Certification Committee made up of three or more individuals, to give effect to and administer the Bye-laws made under this Rule. Not less than one third of the Committee shall comprise public interest members, that

is to say individuals other than accountants appointed as representatives of the public interest.

- (4) The Council may make Bye-laws empowering the Committee appointed under Rule 16(3) above to offer regulatory penalties to members in practice or their firms for agreed breaches of any Bye-laws made under this Rule that are both administered by the Committee and do not, in the Committee's view, call in question the fitness and propriety of the member concerned to hold a practising certificate, and to specify the consequences of such an offer and its acceptance or rejection.
  - (5) The Council may issue guidance about the amount of regulatory penalties.
- 16A. (1) A member shall be entitled to engage in practice in association with a non-member only in accordance with these Rules and Bye-laws made by the Council.
- (2) "In association with a non-member" means in association as a member of a partnership, including a limited liability partnership, of which a non-member is also a member, or as a director of a body corporate of which a non-member is also a director.
  - (3) A member engaging in practice in association with a non-member shall be responsible for ensuring that the non-member conforms to the ethical and technical standards and legal requirements for the time being governing the provision by members of public accountancy services and complies with any relevant standards or requirements.
  - (4) A member engaging in practice in association with a non-member who is a member of a professional body approved by the Council under paragraph (5) of this Rule shall, in relation to services subject to the control and supervision of that professional body, conform to the ethical and technical standards and legal requirements governing the provision of such services to the public.
  - (5) The Council may for the purposes of this Rule and any Bye-laws made hereunder approve such professional bodies as it considers appropriate being bodies which, in the opinion of the Council, require and enforce appropriate ethical and technical standards in relation to their members.

### **Practising Certificates and Permits**

17. (1) Practising certificates (which shall be in such form as the Committee appointed under Rule 16(3) above may from time to time prescribe) shall be issued for a period of twelve months ending on 31 December or such other date as the Committee shall direct.
- (2) The fee for the issue of a practising certificate shall be due and payable on the date of the member's application for it.
- (3) The fee for each issue of a practising certificate subsequent to the initial issue shall be due and payable on 1 January in each year along with the member's annual subscription.
- (4) Any member who has failed to pay the fee for each issue of a practising certificate subsequent to the initial issue by 1 January in each year to which the certificate relates shall on that date cease to be entitled to a practising certificate.

- (5) Where a member has failed to pay the fee for the issue of a practising certificate subsequent to the initial issue as aforesaid, he shall forthwith return any practising certificate in his possession to the Institute.

### **Entitlement to a Practising Certificate**

18. (1) A member shall, subject to the provisions of Rule 17, be entitled to hold a practising certificate if, but only if, he satisfies the Committee appointed under Rule 16(3) above that he complies with the conditions precedent to the granting of a Practising Certificate set out in the Bye-laws made under Rule 16(2) above as to:
- (a) professional indemnity insurance cover; and
  - (b) approved practical experience; and
  - (c) Continuing Professional Development.
- (2) Any member, and any CA Student eligible to apply for admission to membership, shall be entitled to obtain from the Committee appointed under Rule 16(3) above, on application to the Secretary, a decision as to whether or not any employment in which he is engaged or proposes to engage is approved by the Council for the purpose of establishing approved practical experience.

### **Additional Powers of the Discipline Committee**

19. The Discipline Tribunal, on application by the Council or by either of the Committees appointed under Rule 16 above or Rule 60(1) below, in addition to the powers contained in Rule 68, shall have power, subject to appeal to the Appeal Tribunal in terms of Rule 73, to suspend a member's practising certificate or membership if his fitness to conduct or continue in practice is seriously impaired by reason of either his physical or mental condition and it appears necessary to do so as an interim measure for the protection of the public or in the Institute's or member's interests.

### **VIA PERMIT TO ACT AS AN INSOLVENCY PRACTITIONER**

- 19A (1) For the purposes of Chapter VIA, of all other Rules affected thereby and of all Bye-laws to be made concerning matters dealt with in, or arising from, the said Chapter:
- (a) "the Statute" means the Insolvency Act 1986 as amended or consolidated from time to time, or any Statutory Instrument or Regulations made thereunder as amended, restated or consolidated from time to time;
  - (b) "act as insolvency practitioner" has the meaning given to it in the Statute, and "insolvency practitioner" and "insolvency practice" shall be construed accordingly;
  - (c) "Regulated Non-member" means an individual recognised by the Institute in terms of Chapter XX of these Rules;
  - (d) "Insolvency Regulated Non-member Bye-laws" means the Bye-laws made under these Rules for the recognition and regulation of Regulated Non-members in insolvency practice.

- (2) Members and Regulated Non-members shall be entitled to engage in insolvency practice in the United Kingdom, the Channel Islands or the Isle of Man, in accordance with paragraphs (a) to (c) below, but not otherwise:
- (a) Members admitted under Rule 7 or Rule 8 (b) who hold a practising certificate issued by the Institute and either:
    - (i) an insolvency permit issued by the Institute; or
    - (ii) an equivalent permission from another professional body recognised under the Statute or authorisation from the Secretary of State and have notified the Institute in writing of that permission or authorisation.
  - (b) Members admitted under Rule 8 (a) who hold a practising certificate issued by the Institute or an equivalent certificate issued by the Institute of Chartered Accountants in England and Wales or the Institute of Chartered Accountants in Ireland and either:
    - (i) an insolvency permit issued by the Institute; or
    - (ii) an equivalent permission or licence from another professional body recognised under the Statute, which may be their original Institute.
  - (c) They are Regulated Non-members who:
    - (i) comply with the Insolvency Regulated Non-members Bye-laws and an Insolvency Permit issued by the Institute; or
    - (ii) hold an equivalent permission from another professional body recognised under the Statute or authorisation from the Secretary of State and have notified the Institute in writing of that permission or authorisation.
- (3) The Council shall appoint an Insolvency Permit Committee to give effect to this Rule and to the Bye-laws made under it. At least one third of the members of the Committee shall be public interest members, that is to say individuals, other than accountants or insolvency practitioners, appointed as representatives of the public interest.
- (4) The Council shall from time to time make Bye-laws prescribing, *inter alia*, the conditions for eligibility, issue, renewal, suspension, withdrawal and revocation of Insolvency Permits and all matters pertaining thereto. Such Bye-laws may empower the Insolvency Permit Committee to offer financial penalties to Insolvency Permit holders, or to their firms, for agreed breaches of any Bye-laws made under these Rules which do not, in that Committee's view, involve conduct calling in question the fitness and propriety of the Insolvency Permit holder concerned to hold an Insolvency Permit, and to specify the consequences of such an offer and its acceptance or rejection.
- (5) Where an Insolvency Permit has in any circumstances been surrendered, suspended or withdrawn, the former insolvency permit holder shall not be entitled under these Rules to engage in insolvency practice, and shall return the permit to the Institute.
- (6) Notwithstanding paragraph (2) of this Rule, the Insolvency Permit Committee may exercise its absolute discretion in favour of an individual member to the effect of accepting evidence, other than an Insolvency Permit, of such individual member's entitlement to engage in insolvency practice in the United Kingdom where such evidence:
- (a) is directly referable to such individual member; and

- (b) is considered to be appropriate and acceptable; and
- (c) complies in all respects with the Statute.

## **VIB RECOGNITION OR DESIGNATION OF THE INSTITUTE UNDER ACTS OF PARLIAMENT**

19B (1) The Council may from time to time make Bye-laws (which may be described as Regulations) for the purpose of achieving or maintaining the recognition or designation of the Institute under the legislation specified in paragraph (2) of this Rule (the specified legislation). Such Bye-laws shall be consistent with these Rules and with the specified legislation. They may prescribe, *inter alia*:

- (a) the conditions for:
  - (i) entitlement to hold a permit under Rule 19A; or
  - (ii) eligibility to be qualified for or take part in the activities for which the Institute is recognised or designated; and
- (b) the fees payable therefor;
- (c) the conduct of business regulated by the specified legislation;
- (d) all such other matters as the Council may consider necessary or expedient for the purpose of implementing the specified legislation and implementing or maintaining the Institute's role under that legislation.

(2) The specified legislation is:-

- (a) the Insolvency Act 1986;
- (b) the Financial Services Act 1986;
- (c) the Companies Act 1989;
- (d) the Financial Services and Markets Act 2000

as from time to time amended or re-enacted and any equivalent provision for the time being in force in any other country or territory.

19C Such matters as may be necessary or expedient for the purpose of the Institute carrying out any scheme or schemes designed to provide an assessment of the quality of work carried on by members in practice shall be prescribed in Bye-laws.

## **VII PRELIMINARY QUALIFICATION, TRAINING CONTRACTS AND THE CA EXAMINATION**

### **Preliminary Qualification**

20. (1) The Qualification Board shall from time to time make Bye-Laws laying down the requirements which a candidate must satisfy prior to registration of any training contract to which he is a party.

- (2) Bye-Laws made under paragraph (1) of this Rule may prescribe the time by which, and the manner in which, a candidate shall establish that he satisfies such requirements and may provide that a candidate shall in certain circumstances be entitled to register a training contract notwithstanding that he does not, at the time of registration, satisfy all of the said requirements but in that event the registration of such contract shall be conditional only and shall be subject to the candidate fulfilling all said requirements within such period as may be prescribed or such further period as the Qualification Board may, in its absolute discretion permit. In the event of a candidate whose training contract has been registered under this paragraph failing to fulfil all of such requirements within the prescribed period, or such further period as the Qualification Board permits, said training contract shall be withdrawn from the register and no period of service thereunder shall count as approved service within the meaning of these Rules.

### **Training Contract**

21. The Qualification Board shall from time to time prescribe a form or forms of training contract containing such provisions as it thinks fit and the training contract shall be evidenced in such manner as the CA Student, the authorised training office and the Qualification Board shall agree. From the date of the coming into effect of said form or forms, which shall be as prescribed by the Qualification Board, no training contract not in one of the said forms shall be registered save only that:
  - (a) The Qualification Board may, at the time of prescribing the date for the bringing into effect of a new form or forms of training contract, make such provision for the registration of earlier forms of training contract as it thinks fit; and
  - (b) A CA Student shall be entitled to register a new training contract obtained under Rule 25(2).

### **Period of Service under a Training Contract**

22. The period of service under a form of training contract (including any new training contract entered into under Rule 25) shall be such period as may from time to time be prescribed and different periods may be prescribed for candidates with differing qualifications.

### **Commencement of Training and Registration of a Training Contract**

23.
  - (1) No service shall be counted as approved service except under a training contract which has been submitted for registration by or with the consent of the CA Student within six months of the date of commencement of service thereunder.
  - (2) Every training contract submitted for registration shall be lodged with the Qualification Board and shall be accompanied by such fees and documents, which may include a Minute of Adherence to the Rules and Bye-Laws from time to time in force, as may be prescribed by the Qualification Board.
  - (3) No training contract shall be registered save with the approval of the Qualification Board and the Qualification Board may, in its absolute discretion, refuse to grant approval.

## **Registration of Expiry, Determination or Revocation of a Registered Training Contract**

24. On the expiry, determination or revocation of a registered training contract, such contract, together with such certificate of service, discharge or form of revocation as may from time to time be prescribed, shall be exhibited to the Secretary for registration.

## **Assignment, etc, of a Training Contract**

25. (1) (a) With the prior approval of the Qualification Board a training contract may be assigned for any part of the period of service covered by it; provided that any such assignment shall be in such form as shall from time to time be prescribed.
- (b) Every deed of assignment shall be executed and lodged with the Secretary for registration within one month after the date of assignment specified therein, failing which no service under said contract after the date of assignment shall count as approved service.
- (2) Where a person, firm, body or undertaking, a party to a training contract, ceases for any reason to be entitled and able to fulfil their obligations under a training contract so that the full period of service of the CA Student under the training contract cannot properly be completed with that person, firm, body or undertaking, then the remainder of the period of service under said contract may be completed under a deed of assignment or, where such assignment is unobtainable or is refused by the person, firm, body or undertaking, under a new training contract in similar form on the registration of which no dues shall be payable.
- (3) Except as otherwise provided in this Rule or permitted by the Qualification Board, no CA Student shall serve any part of his period of service under a Registered Training Contract with a person, firm, body or undertaking who is not a party to that contract.

## **Authorisation of Training Offices**

26. The Qualification Board may by Bye-law regulate:-
- (a) the terms and conditions upon which an office may become and be an authorised training office, which may include the fees to be paid by any firm or member applying for such authorisation;
- (b) the circumstances in which the authorisation of an office to be a training office may be withdrawn or restricted and the procedures by which such withdrawal or restriction may be effected, which procedures shall include a right of appeal to a panel appointed at the instance of the President, by any firm or member adversely affected by such withdrawal or restriction; and
- (c) any other matters connected with or incidental to the authorisation of training offices.

## **Control of Training**

27. The Qualification Board may from time to time make Bye-Laws:-
- (a) prescribing the manner in which a CA Student's training is to be organised;

- (b) prescribing the content of the training which a CA Student is to receive;
- (c) requiring a party to a training contract to nominate a suitable person or persons, members of this Institute, to undertake such functions in relation to the training of a CA Student under that contract as may be prescribed; and
- (d) requiring that a record of the nature and extent of the work undertaken by a CA Student be kept by him, authenticated by such person or persons as may be prescribed and that such book or record be exhibited to the Institute when required.

### **Prescribed Training for CA Students**

- 28. (1) The Qualification Board may make Bye-Laws prescribing the classes, courses, tutorials and seminars to be attended by CA Students and the work to be performed by them, whether or not related to such attendance; and the Qualification Board may make provision that such attendance and performance shall be to a prescribed standard or to the satisfaction of such person, persons or committee as it thinks fit.
- (2) It shall be the obligation of every CA Student to attend and perform as required by the Bye-Laws made under the preceding paragraph.

### **The Institute's Examination**

- 29. The Qualification Board may from time to time make Bye-Laws prescribing the syllabus of the Institute's Examination, the parts into which that Examination shall be divided, the times at which each part may be taken, the maximum number of times which any part may be attempted, the length of time during which a CA Student remains eligible to attempt any part and other matters incidental to the conduct of the Institute's Examination.

## **VIII MISCELLANEOUS PROVISIONS REGARDING CA STUDENTS**

### **Use of Premises and Libraries**

- 30. Every CA Student shall, during his period of service under training contract and so long thereafter as he remains eligible to sit examinations, have the privilege of using the Institute's premises and libraries subject to the Bye-Laws, but he shall have no voice in the management, nor any interest in the property or funds, of the Institute.

### **CA Students Engaging in Other Business or Occupation**

- 31. (1) Where a CA Student is engaging in any business or occupation other than that of a Student in the proper business of his training office and it appears to the Council that such other business or occupation is detrimental to the CA Student's training, the Council may, after consideration of all the circumstances of the case, direct that the CA Student shall cease to engage therein.
- (2) In the event of the non-observance of any direction given by the Council in accordance with paragraph 1 of this Rule, a complaint in respect thereof may be made to the Investigation and Profession Conduct Enforcement Committee in accordance with Rule 66(1).

## **Concessions**

32. The Council may, in special cases and upon cause shown,
- (i) waive any of the time limits laid down in Rules 7, 23 and 25; and
  - (ii) waive the provisions of any Bye-law made under Rules 7 and 20 to 29, to such extent and upon such conditions as it shall think fit.

## **IX GENERAL MEETINGS**

### **Annual General Meetings**

33. (1) The annual general meeting of the Institute shall be held on the Friday following the last Wednesday in March (or, if that be Good Friday, on the next succeeding Friday) or on such later date, not being more than twenty-eight days thereafter, at such place as the Council shall appoint.
- (2) The business of an annual general meeting shall be:-
- (a) the reception of the annual review of the Council under Rule 90;
  - (b) the reception of the annual financial statements of the Institute;
  - (c) the election of office-bearers for the ensuing year;
  - (d) the election of members of Council in accordance with the provisions of Rules 45, 46 and 46A;
  - (e) the election of the Auditor in accordance with the provisions of Rule 86; and
  - (f) any other business which, consistently with these Rules, may be introduced by the Council or, in terms of paragraph (3) of this Rule, by a member.
- (3) Business may be brought before an annual general meeting otherwise than at the instance of the Council if proposed by a member with the support in writing of at least nine other members and if written intimation of the nature of any such business shall be given to the Secretary at least twenty-eight clear days before the last Wednesday in March.

### **Special General Meetings**

34. (1) A special general meeting shall not be called except by order of the President or a Vice President, or on a requisition addressed to the Secretary which shall state the business to be brought forward and shall be signed by not fewer than five members of the Council or by not fewer than fifty other members.
- (2) The time and place of every special general meeting shall be appointed by the Council: provided that a meeting called consequent on a requisition shall be held within three calendar months of the receipt by the Secretary of the requisition.

- (3) If within three calendar months of the deposit of such requisition a special general meeting be not so held, the requisitionists, or any twenty of them, may, within a further three months, call a special general meeting in accordance with the requisition.

## Notices

35. (1) Except in so far as otherwise provided in Rule 94, at least fourteen clear days before the date of every general meeting, the Secretary shall send to every member notice of the meeting, which shall state the business to be transacted and make reference to the member's right to have access to the accounts and report required by Rule 90.
- (2) The accidental omission to send a notice or other document to, or the non-receipt of a notice by, a member entitled to receive the same shall not invalidate the proceedings at any meeting to which the notice or document relates.
- (3) It shall not be competent to bring before a general meeting any business which is not specified in the notice calling it.

- 35A. (1) The requirement in these Rules to send to every member:-

- (i) notice of a general meeting;
- (ii) a copy of the accounts and report required by Rule 90;
- (iii) any other documentation relating to the business of a general meeting

shall be satisfied (a) by sending copies of (i)-(iii) above by electronic communication to such address as may for the time being be notified to the Institute by a member for that purpose in terms of paragraph (2) below, and (b) in the event that such notification has not been given under the said paragraph (2), by sending (i) and (iii) above by post to the member, and by intimating to the member in writing that he is entitled, on request to the Secretary in writing, to a copy of the annual accounts and report in written form. The Secretary shall comply with such a request by sending to the member the accounts (in full or in summary financial statements form) and the report as soon as possible.

- (2) Documents are also to be treated as sent to a member where:
  - (i) the Institute and the member have agreed to his having access to the documents on a web site (instead of their being sent to him); and
  - (ii) the documents are documents to which that agreement applies; and
  - (iii) the member is notified, in a manner for the time being agreed for the purpose between him and the Institute, of -
    - (a) the publication of the documents on the web site; and
    - (b) the address of that web site; and
    - (c) the place on that web site where the documents may be accessed, and how they may be accessed.
- (3) Documents treated in accordance with sub-paragraph (2) as sent to a member shall be treated as sent to him not less than 28 days before the date of a meeting provided:

- (i) they are published on the web site throughout a period beginning at least 28 days before the date of the meeting and ending with the conclusion of the meeting; and
  - (ii) the notification given for the purposes of sub-paragraph (2)(iii) is given not less than 28 days before the date of the meeting.
- (4) Nothing in sub-paragraph (3) shall invalidate the proceedings of a meeting where -
- (i) any documents that are required to be published on the web site are published for a part, but not all, of the period mentioned in sub-paragraph (3)(i); and
  - (ii) the failure to publish those documents throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the Institute to prevent or avoid.

### **Chairman**

36. At all general meetings the President, or in his absence a Vice-President, shall act as chairman; in the absence of the President and of both the Vice-Presidents the chair shall be taken by such member of the Council as shall be elected thereto by a majority of the members of Council present; and in the absence of the President, the Vice-Presidents and all the members of the Council, or, in the event of all of them declining to act, the meeting shall elect a chairman from among the members present.

### **Quorum**

37. (1) At all general meetings fifteen members present in person shall form a quorum.
- (2) If a quorum does not assemble within fifteen minutes after the time fixed for a meeting, such meeting shall stand adjourned for a fortnight to be held at the same time and place (or, if such place shall not then be available, at such other place as the Council may determine) and so from fortnight to fortnight until a quorum be present.
- (3) If shall not be necessary to give notice of any adjourned meeting to be held in accordance with paragraph (2) of this Rule.

### **Adjournments**

38. (1) The chairman of a general meeting may, with the consent of the meeting, adjourn the same from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (2) When a meeting is adjourned, or an adjourned meeting is further adjourned, for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting, but, save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

### **Voting**

39. (1) All questions brought before general meetings shall, except where otherwise expressly provided in these Rules, be determined by a majority of votes of the members voting.

- (2) At any general meeting a resolution put to the vote of the meeting (other than for the election of office-bearers and members of Council) shall be voted upon by a show of hands or by ballot of the members present in person as may be decided by the chairman of the meeting, unless (before or on declaration of the result of the show of hands or the ballot) a poll is demanded:-
  - (a) by the chairman of the meeting, or
  - (b) by at least fifty members present in person or by proxy.
- (3) Unless a poll be so demanded, a declaration by the chairman of the meeting that a resolution has on a show of hands or on a ballot been carried or carried unanimously or by a particular majority, or lost, and an entry to that effect made in the minutes of the meeting, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- (4) The demand for a poll may be withdrawn.
- (5) In the case of an equality of votes, whatever the method of voting, the chairman of the meeting shall be entitled to a second or casting vote.
- (6) A poll duly demanded on a question of adjournment of the meeting shall be taken forthwith: if a poll is duly demanded on any other question (not being the election of office-bearers) it shall be taken in such manner and at such time and place as the chairman of the meeting directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- (7) On a poll, votes may be given either personally or by proxy.

### **Appointment of Proxy**

40. (1) An instrument appointing a proxy shall be in writing under the hand of the appointer, or of his attorney duly authorised in writing: a proxy must be a member.
- (2) The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, shall be deposited with the Secretary not less than forty-eight hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.
- (3) An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:-

#### THE INSTITUTE OF CHARTERED ACCOUNTANTS OF SCOTLAND

I ..... of ..... in the County of ..... being a member of the above named Institute, hereby appoint ..... of ..... or failing him ..... of ..... each of whom is a member of the said Institute, as my proxy to vote for me on my behalf at the (annual) (special) general

meeting of the said Institute to be held on the ..... day of ..... 20.... and at any adjournment thereof.

Signed this ..... day of ..... 20....

(Signature) .....

- (4) Where it is desired to afford members an opportunity of voting for or against a resolution, the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:-

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF SCOTLAND

I ..... of ..... in the County of ..... being a member of the above named Institute, hereby appoint ..... of ..... or failing him ..... of ..... each of whom is a member of the said Institute, as my proxy to vote for me on my behalf at the (annual) (special) general meeting of the said Institute to be held on the ..... day of ..... 20.... and at any adjournment thereof.

I have indicated with an X in the appropriate spaces below how I wish my proxy to vote in respect of the numbered resolutions specified in the notice of the meeting.

(Note: Unless otherwise instructed the proxy will vote, or abstain from voting, as he thinks fit).

	For	Against
Resolution No 1	[ ]	[ ]
Resolution No 2	[ ]	[ ]

Signed this ..... day of ..... 20....

(Signature) .....

- (5) In relation to any resolution to alter, amend or add to the Supplementary Charter or these Rules the Secretary shall send to each member with the notice calling the meeting at which such resolution is to be proposed a form of proxy complying with the provisions of paragraph (4) of this Rule, but save as aforesaid forms of proxy shall not be sent to members for use at any meeting of the Institute except upon the express instructions of the Council to the Secretary.
- (6) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (7) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the Secretary before the commencement of the meeting or adjourned meeting at which the proxy is used.

- 40A. (1) The Council may allow a proxy to be appointed and the instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, to be sent by electronic communication, on such terms and conditions as it thinks fit, provided that such instrument and other documents are deposited in accordance with the time specified in Rule 40(2), and otherwise complies with the requirements of Rule 40.
- (2) Where the Council allows proxy appointments to be made and documents in relation to these appointments to be sent in this way, any provisions of these Rules which are inconsistent with that permission shall be of no effect in relation thereto. The Council may require such evidence as it thinks fit to satisfy itself that any such appointment or document is genuine.

## Referendum

41. (1) Notwithstanding anything contained in Rule 39, it shall be competent for the chairman of any general meeting at any stage after a question (other than the election of office-bearers and members of Council) has been put to the meeting, whether or not the question has been voted upon by a show of hands or by ballot or by a poll, to direct that the question be submitted to a referendum; such direction shall supersede all previous proceedings on that question.
- (2) On a referendum being so directed:-
- (a) the chairman of the meeting shall state the question for decision and shall specify the date (being not earlier than the thirtieth nor later than the thirty-fifth day after the meeting), time and place to which the meeting shall stand adjourned;
  - (b) the meeting shall appoint four members as scrutineers, and in the event of any casual vacancy occurring among the scrutineers the same shall be filled by the appointment by the President (whom failing a Vice-President) or any member;
  - (c) not later than the fourteenth day after the meeting the Secretary shall send by post to every member at his place of business a voting paper containing the question for decision;
  - (d) voting papers shall be invalid if not returned so as to be received by the Secretary not later than the twenty-eighth day after the meeting;
  - (e) the scrutineers shall meet before the time to which the meeting stands adjourned and they, or any three of them, shall draw up a report of the result of the voting stating, *inter alia*, what voting papers have been rejected wholly or in part for non-observance of the notes and directions thereon, or for any other and what reasons;
  - (f) the report of the scrutineers shall be conclusive as to the result of the referendum, which shall be declared at the adjourned general meeting, whereupon the decisions resulting from the referendum shall take effect; and
  - (g) for the purpose of this Rule, and throughout these Rules where the context either requires or permits, the word "ballot" shall mean a vote (otherwise than by a show of hands) by members present in person, and the word "poll" shall mean a

vote (otherwise than by a show of hands) by members present in person or by proxy.

### **Poll or Referendum not to Prevent Other Business**

42. (1) The demand for a poll or the direction of a referendum shall not prevent the transaction at the meeting of any business other than that on which the poll has been demanded or the referendum directed.
- (2) On completion of all business other than that on which a poll has been demanded or a referendum directed the meeting shall be deemed to be concluded.

### **Minutes**

43. All resolutions and proceedings of general meetings of the Institutes shall be minuted, and all minutes signed by the chairman of the meeting to which they relate or by the chairman of a subsequent general meeting shall be sufficient evidence of the facts therein stated.

## **X ELECTION OF OFFICE-BEARERS AND COUNCIL**

### **President and Vice-Presidents**

44. (1) The Institute shall at each Annual General Meeting elect from among the members three office-bearers, being a President, a Senior Vice-President and a Junior Vice-President, each of whom shall hold office as from the conclusion of the Annual General Meeting at which they are elected.
- (2) The Council shall delegate to a sub-Committee of the Nominations Committee appointed under Rule 51A(1) the power to nominate candidates for election as office-bearers at each Annual General Meeting.
- (3) Nominations of candidates for election as office-bearers, other than those nominated by the Council, shall be made by notice in writing signed by fifty members and received by the Secretary at least fifty-six days before the last Wednesday in March. Each such notice shall be accompanied by an intimation in writing from each candidate of his willingness to serve if elected.
- (4) In the event of there being a contest for election as President or Senior Vice-President or Junior Vice-President then an election shall be held in accordance with detailed procedures to be prescribed by Bye-Laws.
- (5) The President and each Vice-President shall hold office until the date from which their respective successors take office.
- (6) The President shall be eligible for re-election to that office in the year following the year of his election or assumption in terms of Rule 44(9)(a) as President but shall not again be eligible to be President or Vice-President.
- (7) A Vice-President shall be eligible for re-election to that office for each of the two years succeeding his first election or appointment in terms of Rule 44(9)(b) as Vice-President but shall not again be eligible to be Vice-President until a period of one year has elapsed since he last held that office.

- (8) The President and Vice-Presidents may resign at any time from office as such by a signed notice in writing delivered to the Secretary and such resignation shall take effect upon the delivery of the notice or on the date specified therein if that be later.
- (9) (a) On a casual vacancy occurring in the office of President the Senior Vice-President or, in the event of the Senior Vice-President declining, then the Junior Vice-President shall assume the office of President and shall hold such office until the conclusion of the next Annual General Meeting.
- (b) On a casual vacancy arising in the office of Vice-President, the sub-Committee referred to at paragraph (2) above shall nominate a replacement..
- (10) (a) The President and the Vice-Presidents shall *ex officio* be members of the Council and the President whom failing the Senior Vice-President whom failing the Junior Vice-President shall be Chairman of the Council.
- (b) The President and the Vice-Presidents shall not be members of the Discipline Panel, the Investigation and Professional Conduct Enforcement Committee, the Appeal Panel or the Audit Committee, but, except as aforesaid, they shall *ex officio* be members of all committees appointed by the Council, the Oversight Board and of the Designated Boards.
- (c) Each of the President and the Vice-Presidents shall *ex officio* be a member of the Area Committee within the electoral area of which his place of business is situated.
- (11) A member need not be a member of the Council to be eligible for election as President or a Vice-President.

## **Council**

- 45. (1) Following the conclusion of the transitional provisions set out in Rule 45A, the Council shall consist, in addition to the President and Vice-Presidents, of not more than twenty-one members elected in accordance with the provisions of these Rules, not more than fifteen of whom shall be electoral area representative members and six of whom shall be open Council seat holders (elected in terms of Rule 46A), together with such number of co-opted members, not exceeding six, as may be co-opted by the Council in terms of Rule 46(7) and the public interest members appointed under paragraph (2)(i) below, and may act notwithstanding any vacancy in its body.
- (2) (i) The Council shall also appoint not fewer than two non-accountants as public interest members, in addition to the Office Bearers and those elected and co-opted in terms of Rules 44 and 46 respectively. The public interest members shall hold office for such term not exceeding three years as the Council may decide. A retiring public interest member shall be eligible for re-appointment by the Council for a further such period. No public interest member shall serve more that six consecutive years on the Council. Public interest members shall be full members and shall, save for the additional duties imposed under Rule 45(2)(ii), have the same powers, duties and indemnity under Rule 91 as elected and co-opted members.

- (ii) The public interest members shall, jointly or severally, present in such form as they shall decide, a report at each Annual General Meeting on the discharge by the Council in the preceding year of its responsibilities, which report shall also be set out in full in the terms of the report required under Rule 90.
  - (iii) Each appointment of a public interest member shall be reported to the next succeeding Annual General Meeting.
  - (iv) The Council shall have power to pay reasonable remuneration to public interest members.
  - (v) A public interest member may at any time resign his or her office by letter addressed to the President.
  - (vi) If a public interest member dies, resigns or otherwise ceases to be a member of the Council before completing his or her term of office, a person shall be appointed by the Council to hold office for such period as is thought by the Council to be desirable.
- 45A (1) The provisions of this Rule, 45A, shall apply until such time as the reduction in the number of electoral area representatives for each of the Institute's electoral areas has been achieved as set out in the fifth column of Schedule B of these Rules.
- (2) All Council Members elected, in 2006 or earlier, as electoral area representatives shall be permitted to serve for the full period of office (six years) in terms of Rule 46(6) and (9).
  - (3) The number of seats to be elected by any electoral area, as set out in Schedule B of these Rules, shall only be reduced as and when the electoral representative ceases to hold office on the Council whether by resignation or retirement at the end of their term of office.
  - (4) If the place of any member of Council elected to represent an electoral area becomes vacant before the expiration of that member's term of office, either as a result of the resignation or death of that member of Council, the Council shall not appoint another member in terms of Rule 48(3)(a). The number of seats for the electoral area, which the resigning or deceased member represented, shall be reduced in terms of Schedule B of these Rules.
  - (5) Should the number of retiring members of Council eligible for re-election, in terms of Rule 46 (9), exceed the number of electoral seats for an electoral area, as set out in the fifth column of Schedule B of these Rules, the number of electoral area seats for that electoral area shall remain at the higher level until such time as the member has completed his full term of office.
46. (1) (a) For the purposes of the election of electoral area representative Council members, the membership of the Institute shall be divided into electoral areas. The number of electoral areas and the extent of each electoral area shall be as set out in the first and second columns of Schedule B of these Rules which may be varied by resolution in general meeting;
- (b) the division of the membership into electoral areas shall have no application to the election of open Council seat holders.

- (2) For the avoidance of doubt, no Council member may be a nominee in the capacity as an electoral area representative or open Council seat holder if he is already appointed in the other capacity.
- (3) The number of members of Council to be elected to represent each electoral area shall be such as may from time to time be resolved by the Institute in general meeting and until otherwise so resolved shall be as set out in the fourth column of Part II of the said Schedule B opposite to each electoral area.
- (4) Only a member whose place of business is or is deemed to be within a particular electoral area on the 1st day of August preceding the year in which an election is to take place shall be entitled:-
  - (a) to stand for election as a member of Council to represent that electoral area; or
  - (b) to join in nominating a member for election as a member of Council to represent that electoral area; or
  - (c) to vote in any election for membership of the Council in respect of that electoral area;

Provided that:-

- (d) the place of business of a person who is admitted to membership of the Institute on or after the 1st day of August in any year shall for the purposes of any Council election held in the immediately succeeding year be deemed to be that member's place of business at the date of his application for membership; and
  - (e) if a member of Council duly elected as an electoral area representative should during his term of office change his place of business so that his place of business is no longer within the electoral area in respect of which he was elected he shall notwithstanding remain in office as a duly elected member of Council; and for the purposes of these Rules the place of business of a duly elected member of Council shall be deemed to remain within the electoral area in respect of which he was elected during the whole of his elected term of office.
- (5) The election of electoral area representative members of Council shall be conducted in accordance with detailed procedures to be prescribed by Bye-laws.
- (6) Subject to the provisions of Rule 48(3), a member of Council elected to represent an electoral area or for an open Council seat shall hold office from the conclusion of the Annual General Meeting at which he is elected until the conclusion of the third Annual General Meeting thereafter.
- (7)
  - (a) The Council may (subject to paragraph (9) of this Rule) co-opt as full members of Council such member or members not exceeding six in all as the Council may from time to time determine. Such co-opted members of Council shall hold office for such term not exceeding three years as the Council may fix and different terms may be fixed for different persons.
  - (b) Not more than two co-opted members of Council shall have held the office of President.

- (c) Every appointment of a co-opted member shall be reported to the next succeeding Annual General Meeting.
- (8) Only a member shall be eligible for election or co-option as a member of Council or continue to be a member of Council.
- (9) A retiring member of Council, whether an elected or co-opted member of Council, shall be eligible for re-election or for further co-option: but no member of Council shall (subject to Rule 48(3)(a) or (b)) be eligible for re-election or further co-option after holding office as a member of Council for a continuous period of six years until the expiry of one year from the date upon which such member has vacated office as a member of Council.
- 46A (1) The President or a Vice President shall call an election for (i) the first two of the six open Council seats to be held at the Annual General Meeting in 2008; (ii) the second two of the open Council seats to be held at the Annual General Meeting in 2009; and (iii) the last two of the six open Council seats at the Annual General Meeting in 2010. Thereafter the President or a Vice President shall call elections for each block of two open Council seats to be held on every third anniversary following their initial election.
- (2) Every member shall be entitled to make nominations, vote and stand as a nominee, in respect of any of the six open Council seats.
- (3) In event that the number of nominees for each round of open Council seats is two or fewer than two, then those nominees shall be appointed to the Council, and the Council may, in its discretion, either require by-elections to be held in terms of such Bye-laws are made under paragraph (4) below, or make appointments to its membership in respect of any balance of open Council seats for which there are no nominations. In the event that there are more nominees for appointment than two, then a poll shall be held at which each member who chooses to vote shall vote by marking on a ballot paper the member's first preference from among the candidates to be an open Council seat holder, and the member's second and subsequent preferences from among those candidates.
- (4) The Council shall make Bye-laws as to the conduct of elections of open Council seat holders, (a) specifying the manner in which the number of votes which will secure the return of a nominee as an open Council seat holder is to be calculated; (b) providing for any nominee with a number of votes which equals or exceeds the number so calculated to be deemed to be elected as an open Council seat holder; (c) making provision for the exclusion of one or more of the nominees from the election on the basis of the number of votes credited to the nominees, and the transfer of votes from nominees deemed to be elected as open Council seat holders or excluded from the election; and (d) specifying the value, or the method for calculating the value, to be given to any transferred vote.
- 47. (1) No election held under these Rules shall be invalidated by reason of any misdescription or non-compliance with the provisions of these Rules or by reason of any miscount or of the non-delivery, loss or miscarriage in the course of post of any document required under these Rules to be sent by post if it appears to the Council that the election was conducted substantially in accordance with these Rules and that the result of such misdescription, non-compliance, miscount, non-delivery, loss or miscarriage does not affect the return of any candidate at any election.

- (2) All expenses properly incurred by the Council or by the Institute in relation to the holding of elections of office-bearers and members of Council shall be paid by the Institute.
48. (1) A member of Council may at any time resign from office by a notice in writing signed by such member and delivered to the Secretary and such resignation shall take effect upon the delivery of the notice or on a date not later than such member's date of retirement from office in terms of Rule 46(6) hereof specified by such member in such notice, whichever is the later.
- (2) The office of a member of Council or of a member of the Oversight Board shall be vacated if such member is absent without leave of the Council or of the Oversight Board as the case may be (as to which the Secretary's certificate shall be final) for three consecutive meetings.
- (3) (a) If the place of any member of Council elected to represent an electoral area becomes vacant before the expiration of such member's term of office whether by death, resignation, the appointment of a member of Council as President or Vice-President or otherwise, the Council shall as soon as practicable and in consultation with the Area Committee for the electoral area in which such vacancy has occurred appoint another member of Council to fill such vacancy. A person appointed to fill a casual vacancy under this provision shall:-
- (i) have or be deemed to have his place of business in the electoral area in which such vacancy has occurred;
- (ii) hold office for the unexpired period of office of the member in whose place such person is appointed.
- (b) If the place of any member of Council elected as an open Council seat holder becomes vacant before the expiration of such member's term of office whether by death, resignation, the appointment of a member of Council as President or Vice-President or otherwise, the Council shall as soon as practicable appoint another member of Council to fill such vacancy. A person appointed to fill a casual vacancy under this provision shall hold office for the unexpired period of office of the member in whose place such person is appointed.

Any years served by a member of Council under this provision shall be disregarded for the purposes of Rule 46(9).

- (4) If the members fail to elect the number of members of Council required in terms of Schedule B hereof for each electoral area then the Council shall fill the vacancy or vacancies thus arising by appointing a member or members to be a member or members of Council representing the electoral area or areas concerned to hold office until the next Annual General Meeting; and such member or members shall have his or their place or places of business within such electoral area or as close thereto as may be reasonably practicable and any period served by a member of Council under this provision shall be disregarded for the purposes of Rule 46(9).
- (5) If the members fail to elect the number of open Council seat holders required in terms of the Bye-laws made under Rule 46A (4) above, and the Council decides to fill the vacancy or vacancies thus arising by appointing a member or members to be a member or members of Council rather than by holding a by-election, then such member shall

hold office until the next occurring Annual General Meeting convened to carry out business under Rule 46A (1) above: and any period served by a member of Council under this provision shall be disregarded for the purposes of Rule 46(9).

49. The Institute may by resolution passed by a majority of the members present and voting (in person or by proxy) at a meeting specially convened for the purpose with at least twenty-eight days' notice in writing remove any member of the Council or any office-bearer or the Auditor from his office before the expiration of his elected term of office. No such resolution shall be effective unless notice of the intention to move it shall have been given to the Secretary not less than thirty-five days before the meeting at which it is moved and the Secretary shall give members notice of any such resolution at the same time and in the same manner as he gives notice of the meeting. On receipt of notice of an intended resolution to remove a member of the Council or an office-bearer or the Auditor under this Rule the Secretary shall forthwith send a copy thereof to the member concerned.

### **Transitional**

50. The Constitution of each Area Committee shall be as prescribed by Bye-laws; and the Council may by Bye-laws prescribe differing constitutions for each of the Area Committees.

## **XI COUNCIL AND COMMITTEES**

### **Powers, Duties and Business of Council**

51. (1) The Council shall manage and direct the affairs of the Institute and deliberate and advise on all matters affecting its interests. Subject to Chapter XII (Discipline, Insolvency etc), it shall be entitled to delegate the day to day operations of the Institute to the Oversight Board appointed under paragraph (2) below.
- (2) The Council shall appoint an Oversight Board consisting of the Office Bearers, the Chairmen of the Designated Boards (see paragraph (7)), the Executive Directors of the Institute, the Secretary of the Institute, the Chairman of the Oversight Board (appointed in terms of paragraph (5) below) and no more than four other members of the Council (of whom one shall be a public interest member).
- (3) The Oversight Board shall be responsible to the Council for all matters delegated to it by the Council and which are not expressly reserved in these Rules to the Council or to the committees reporting directly to the Council.
- (4) The Oversight Board shall, with the Council's consent, be entitled to delegate further of any of the said operations to the Designated Boards (see paragraph (7)) according to the compositions and terms of reference which shall be accorded to them by the Council from time to time.
- (5) The Chairman of the Oversight Board shall be appointed by the Council from among the members of the Council and shall not be an office-bearer. The Chairman of the Oversight Board shall hold office for the period of his membership of Council or for three years, whichever period may be the shorter, and that period may be renewed thereafter by the Council only in exceptional circumstances as to which it shall be the sole judge.

- (6) The Chairman of the Oversight Board shall report annually to the Council in such form and in such respects as the Council shall from time to time require.
- (7) The Designated Boards shall be the Qualification Board, the Regulation and Compliance Board, the Technical Policy Board and the Members Services Board.
- (8) Each of the Designated Boards shall report (i) to the Oversight Board as frequently and in such respects as the Oversight Board may direct and shall report (ii) to the Council annually in such terms as the Council may direct
- (9) The Designated Boards shall comprise the Conveners of those Institute committees whose operational work is deemed by the Council relevant to those Boards, the Executive Director responsible for each Board, supported by two other full-time and relevantly experienced officers of the Institute, and any other person as the Council shall deem necessary or appropriate.
- (10) The Designated Boards shall each elect a chairman from among their number who shall be a member of Council.

### **The Non-operational Business of Council**

- 51A
- (1) The Council shall appoint committees (the Non-operational Committees) to advise it respectively on Internal Audit, Remuneration, Nominations and Performance Review (which last mentioned committee shall be a sub-committee of the Nominations Committee).
  - (2) The Nominations Committee shall comprise the office-bearers, the Chairman of the Oversight Board, three members of Council (including one public interest member) to be appointed by the Council and the Secretary of the Institute. The President shall be its chairman. The members of the other non-operational committees shall be appointed by the Council and may include a minority of persons who are not members of the Council.
  - (3) It shall be the duty of the Nominations Committee to make nominations to the Council concerning (i) persons for co-option to the Council; (ii) membership of the Designated Boards; (iii) matters in relation to the tenure of office of the Secretary and other officers and agents of the Institute; and (iv) external appointments made by the Council. The Council shall have regard to but shall not be bound by the said nominations.
  - (4) Save as provided above, the compositions and terms of reference and the complements of each of the Non-operational Committees shall be as laid down by the Council from time to time.
  - (5) The Non-operational Committees shall have power to appoint sub-committees.
  - (6) The Council shall have power to appoint such other committees as it sees fit.

### **Powers of Council**

- 51B Nothing in these Rules shall detract from the Council's powers and responsibilities under the Royal Charter.

## **Council Meetings**

52. (1) The Council shall meet as often as may be requisite at such place and time as may be decided by the Council.
- (2) At all meetings of the Council five members present shall form a quorum.
- (3) The President, or in his absence a Vice-President, shall act as chairman, and in the absence of the President and both Vice-Presidents the chair shall be taken by such member of the Council as shall be elected thereto by a majority of the members present.
- (4) The chairman shall, in the case of an equality of votes, have a casting as well as a deliberative vote.

## **Committees**

53. (1) At all meetings of Committees and the Designated Boards, except where otherwise provided by these Rules, three members present shall constitute a quorum.
- (2) Each Committee and Designated Board shall, subject to any prior delegation by the Council to the Nominations Committee of the nomination of the convener of any committee, elect its own convener, who shall act as chairman.
- (3) If the convener is absent from a meeting, the members present shall elect a chairman for that meeting.
- (4) The chairman shall in the case of an equality of votes have a casting as well as a deliberative vote.
- (5) The Secretary of the Institute may be Secretary of all Committees other than Area Committees and those Committees referred to in Chapter XII.

## **Examining Board**

54. Deleted.

## **Remuneration for Special Duties**

55. The Council shall have power to pay reasonable remuneration:-
- (a) to members of the Institute (including members of the Council) who undertake special duties including those on behalf of the Institute in relation to any of its functions with regard to education, examinations, training (whether pre-qualifying or post-qualifying), research, publications or otherwise; and
- (b) to external examiners, or assistant examiners who are not members.

## **Area Committees**

56. (1) The Council shall take all necessary steps to set up and thereafter to continue in being Committees to serve each electoral area and to be known as Area Committees

- (2) The Constitution of each Area Committee shall be as set out in Bye-laws provided that the Council may in its discretion at any time amend or vary the terms of those Bye-laws in their application to all or any one or more of the Area Committees.
- (3) It shall be the duty of each Area Committee to nominate from within that Committee's electoral area the candidates for election to membership of the Council to represent the electoral area of that Committee as vacancies for such representation shall occur.
- (4) It shall further be the duty of each Area Committee in the discretion of and under the general direction of the Council to administer the affairs and property of the Institute within its area and to keep the Council advised as to its administration.
- (5) Each Area Committee shall furnish estimates of expenditure as and when required by the Council.
- (6) Expenditure approved by the Council shall be met by means of grants or otherwise from the funds of the Institute, each Area Committee being accountable to the Council for monies expended by it.
- (7) At the first Annual General Meeting under the Constitution of each Area Committee members of that Committee shall be elected for a one, two or three year term of office in accordance with a scheme to be prepared in advance of such meeting by the Council, so that approximately one-third of the total number of elected members of that Area Committee shall retire in each of the three years succeeding the year of the said first Annual General Meeting. Until the conclusion of the said first Annual General Meeting the Local Committee set up under the former Rule 56 whose area comprises or includes all or a substantial part of the electoral area of that Area Committee shall remain in existence and on the conclusion of the said first Annual General Meeting the members of the said Local Committee shall retire from office as members thereof. The chairman of the said first Annual General Meeting shall be the chairman of the appropriate Local Committee. Until the appointment of an Area Committee the Secretary of the appropriate Local Committee shall hold office, unless the Council otherwise determines.

## **XII DISCIPLINE, INSOLVENCY, ETC.**

### **Definitions of terms used in Chapter XII**

57. (1) In this Chapter the following words and phrases have the meaning assigned to them below:

“Appeal Panel” means the panel appointed under Rule 60;

“Appeal Tribunal” means a Tribunal appointed under Rule 74;

“appellant” means a Member or CA Student appealing against a finding or decision of the Discipline Tribunal or the Investigation and Professional Conduct Enforcement Committee appealing against the lenience of an order of the Discipline Tribunal, as the case may be;

The “Board” means the managing board of the Accountancy Investigation and Discipline Board;

“defender” means any Member, Member Firm or CA Student against whom or which a formal complaint is preferred under these Rules;

“Discipline Panel” means the panel appointed under Rule 60;

“Disciplinary Scheme” means, the scheme or schemes referred to in Rule 1(23);

“Discipline Tribunal” means a tribunal appointed under Rule 70;

“Executive Committee” means the Executive Committee of the Disciplinary Scheme;

“hearing” in relation to a formal complaint or appeal means the whole of the proceedings of the relevant Committee including the Committee’s consideration of its findings and decision, and includes, where appropriate, a re-hearing;

“Investigation and Professional Conduct Enforcement Committee” means the committee appointed under Rule 60;

“legally qualified person” means an advocate, solicitor, or solicitor-advocate of at least seven years standing;

“Member Firm” has the same meaning as in the Disciplinary Scheme except in Rule 78 where it is confined to firms composed in whole or in part of Members of the Institute in public practice in the United Kingdom;

“Nominations Committee” means a committee of that title appointed by the Council;

“notice” means written notice sent by pre-paid recorded delivery post, in the case of a defender to his place of business and in the case of the Council to the Institute’s principal office. Service of such notice shall be deemed to have occurred 48 hours after the date of posting and “notify” and “notification” where used in this Chapter shall be construed accordingly;

A “public interest member” of a committee, sub-committee, tribunal or panel is someone, other than an accountant, appointed as a representative of the public interest;

“regulatory committee” means a committee appointed by the Council to exercise the powers of the Institute in respect of audit, insolvency permit or other licensing of practising rights, or financial matters;

“secretary” has the same meaning as in the Royal Charters.

- (2) Facts and matters are “of the most serious character” which, should they form the subject of an adverse finding of a Discipline Tribunal, would appear likely in the case of a Member to justify an order of expulsion, exclusion or suspension, or in the case of a CA student an order that he be declared unfit to become a Member.

### **Liability of Members and CA Students to disciplinary action**

58. (1) A Member shall be liable to disciplinary action in accordance with this Chapter if:

- (a) he is guilty of professional misconduct (which expression includes any act or default, whether in the course of carrying out professional work or not, likely to bring discredit to himself, the Institute or the profession of accountancy); or
  - (b) he is guilty of professional incompetence (which expression means the performance of professional work, whether as a principal, director, employee or as an individual, incompetently to such an extent or on such a number of occasions as to fall significantly short of the standards expected of a Member).
- (2) A Member shall be liable to disciplinary action under paragraph (1)(a) in respect of acts or defaults which took place prior to his becoming a Member, but only if they were not disclosed fully to the Institute before becoming a Member.
  - (3) A person who ceases to be a Member shall remain liable to disciplinary action in respect of professional misconduct or professional incompetence which took place while he was a Member.
  - (4) A CA Student shall be liable to disciplinary action if he has at any time been guilty of an act or default such as would render him unfit to become a Member, except acts or defaults which took place before he was admitted as a Student and which had been fully disclosed to the Institute prior to his admission as a CA Student.
  - (5) A Member or CA Student shall conclusively be presumed to be guilty of professional misconduct if:
    - (a) he has been convicted in the United Kingdom of an indictable offence or has been sentenced to imprisonment on summary complaint or he has been convicted by the criminal courts of any other country of an offence which if committed in Scotland would be an offence and which either, if prosecuted in Scotland, would be an indictable offence, or he has been sentenced to imprisonment; or
    - (b) an order of disqualification has been made against him under the Company Directors Disqualification Act 1986.
  - (6) In deciding whether a Member or a CA Student is liable to disciplinary action, regard may be had to:
    - (a) his failure to observe the terms of any code of practice or other guidance, whether ethical or technical, affecting Members;
    - (b) his failure to comply with any Rule, bye-law or regulation which imposes a duty on Members or CA Students;
    - (c) any adverse finding by a statutory body, another accountancy body or by any committee or person set up by any such body; and
    - (d) his conviction in respect of any offence, whether in the United Kingdom or abroad.

Non-compliance with a Rule, bye-law or regulation which is expressly stated to give rise to liability to disciplinary action shall give rise to such liability notwithstanding paragraph (b) of this clause

- (7) In deciding whether a Member or CA Student is liable to disciplinary action regard may be had to any facts or matters concerning him which have previously come to the attention of the Investigation and Professional Conduct Enforcement Committee or its predecessor, whether or not they have been the subject of an adverse finding by a Discipline Tribunal.

### **Liability of regulated Firms and regulated Members to disciplinary action**

59. (1) An authorised firm shall be liable to disciplinary action under these Rules:
- (a) if it has committed a breach of any regulations made by the Institute in its capacity as a designated professional body under the Financial Services and Markets Act 2000.
  - (b) if it has failed to comply with a statement of principle issued by the Financial Services Authority under section 64 of the Financial Services and Markets Act 2000.
- (2) A Member or Member Firm who or which is a registered auditor shall be liable to disciplinary action under these Rules if he or it has committed a breach of any regulations made by the Institute in its capacity as a recognised supervisory body under the Companies Act 1989.

### **Appointment of Investigation and Professional Conduct Enforcement Committee, Discipline Panel and Appeal Panel**

60. (1) The Council shall appoint an Investigation and Professional Conduct Enforcement Committee comprising a convener and vice convener and no fewer than nine Members of the Institute and no fewer than nine public interest members. In the absence of the convener, the vice convener shall have all the powers and duties of the convener under this Chapter. Three members of the Committee, including at least one Member of the Institute and one public interest member, shall comprise a quorum.
- (2) The Council shall appoint a Discipline Panel comprising no fewer than six Members of the Institute, no fewer than six public interest members and no fewer than four legally qualified persons. The Discipline Panel shall elect as its chairman one of its legally qualified members. In the absence of the chairman any of the legally qualified members shall have the powers of the chairman under this Chapter. Three members of the Discipline Panel, including one Member of the Institute and one public interest member and one legally qualified member, shall comprise a quorum.
- (3) The Council shall appoint an Appeal Panel comprising no fewer than six Members of the Institute, no fewer than six public interest members and no fewer than four legally qualified persons. The Appeal Panel shall elect as its chairman one of its legally qualified members. In the absence of the chairman any of the legally qualified members shall have the powers of the chairman under this Chapter. Three members of the Appeal Panel, including one Member of the Institute, one public interest member and one legally qualified member, shall comprise a quorum.
- (4) No person shall be a member of more than one of the following bodies at the same time: the Investigation and Professional Conduct Enforcement Committee, the

Discipline Panel and the Appeal Panel. No person shall be appointed to membership of any of those bodies within twelve months of ceasing to be a member of any other of those bodies.

- (5) Appointments to the Investigation and Professional Conduct Enforcement Committee, the Discipline Panel and the Appeal Panel shall be for a period of not less than three years, renewable at the instance of the Council for a further term or terms of not less than three years.
- (6) The Council may pay remuneration to and the reasonable expenses of public interest members of the Investigation and Professional Conduct Enforcement Committee, the Discipline Panel and the Appeal Panel and of the legally qualified members of the Discipline Panel and the Appeal Panel.
- (7) The Investigation and Professional Conduct Enforcement Committee may co-opt persons to assist it with the consideration of particular cases. A co-opted person shall be disregarded for the purposes of deciding whether a meeting is quorate but shall in all other respects be treated as a member of that Committee.
- (8) The Investigation and Professional Conduct Enforcement Committee may delegate all or any of its powers and duties under this Chapter to an individual or sub-committee on such terms, if any, as it thinks fit.
- (9) The chairmen of the Investigation and Professional Conduct Enforcement Committee, the Discipline Panel and the Appeal Panel shall, in the case of an equality of votes, have a casting, as well as a deliberative vote.
- (10) The Appeal Panel may from time to time draw up guidance for the making of orders by Discipline Tribunals and Appeal Tribunals. Any such guidance shall be published to Members, students and others in such manner as the Council thinks fit.
- (11) The Investigation and Professional Conduct Enforcement Committee, Discipline Tribunals and Appeal Tribunals shall have regard in making orders under this Chapter to any guidance drawn up under paragraph (10), but the making of any order in an individual case shall be at the sole discretion of the Committee or Tribunal as the case may be.
- (12) Except as provided in this Chapter, the Discipline and Appeal Panels and Tribunals and their members shall not be subject to the direction or guidance of the Council or of any other person.

#### **Members' duty to report misconduct etc.**

61. (1) It is the duty of a Member to bring to the attention of the Investigation and Professional Conduct Committee any facts or matters indicating that a Member, Member Firm or CA Student may be liable to disciplinary action under this Chapter. In deciding whether a Member, Member Firm or CA Student may be so liable, regard may be had to any guidance issued by the Council.
- (2) For the avoidance of doubt, the failure of a Member or CA Student without reasonable excuse to comply with paragraph (1) shall constitute professional misconduct.

### **Investigation of complaints by firms**

62. (1) If a Member Firm receives a complaint from a client or former client concerning any services it has provided or failed to provide, it shall cause the complaint to be investigated by a principal and any appropriate action to be taken thereupon.
- (2) If the complainer remains unsatisfied at the conclusion of an investigation and any action under paragraph (1), the Member Firm shall inform the complainer in writing of his right to bring his complaint to the attention of the Institute if he considers any Member or CA Student to be liable to disciplinary action.
- (3) For the avoidance of doubt, it shall be professional misconduct for a Member to fail to take all reasonable efforts to ensure that his firm complies with this Rule.

### **Matters of public concern**

63. (1) If the Investigation and Professional Conduct Enforcement Committee:
- (i) considers that a matter raises or appears to raise important issues affecting the public interest in the United Kingdom; and
  - (ii) considers that one or more Members or Member Firms may have committed an act of misconduct in relation to that matter; and
  - (iii) is satisfied that no disciplinary proceedings have been instituted by an AIDB Participant in relation to the conduct in question, it shall refer that matter to the Accountancy Investigation & Discipline Board to be dealt with in accordance with the AIDB Scheme
- (2) If the Board declines such a reference, the Investigation and Professional Conduct Enforcement Committee shall deal with it in accordance with the following provisions of this Chapter as facts or matters coming to its attention.
- (3) If the Investigation and Professional Conduct Enforcement Committee is notified by the Board in accordance with paragraph 6(8) of the AIDB Scheme that a matter which it has under its investigation should be dealt with by the Board, the Committee shall forthwith suspend any investigation relating to such a matter.
- (4) In the discharge of its duties under paragraph (1), the Investigation and Professional Conduct Enforcement Committee shall have all the powers of investigation referred to in Rule 66.
- (5) Facts or matters referred to the Joint Disciplinary Scheme prior to the coming into force of the AIDB Scheme shall continue to be dealt with in accordance with the Joint Disciplinary Scheme unless the Board accepts transfer from that Scheme of any matter referred to it in accordance with paragraph 18 of the AIDB Scheme.

### **Public statements concerning disciplinary matters**

64. (1) If he is of the opinion that it is necessary to maintain public confidence in the disciplinary processes of the Institute, the Chairman of the Investigation and Professional Conduct Enforcement Committee may at any time make such public

statement as he thinks fit concerning the performance of his committee's functions, including its consideration of any particular facts or matters.

- (2) In making a statement under paragraph (1) the chairman shall have regard to any guidelines which the Council may from time to time issue.

### **Conciliation**

65. Upon becoming aware of any facts or matters indicating that a Member or Member Firm may be liable to disciplinary action and not having referred them to the Executive Committee in accordance with Rule 63, the Investigation and Professional Conduct Enforcement Committee shall proceed as follows:
  - (a) if the facts or matters arise from a complaint by a client against a practising Member or against a Member employed in private practice and do not appear to be of the most serious character, an attempt shall be made in all appropriate cases to secure a conciliation of the complaint on terms satisfactory to the Member and client concerned;
  - (b) if a complaint against a Member or Member Firm has not been dealt with in accordance with paragraph (a) or where an attempt at conciliation under that paragraph was inappropriate or unsuccessful, the facts or matters shall be dealt with in accordance with Rule 66.

### **Investigations**

66. (1) Except where they have been referred to the Executive Committee to be dealt with in accordance with the Disciplinary Scheme under Rule 63, or made the subject of successful conciliation under Rule 65, any facts and matters coming to the attention of the Investigation and Professional Conduct Enforcement Committee indicating that a Member, Member Firm or CA Student may be liable to disciplinary action shall be referred to an investigator who may be:
  - (a) a sub-committee of the Investigation and Professional Conduct Enforcement Committee appointed specially or generally for this purpose; or
  - (b) an official of the Institute; or
  - (c) a Member or Member Firm; or
  - (d) a legally qualified person or law firm.

In this Chapter, the words 'he', 'his', and 'him' shall include an investigator who is not an individual.

- (2) The Council may pay the remuneration and reasonable expenses of an investigator who is not a Member, Member Firm or official of the Institute.
- (3) A reference by the Investigation and Professional Conduct Enforcement Committee to an investigator under paragraph (1) may, at any time before the investigation is completed, be withdrawn by that Committee or made subject to such terms and conditions as the Committee thinks fit.
- (4) Upon receipt of a reference under paragraph (1) the investigator shall make such inquiries (called herein 'an investigation') and obtain such information as he sees fit into the facts or matters referred to him or any matters connected in any way therewith with

a view to discovering whether any Member, Member Firm or CA Student is liable to disciplinary action.

- (5) Members, Member Firms and CA Students shall at all times cooperate fully with an investigation under this Rule, and Members shall make all reasonable efforts to ensure that any firm or company of which they are principal, director or employee shall likewise cooperate.
- (6) If at any time an investigator is of the opinion that a Member, Member Firm or CA Student has failed without reasonable excuse to comply with paragraph (5) or has failed without reasonable excuse to comply with a requirement to obtain a report under paragraph (8)(b), he shall report to the Investigation and Professional Conduct Enforcement Committee accordingly. For the avoidance of doubt, the failure of a Member or CA Student without reasonable excuse to comply with paragraph (5) or to obtain a report in accordance with a requirement under paragraph (8)(b) shall constitute professional misconduct.
- (7) In pursuance of his duties under this Rule an investigator may by written notice require any Member, Member Firm or CA Student to:
  - (a) provide such information in such form;
  - (b) provide such books, papers and records, including computer records or copies thereof; and
  - (c) permit the examination and taking of copies of such books, papers and records, including computer records,as he considers necessary for the purposes of his investigation.
- (8) If at any time the chairman of the Investigation and Professional Conduct Enforcement Committee certifies in writing that it appears to him that facts or matters which have come to the attention of his Committee are of the most serious character and that the exercise of powers under this paragraph are necessary for the effective conduct of an investigation, the investigator may:
  - (a) require, as often as he deems necessary, any Member or CA Student to attend at the Institute or any other specified place upon reasonable notice to be examined orally about the facts or matters which are the subject of the investigation;
  - (b) require any Member or CA Student concerned to obtain from a specified source at his expense such report or reports of a financial or legal nature concerning his conduct or professional work as the investigator considers necessary for the purposes of the investigation.
- (9) If a Member or CA Student fails to obtain a report required under paragraph (8) it may be obtained by the Investigation and Professional Conduct Enforcement Committee and the Member or CA Student shall be liable to pay the Institute the costs thereof. Non-payment of such costs shall be treated as if it was non-compliance with a direction for the payment of costs and shall be enforceable as if the date on which the Member or CA Student was notified of his liability to pay were the date on which a direction for the payment of costs were made.

- (10) A record shall be kept of any examination held in accordance with paragraph (8)(a) and a copy of such record shall be provided, on application, to the Member or CA Student concerned at his own cost.
- (11) If a formal complaint against a Member or CA Student the subject of a requirement under paragraph 8(b) is dismissed by a Discipline Tribunal, that Tribunal may at its complete discretion order the reimbursement by the Institute to the Member or CA Student concerned of all or part of any monies which he has paid under that requirement. If no disciplinary proceedings are brought, the Investigation and Professional Conduct Enforcement Committee may, on written application by the Member or CA Student, at its complete discretion make a like order. In the event that neither the Discipline Tribunal nor the Investigation and Professional Conduct Enforcement Committee makes such an order, a Member, CA Student or Member firm (if paragraph (14) below applies) may appeal to the Appeal Tribunal to recover such monies.
- (12) Except where the facts or matters are referred to a sub-committee to which the Investigation and Professional Conduct Enforcement Committee has delegated its full powers and duties under this Chapter the investigator shall, on completing the investigation, report to the Investigation and Professional Conduct Enforcement Committee with recommendations as to how it should proceed.
- (13) Upon receiving a report from an investigator, the Investigation and Professional Conduct Enforcement Committee may cause such further enquiries to be made as it sees fit. All the provisions of this Rule shall apply to such further enquiries as if they were an investigation.
- (14) The cost of complying with any requirement under this paragraph shall be borne by the Member or CA Student concerned or, if in the case of a Member he should default in payment, by any Member Firm of which he is a principal.
- (15) Where facts or matters regarding a CA Student have come to the attention of the Investigation and Professional Conduct Enforcement Committee, the results of any Institute Examinations (or any part or parts thereof) taken by the CA Student which have not yet been notified to him shall not be so notified until either the Investigation and Professional Conduct Enforcement Committee has decided not to prefer a formal complaint to the Discipline Panel or, if such complaint is preferred, it has been disposed of in accordance with these Rules.

### **Action following an investigation**

67. (1) If, after considering the report of an investigator under Rule 66, the Investigation and Professional Conduct Enforcement Committee is of the opinion that any Member, Member Firm or CA Student is not liable to disciplinary action, it shall take no further action. If the facts or matters giving rise to the investigation arose from an external complaint, the complainer shall be informed in writing of the decision and of his right to apply to the Independent Examiner under Rule 82.
- (2) If, as a result of investigations under Rule 66, the Investigation and Professional Conduct Enforcement Committee is of the opinion that a Member, Member Firm or CA Student is liable to disciplinary action, it shall proceed as follows:

- (a) unless the Investigation and Professional Conduct Enforcement Committee is of the opinion that the facts or matters concerned are of a most serious character it may, instead of taking any other action, issue to the Member, Member Firm or CA Student a formal written warning in such terms and subject to such conditions as the Investigation and Professional Conduct Enforcement Committee thinks fit. A formal written warning shall not give rise to publicity, except that if the investigation arose as a result of a complaint the complainer shall nevertheless, be informed of the outcome;
  - (b) if liability to disciplinary action is admitted by the Member, Member Firm or CA Student in terms acceptable to the Investigation and Professional Conduct Enforcement Committee, the Committee may with his consent admonish, reprimand or severely reprimand him and/or require him to pay to the Institute as a penalty such sum as the Committee may determine or, in a case involving facts or matters of the most serious character, may accept the voluntary surrender by him of his membership or practising rights and require him to pay the Institute such a penalty. An order under this paragraph (a consent order) involving acceptance of admonishment or reprimand shall not be publicised. Where a consent order does not give rise to publicity, and where the investigation arose as a result of a complaint the complainer shall nevertheless be informed of the outcome. An order involving acceptance of a voluntary surrender of membership or practising rights or severe reprimand shall be publicised in such manner as the Investigation and Professional Conduct Enforcement Committee thinks fit. Such publicity shall include the name of the Member, Member Firm or CA Student concerned and a short statement of the facts;
  - (c) if the Investigation and Professional Conduct Enforcement Committee does not take action in accordance with either of paragraphs (a) or (b) above, or if, within fourteen days of it being notified to him, a Member, Member Firm or CA Student informs the Committee in writing that he or it declines to consent to a formal written warning under paragraph (a) above of this paragraph or to a consent order being made under paragraph (b) above the Investigation and Professional Conduct Enforcement Committee shall make a formal complaint to the chairman of the Discipline Panel unless it considers, on the basis of further information or representations, that the Member, Member Firm or CA Student concerned is not liable to disciplinary action;
  - (d) if it is of the opinion that there are compassionate or other exceptional circumstances which would make it unjust to take action under any of the preceding provisions, the Investigation and Professional Conduct Enforcement Committee may instead take no action. If the facts or matters giving rise to the investigation arose from an external complaint, the complainer shall be informed in writing of the decision.
- (3) Before taking any action under this Rule the Investigation and Professional Conduct Enforcement Committee may, if it sees fit, give notice in writing to the Member, Member Firm or CA Student concerned of what facts it believes may be provable before a Discipline Tribunal on a formal complaint based on the information presently available to it and of what orders and directions it would seek if such a complaint were to be proved and what orders and directions it would make if the Member, Member Firm or CA Student were to accept a formal warning or consent order under this Rule.

- (4) A consent order shall have effect as if it were an order of a Discipline Tribunal and shall be subject to the same rules regarding penalty enforcement as apply to the orders of such Tribunals. For the avoidance of doubt, there shall be no appeal against a formal written warning or against a consent order under this Rule.
- (5) A formal complaint to the chairman of the Discipline Panel under this Rule shall include a summary of the grounds for disciplinary action, together with an outline of the evidence then available which, if contested, the Investigation and Professional Conduct Enforcement Committee intends to call against the Member, Member Firm or CA Student concerned.
- (6) The Investigation and Professional Conduct Enforcement Committee may make regulations, not inconsistent with these Rules, governing the exercise of its duties under this Chapter and the conduct of investigations.
- (7) If, at any time during the course of its investigations, the Investigation and Professional Conduct Enforcement Committee or an investigator becomes aware of matters which ought to be brought to the attention of a regulatory committee, it or he shall notify that committee forthwith notwithstanding that the Committee has not fully discharged its duties under this Chapter.

### **Interim Orders**

68. (1) If at any stage of an investigation, the Investigation and Professional Conduct Enforcement Committee is of the view that sufficient evidence is available to justify the Discipline Tribunal, were it so minded, to make an interim order with respect to a Member, then the Investigation and Professional Conduct Enforcement Committee shall prepare a summary of the evidence then available to the Committee concerning the Member and lay the same before the Discipline Tribunal.
- (2) The Discipline Tribunal is justified in making an interim order under this paragraph if satisfied that there is evidence to justify a reasonable apprehension that, by reason of acts or omissions of a Member:
- (a) clients' or employers' funds might be at risk; or
  - (b) a criminal offence might be committed.
- (3) The Discipline Tribunal upon such a summary being laid before it, and if satisfied:
- (a) that the Member is present or represented or that reasonable steps have been taken to serve a copy of the summary upon the Member and that notice of the hearing and of his right to appear or be represented before such hearing and to make representations at that hearing was properly served on the Member in good time, and
  - (b) that in all the circumstances an interim order is justified,
- may, having heard any submissions which the Investigation and Professional Conduct Enforcement Committee and the Member (if the Member or his representative be present) may wish to make, make an order suspending:
- i. the Member's practising certificate,
  - ii. his membership of the Institute, and
  - iii. any authorisation or licence held by the Member,

or any of these for such period or until the occurrence of such event as the Tribunal may determine. An interim order shall take effect from the date it is made by the Tribunal, or from such other date as the Tribunal shall direct.

- (4) A Member may appeal against an interim order made under this Rule in the same manner as against any finding or decision of the Tribunal and, save as provided at paragraph (5) below, the provisions of Rule 17 (Practising Certificates) shall, so far as relevant, apply to any such appeal.
- (5) Unless the Discipline Tribunal otherwise orders, an interim order shall take effect immediately and notwithstanding any appeal under paragraph (4) above.
- (6) The Discipline Tribunal shall review any interim order which has not expired within twelve months from the date of the said order and shall take all reasonable steps to give the Member (or person who but for such an order would have been a Member) notice on each occasion that the said order is to be reviewed and a reasonable opportunity of appearing or being represented before it and of making representations.
- (7) A Member (or person who but for such an order would have been a Member) may apply for an order made under this Rule to be reviewed on the grounds of a change in circumstances since the order was made. Such an application shall be in writing to the Discipline Tribunal. The Tribunal shall consider the said application at its next convenient meeting and in any event within three months of receiving the application and shall take all reasonable steps to give the Member (or person who but for such an order would have been a Member) notice of that meeting and an opportunity of appearing or being represented before it and of making representations. A second or subsequent application under this paragraph may only be made with leave of the Investigation and Professional Conduct Enforcement Committee, which leave shall not be unreasonably withheld.

#### **Appointment of Judicial Factor etc.**

69. If at any time it appears to the Investigation and Professional Conduct Enforcement Committee from facts or matters which have come to its attention from any source that it is necessary or advisable in the public interest to apply to the Court of Session for the appointment of a Judicial Factor to the practice and estate of any Member or for any other competent order it shall instruct the Secretary to act accordingly.

#### **Appointment of a Discipline Tribunal**

70. (1) Upon receiving a formal complaint from the Investigation and Professional Conduct Enforcement Committee in accordance with Rule 67(2)(c), the chairman of the Discipline Panel shall appoint from among the Panel a Discipline Tribunal to hear the complaint. The Discipline Tribunal shall comprise at least three members of the Panel appointed in terms of Rule 60(2), including a legally qualified member as chairman, not fewer than one Member of the Institute and not fewer than one public interest member of the Panel.
- (2) A formal complaint may be heard in the absence of any one member of a Discipline Tribunal except the chairman, provided that if the defender is present, the hearing may

proceed in the absence of such member only if the defender consents. A member of the Discipline Tribunal who has not been present at a hearing of a formal complaint may not thereafter sit in judgement on that complaint save with the agreement of the defender.

### **Hearing a Formal Complaint**

71. (1) A formal complaint shall be conducted in accordance with regulations made by the Discipline Panel not inconsistent with these Rules. The standard of proof shall be the civil standard.
- (2) If the defender or his representative so requests, the hearing shall be conducted in public; but notwithstanding such a request, the Tribunal may exclude the press and the public from all or part of the hearing in circumstances in which Article 6 of the European Convention on Human Rights permits this.
- (3) A defender shall be entitled to be represented before a Discipline Tribunal by a solicitor, advocate or barrister entitled to practise in any part of the United Kingdom or any member of a corresponding profession in any Member State of the European Union and a defender so represented shall be deemed to be present.
- (4) If the defender does not attend before the Discipline Tribunal on the day and at the time fixed for the hearing then, provided that the Discipline Tribunal is satisfied that notice of that hearing was properly served on the defender in good time and that no adequate reason has been given for his non-attendance, the Discipline Tribunal may proceed to hear the complaint in his absence.
- (5) The Investigation and Professional Conduct Enforcement Committee shall be represented before a Discipline Tribunal by any official of the Institute or may instruct a solicitor, advocate or barrister entitled to practise in any part of the United Kingdom or any member of a corresponding profession in any Member State of the European Union. If a complaint is proved, such representative shall be entitled to invite the Discipline Tribunal to consider making any particular order or direction under this Chapter.

### **Powers of a Discipline Tribunal**

72. (1) Upon finding a formal complaint proved in whole or in part, a Discipline Tribunal may make any one or more of the following orders concerning the defender as it considers appropriate in all the circumstances.
- (A) If the defender is a Member:-
- i. that he be expelled from the Institute;
  - ii. that he be excluded from membership of the Institute;
  - iii. that he be suspended from membership of the Institute for such period, not exceeding one year, as the Tribunal thinks fit;
  - iv. that any practising certificate held by him be withdrawn or that specified conditions be attached to such certificate;
  - v. that he be ineligible for a practising certificate;

- vi. that any insolvency permit or entitlement held under the Audit Regulations held by him be withdrawn;
- vii. that he be severely reprimanded;
- viii. that he be reprimanded;
- ix. that he be admonished;
- x. that he be required to pay to the Institute as a penalty such sum as the Tribunal may determine.

(B) If the defender is a CA Student:-

- i. that he be declared unfit to become a Member of the Institute and that the registration of his training contract be cancelled;
- ii. that he be ineligible, for such period as the Tribunal thinks fit, to apply for admission to membership of the Institute;
- iii. that he be ineligible, for such period as the Tribunal thinks fit, to exercise all or any of the following rights:
  - (a) entry for all or part of the Institute's Examinations;
  - (b) continuance of his service under a training contract;
- iv. that he ineligible to use the Institute's premises and libraries;
- v. that he be reprimanded.

(C) If the Defender is an authorised firm:

- i. that its authorisation to conduct investment business granted by the Institute pursuant to the Financial Services and Markets Act 2000 be withdrawn;
- ii. that it shall cease to be authorised by the Institute to carry on exempt regulated services under the Financial Services and Markets Act 2000;
- iii. that it be severely reprimanded;
- iv. that it be reprimanded;
- v. that it be required to pay the Institute as a penalty such sum as the Tribunal may determine.

(D) If the defender is a registered auditor:

- i. that any registration granted by the Institute under the Companies Act 1989 be withdrawn;
- ii. that the defender be severely reprimanded;
- iii. that the defender be reprimanded;
- iv. that the defender be required to pay the Institute as a penalty such sum as the Tribunal may determine.

- (2) Any such order may be made upon such terms and conditions, if any, as the Discipline Tribunal thinks fit.
- (3) Any such order may include a direction that a defender obtains advice from such a source as the Tribunal may from time to time prescribe and the Member shall follow any such advice. For the avoidance of doubt, a failure without reasonable excuse to comply with a direction under this paragraph shall be professional misconduct.

- (4) An order of a Discipline Tribunal shall take effect from such date as the Discipline Tribunal shall determine or, failing such a determination, upon the expiry of the time permitted for an appeal to be lodged or the date of disposal of any appeal, whichever is the later. For the avoidance of doubt, the Discipline Tribunal shall, whether the time permitted for an appeal to be lodged has expired or any appeal has been disposed of, cause the findings and order to be publicised under Rule 79.
- (5) If, notwithstanding its finding that a formal complaint has been proved, a Discipline Tribunal is of the opinion that in all the circumstances of the case no order under this Rule is appropriate, it may, instead of making an order under paragraph (1), take no further action on the complaint.

### **Rights of appeal**

73. (1) A defender may appeal against a finding or order of a Discipline Tribunal on the following grounds only:
  - (i) the Tribunal erred in law or in the interpretation of the Institute's Rules, bye-laws or regulations; or
  - (ii) the hearing was not conducted fairly; or
  - (iii) significant fresh evidence is available that was not available to the defender at the time of the hearing and which he could not at that time have been expected with reasonable diligence to have obtained; or
  - (iv) an order of exclusion, expulsion or suspension or, in the case of a CA Student, a declaration of unfitness for membership, was manifestly excessive in all the circumstances; or
  - (v) in terms of Rule 66(11).
- (2) the Investigation and Professional Conduct Enforcement Committee may appeal against an order of a Disciplinary Tribunal on the ground that it is too lenient in all the circumstances of the case.
- (3) An appeal under this Rule shall be valid only if lodged with the Secretary within 21 days from the date of the finding or order appealed against or such longer period as a chairman of the Appeal Panel may permit.

### **Appointment of an Appeal Tribunal**

74. (1) Upon receiving a notice of appeal the Chairman of the Appeal Panel shall, if satisfied that the notice of appeal discloses arguable grounds for appeal under Rule 73, appoint from among the Panel an Appeal Tribunal to hear the appeal.
- (2) The Appeal Tribunal shall comprise a legally qualified person as chairman, a Member of the Institute and a public interest member.
- (3) An appeal may be heard in the absence of any one member of an Appeal Tribunal other than the chairman, provided that if the appellant is present the appeal may be heard in

the absence of such member only if the appellant consents. A member of an Appeal Tribunal who has not been present at the hearing of that appeal may not thereafter sit on judgement on that appeal save with the agreement of the appellant.

### **The hearing of an appeal**

75. (1) An appeal shall be conducted in accordance with regulations made by the Appeal Panel not inconsistent with these Rules. The Investigation and Professional Conduct Enforcement Committee shall act as respondent to an appeal by the defender. The defender shall act as the respondent to an appeal by the Investigation and Professional Conduct Enforcement Committee.
- (2) An appellant shall be entitled to be represented before an Appeal Tribunal by a solicitor, advocate or barrister entitled to practise in any part of the United Kingdom or any member of a corresponding profession in any Member State of the European Union, and an appellant so represented shall be deemed to be present.
- (3) If the hearing before the Discipline Tribunal was conducted in whole or in part in public the appeal shall be conducted in public, save that the Appeal Tribunal may exclude the press and public from all or part of the hearing in circumstances in which Article 6 of the European Convention on Human Rights permits this.
- (4) If an appellant does not attend before an Appeal Tribunal on the day and at the time fixed for the hearing then, provided that the Tribunal is satisfied that notice of that hearing was properly given to the appellant in good time and no adequate reason has been given for his non-attendance, the Tribunal may dismiss the appeal or proceed to hear it in his absence.
- (5) The Investigation and Professional Conduct Enforcement Committee may appoint any official of the Institute to appear at the hearing of the appeal or may instruct a solicitor, advocate or barrister entitled to practise in any part of the United Kingdom or any member of a corresponding profession in any Member State of the European Union to appear at such appeal on its behalf.

### **The powers of an Appeal Tribunal**

76. (1) On an appeal, an Appeal Tribunal may affirm, vary or rescind any decision of a Discipline Tribunal and may substitute for any order of the Discipline Tribunal any other order or orders (on such terms and conditions, if any, as it thinks appropriate) which the Discipline Tribunal might have made on the formal complaint or may, if the Appeal Tribunal considers it appropriate, order that the complaint be heard afresh by a differently constituted Discipline Tribunal.
- (2) A decision of an Appeal Tribunal shall take effect as from the date thereof unless the Tribunal directs that it shall take effect as from some other date (not being earlier than the date of the finding or order appealed against) as shall be specified in the decision.

### **Costs**

77. (1) Any order made by a Discipline Tribunal or an Appeal Tribunal, including a decision that no further action be taken, may include a direction that the Member or CA Student shall pay the Institute such sum by way of costs as shall be specified in the direction.

For the avoidance of doubt, allowable costs for the purposes of such a direction shall include (a) the expenses of an investigation under Rule 66; (b) the costs of preferring a formal complaint to and of conducting the case before the Discipline Tribunal and of preparing an appeal to the Appeal Tribunal and of conducting the case before such Tribunal; and (c) the costs of the Discipline Tribunal and the Appeal Tribunal.

- (2) Any costs directed to be paid under this Rule shall be paid to the Institute within twenty-one days from the date of the order of the Discipline or Appeal Tribunal or by such later date as the Appeal Tribunal may direct.

### **Non-payment of penalty or costs**

78. (1) A Member or CA Student who fails to comply with an order, including a consent order, for the payment of a penalty or a direction for the payment of costs (or any instalment thereof) made by a Discipline Tribunal, an Appeal Tribunal or by any Committee appointed under the Joint Disciplinary Scheme by the date upon which the same fall due (or before the expiry of two months from the making of the order, if no date is stipulated) shall thereupon, by virtue of that fact, cease to be a member or CA Student as the case may be.
  - (2) If a person ceases to be a Member or CA Student under the provisions of the preceding paragraph any Member Firm of which he was at the relevant time a member shall be liable to pay such penalty or costs upon written demand from the Institute. If a Member Firm fails to comply forthwith with such a demand all its partners who are Members of the Institute shall be jointly and severally liable for payment of the sums due under the demand. In this paragraph 'the relevant time' means the date of any act or default resulting in the Member or CA Student becoming liable to disciplinary action under these Rules or under the Joint Disciplinary Scheme.
  - (3) Cessation of membership of the Institute or of CA Student status under paragraph (1) of this Rule shall not extinguish the right of the Institute to sue for the recovery of such costs or to cause the name and particulars of the former Member concerned, and the circumstances giving rise to the order, to be publicised in the manner provided for in Rule 79.
  - (4) Failure by a Member Firm to comply with an order, including a consent order, for the payment of a penalty or a direction for the payment of costs (or any instalment thereof) made by a Discipline Tribunal, an Appeal Tribunal or by any Committee appointed under the Joint Disciplinary Scheme by the date upon which the same fall due (or before the expiry of two months from the making of the order, if no date is stipulated) shall render all Members of that Firm who are members of the Institute jointly and severally liable to pay such sum and, in addition, liable to disciplinary action.

### **Publication of findings and orders**

79. (1) If a Discipline Tribunal finds a formal complaint proved in whole or in part against a Member, Member Firm or CA Student, in terms of Rule 72(1), it shall cause such finding and any order made thereon to be publicised in such manner as it thinks fit, providing that the finding shall not be publicised unless the defender so requests if (a) the only order is a reprimand or admonition and/or financial penalty or (b) if, instead of making an order, the Tribunal decides to take no action.

- (2) If an Appeal Tribunal varies or rescinds an order of a Discipline Tribunal it shall cause its decision on the appeal to be publicised in like manner and subject to the same proviso as if it were a finding of the Discipline Tribunal
- (3) Notwithstanding anything in the preceding provisions, the chairman of a Discipline Tribunal and an Appeal Tribunal may cause a report of its decision to be published at any time if in his opinion publication is desirable in view of any statement or comment made in the public domain.

### **Certificates and permits**

80. (1) An order suspending a Member from membership shall have the effect, among others, of cancelling any practising certificate, insolvency permit or entitlement to audit.
- (2) An order suspending a Member from membership or an order withdrawing or attaching conditions to a practising certificate or withdrawing an insolvency permit or an entitlement to audit shall not disqualify a Member from applying to the appropriate committee of the Institute for the renewal of such certificate, permit or entitlement or for any conditions attached thereto to be varied or removed on cause shown.
- (3) When an order is made under this Chapter by a Discipline Tribunal or an Appeal Tribunal affecting a certificate or permit, the defender shall forthwith deliver up to the Secretary the relevant certificate and permits affected by the order.

### **Re-admission to membership**

81. (1) A person who has been either excluded from membership of the Institute by an order under this Chapter or has been removed from membership in terms of Rule 13 or 83(1) may apply to the Investigation and Professional Conduct Enforcement Committee for re-admission to membership.
- (2) In considering an application under paragraph (1) the Investigation and Professional Conduct Enforcement Committee shall make such enquiries as it thinks fit regarding the applicant's conduct before and after the order of exclusion or the removal in terms of Rules 13 or 83(1). Before deciding whether or not to grant the application, the Committee shall afford the applicant a reasonable opportunity of making representations, which may at the Committee's discretion be written or oral.
- (3) Upon an application under this Rule, the Investigation and Professional Conduct Enforcement Committee shall have power at its complete discretion to grant or refuse re-admission to membership of the Institute and shall not be liable to give reasons for its decision.
- (4) Re-admission to membership of the Institute shall be on condition that the applicant pays:
  - (i) such sum (if any) as the Investigation and Professional Conduct Enforcement Committee thinks fit in or towards the amount of any subscription which would have been due by him if he had remained a member from the date of the exclusion order; and
  - (ii) a re-admission fee of such sum (if any) not exceeding the current normal admission fee as the Investigation and Professional Conduct Enforcement Committee thinks fit.

- (5) If an application under this Rule is refused, the Investigation and Professional Conduct Enforcement Committee may inform the applicant that it will not consider a further application from him within a specified period of time.
- (6) The Investigation and Professional Conduct Enforcement Committee shall report its decisions under this Rule to the Council and shall inform the applicant accordingly.
- (7) If an application under this Rule is granted, the applicant shall not by virtue of that fact be entitled to a practising certificate or other permit.
- (8) A Member expelled from the Institute by an order under this Chapter shall not be entitled to apply for re-admission except by special resolution of the Council. Any such re-admission may be on whatever terms the Council sees fit, including the payment of subscription and re-admission fees.

### **Independent Examiner's Panel**

82. (1) The Council shall appoint an Independent Examiner's Panel comprising of no fewer than three individuals, who shall be neither accountants nor officials of the Institute. The appointment to the Panel shall be for a period of not less than three years and shall be renewable. The Independent Examiners shall be remunerated and paid their reasonable expenses, and indemnified by the Institute against civil liability. The Independent Examiner's Panel, annually, shall elect one of its members to act as chairman. Upon receiving an application in terms of paragraph (2) below the chairman of the Independent Examiner's Panel shall appoint one of the members of the Panel to consider the application.
- (2) Any person (hereinafter referred to as the "applicant") informed under Rule 67 that the Investigation and Professional Conduct Enforcement Committee has decided to take no action or no further action with respect to a Member, Member Firm or CA Student (other than a decision on compassionate grounds), may apply in writing for the decision to be reviewed by the Independent Examiner on any one or more of the following grounds:
- (a) fresh evidence of a material nature, as to which the Independent Examiner shall be the sole judge, has been received since the decision complained of;
  - (b) there is reason to suspect lack of independence on the part of any member of the Investigation and Professional Conduct Enforcement Committee who took part in the decision complained of;
  - (c) the decision of the Investigation and Professional Conduct Enforcement Committee was not one which could reasonable have been arrived at upon due consideration of the facts and matters before it.

Such a request shall not considered unless made within six months of the date on which the applicant received notice of the Investigation and Professional Conduct Enforcement Committee's decision unless, in the opinion of the Independent Examiner, fresh evidence of a material nature justifies such review.

- (3) If, after considering an application under paragraph (2), the Independent Examiner is of the opinion that one or more grounds referred to therein applies, he may remit with

reasons the application to the Investigation and Professional Conduct Enforcement Committee with a recommendation that the decision be reviewed. If he is not of that opinion he shall provide the applicant with his reasons in writing. In any event, if, after considering an application under paragraph (2), he is of the opinion that the disciplinary Rules or procedures of the Institute could be improved, he shall report to the Council accordingly.

- (4) The Independent Examiner shall be entitled to request the Secretary of the Institute to provide him with such technical assistance as he believes to be necessary to discharge his responsibilities, which request shall not be refused unreasonably.
- (5) Before making any decision on an application under paragraph (2) the Independent Examiner may require the Investigation and Professional Conduct Enforcement Committee to make or cause to be made such further investigation concerning the application as he considers necessary for the purposes of his review.
- (6) In the conduct of a review following a remission under paragraph (3), the Investigation and Professional Conduct Enforcement Committee may have regard both to the information and any representations previously available to it as well as to the information and any representations which have been made to it since the Investigation and Professional Conduct Enforcement Committee came to its decision that no formal complaint should be made or that no action should be taken.
- (7) If, following a remission to the Investigation and Professional Conduct Enforcement Committee of an application under paragraph (3), the Investigation and Professional Conduct Enforcement Committee is of the opinion that a formal complaint should now be made to the Discipline Panel it shall make such complaint, but not before first having given the Member, Member Firm or CA Student concerned a further opportunity to make written representations to it.
- (8) If, following a remission to the Investigation and Professional Conduct Enforcement Committee of an application under paragraph (3), the Investigation and Professional Conduct Enforcement Committee is still minded to make no formal complaint to the Discipline Panel, it shall inform the applicant and the Independent Examiner in writing of its reason therefor. On receipt of such reasons the Independent Examiner may make any comments he thinks fit to the Investigation and Professional Conduct Enforcement Committee. The Investigation and Professional Conduct Enforcement Committee shall consider its proposed finding in the light of such comments, if any, and make its final determination, which shall be given in writing to the applicant and to the Independent Examiner.
- (9) The Chairman of the Independent Examiner's Panel shall be entitled to request a representative sample of such investigation files, which are not subject to challenge by a complainer, from the Convener of the Investigation and Professional Conduct Enforcement Committee as he deems appropriate to permit him to review the investigation process and decisions reached by the Committee.
- (10) The Chairman of the Independent Examiner's Panel, in consultation with the Panel members, shall make a report to the Council annually; in relation to the individual complaints, the issues he thinks fit and the review of the files examined under paragraph (9) above.

## **Bankruptcy, etc**

83. (1) If at any time any Member is made bankrupt by sequestration or other equivalent bankruptcy process, or grants a trust deed for behoof of his creditors or enters into an Individual Voluntary Arrangement, such Member shall:-
- (a) so inform the Council in writing within seven days, and shall provide any additional information as the Council shall from time to time require; and
  - (b) thereupon cease to be entitled to engage in insolvency practice in the United Kingdom and any permit issued to him shall be withdrawn; and
  - (c) cease to be a Member on the expiry of two months from the date of his being so made bankrupt or of his granting such trust deed, or on the expiry of such extended period or periods from such last-mentioned date as the Council in its discretion may fix, unless the Council shall have resolved, previously to the expiry of the said two months or of the said extended period or periods, that he should not so cease to be a Member.
- (2) Where the Council resolves in accordance with paragraph (1) of this Rule that a Member shall not cease to be a member, it shall also have power in its discretion to withdraw any practising certificate held by him.
- (3) This paragraph applies to provisions of the legal processes of other parts of the United Kingdom and of other countries corresponding to the processes of Scottish Law mentioned in paragraph (1) of this Rule. The determination of Council that a provision of another part of the United Kingdom or of another country corresponds with a provision of Scottish Law in this Rule shall be final.
- (4) Where an individual ceases to be a Member in accordance with paragraph (1) of this Rule or where in accordance with paragraph (2), the individual continues to be a Member but his practising certificate is withdrawn, the Council may cause a statement to that effect to be published in such manner as it thinks fit.

## **Professional Standards**

84. (1) The Council shall have power to establish alone or to enter into with others any scheme designed to provide an independent mechanism to ensure and to demonstrate that the setting of technical and ethical standards and the regulatory and disciplinary procedures of the Institute are such as to maintain and enhance the reputation of the accountancy profession and to ensure that the public interest is being served in terms of the Royal Charters and its other responsibilities.
- (2) The Council shall have power to establish alone or to enter into with others any scheme or schemes designed to provide an assessment of the quality of work carried on by members in practice and to ensure, and where appropriate enforce, a high standard of such work. The Council may appoint a committee to administer such scheme or schemes, which committee shall be composed of not fewer than five persons, of whom not fewer than two shall be non-accountants. The Council shall have power to pay remuneration to, and the reasonable expenses of, non-accountant members of such committee.

- (3) In accordance with Article 3C of the Supplementary Royal Charter of 1992, as amended, the Institute shall be a Participant in the Scheme adopted by the Accountancy Investigation and Discipline Board on 1 December 2005.
  - (4) Members and Member Firms and Former Members and Former Member Firms shall be subject to all the provisions of the AIDB Scheme.
85. (1) The Investigation and Professional Conduct Enforcement Committee or the Discipline Tribunal or Appeal Tribunal (as the case may be), in relation to any complaint under its consideration in accordance with Chapter XII where it considers that the fee charged, or proposed to be charged, by a member or member firm may be excessive given the adequacy and timeliness of the professional service rendered and the whole other circumstances, and where the complainer agrees to the matter so being remitted and to his being bound by the decision of the Auditor of Fees and to meet all or such proportion of the costs of the adjudication as the Auditor shall determine, may instruct the member or member firm to submit his or its fees to the Auditor of Fees for a determination.
- (2) In a case so remitted, the Auditor of Fees shall, after such investigation as he considers appropriate, and after having given the parties an opportunity to make representations to him, determine an appropriate fee, taking into account the whole circumstances of the case known to him. The costs of the adjudication shall be borne by the complainer and member in such proportions as the Auditor shall direct.
- (3) It shall be the professional obligation of a member or member firm to accept the adjudication of the Auditor, including his direction as to costs, and act accordingly. A failure so to act shall constitute professional misconduct.

### **XIII AUDITOR**

#### **Auditor**

86. (1) At each annual general meeting the Institute shall elect from among relevantly qualified members a member or member firm to be Auditor, to hold office until the conclusion of the next annual general meeting.
- (2) The Auditor shall be eligible for re-election, provided that no member or member firm shall hold office as Auditor for more than five consecutive years.
- (3) Neither a member of the Council nor a member firm of which he is a principal shall be eligible for election as Auditor.
- (4) The Auditor shall examine and report to the members upon the accounts of the Institute, and his fees therefore shall be fixed by the Council.

### **XIV FUNDS**

#### **Application of Funds**

87. The funds of the Institute shall be applied by authority of the Council in promoting, furthering or protecting the objects of the Institute and, without prejudice to this generality -

- (1) in acquiring by purchase or otherwise a site or sites or premises for halls, libraries, offices and other premises considered necessary for the use of members or for any purposes of the Institute and to develop, re-develop, sell, lease, grant heritable and other securities or otherwise deal with any such property;
- (2) in maintaining a library or libraries for the use of members and CA Students;
- (3) in paying remuneration to the Secretary and other officers, servants and agents of the Institute, and pensions and gratuities to former officers and servants or their dependants, or in making such other provisions for the payment of pensions or gratuities to former officers and servants or their dependants as may be deemed expedient;
- (4) in paying reasonable remuneration in accordance with Rule 55 to members and others for special duties undertaken by them on behalf of the Institute;
- (5) in making reasonable payment to members and others to reimburse them for actual out-of-pocket expenses incurred in the discharge of duties connected with the business of the Institute; but no such payment shall be made in connection with attendances as ordinary members at general meetings of the Institute;
- (6) in meeting deficits (if any) on account of the provision of catering facilities for the benefit of members or CA Students and the deficit (if any) on any dinner or other social function held under the auspices of the Institute;
- (7) in making grants to Area Committees, discussion groups and Student societies sponsored by the Institute, and in or towards providing tuition for CA Students (whether before, during or after their periods of service under training contract), including *inter alia*, the remuneration of teaching staff and the cost of prizes for Students attending classes conducted, prescribed or approved by the Institute, or for candidates presenting themselves for the Institute's examination or any part thereof;
- (8) in publishing or distributing, or causing to be published or distributed, any book, pamphlet or journal relating to the affairs of the Institute or promoting or furthering the interests, usefulness and efficiency of members and CA Students, or of the accountancy profession generally;
- (9) in establishing and holding capital in any company or organisation concerned with any matters which are in furtherance of the objects of the Institute;
- (10) in or towards providing facilities for furthering research, post-qualifying study and training in any manner calculated to advance the efficiency of the accountancy profession;
- (11) with the approval of the Institute in general meeting, in making gifts or contributions for public, educational, charitable, or other similar purposes;
- (12) in making payments, transfers or grants to any benevolent fund established or to be established for the benefit of members and their dependants; and
- (13) alone, or in conjunction with others in the United Kingdom or elsewhere, in promoting, furthering or protecting the interests, usefulness and efficiency of the accountancy profession and members of the Institute and CA Students in any manner whatsoever

consistent with the provisions of the Original and Supplementary Royal Charters and these Rules.

### **Investment**

88. (1) All the funds of the Institute not required immediately for the ordinary purposes of the Institute may be invested by the Council.
- (2) It shall be competent for the Council to invest such funds:-
- (a) for the purchase of land or any interest therein provided that the unexpired portion of any interest other than the ownership or freehold is not, at the time of purchase, less than sixty years;
  - (b) for the purchase of securities of any Government, Local Authority, statutory undertaking or company quoted on The Stock Exchange or on one or more of the following Stock Exchanges, that is to say: Adelaide, Amsterdam, Antwerp, Brisbane, Brussels, Copenhagen, Dusseldorf, Frankfurt, Hong Kong, Johannesburg, Lisbon, Luxembourg, Madrid, Melbourne, Milan, Montreal, New York, Oslo, Paris, Perth, Singapore, Stockholm, Sydney, Tel Aviv, Tokyo, Toronto, Vienna or Zurich: provided always that at the time of investment the paid up capital and the capital reserves (including any share premium account and capital redemption reserve fund) of such company shall together total £750,000 at least or its equivalent at the rate of exchange current at the date of investment and so that in the case of a company having shares of no par value such paid up capital and capital reserves shall be deemed to be the capital sum and capital surplus appearing in the company's published accounts (provided that this requirement shall not prevent an application for and part payment in respect of shares offered for subscription to the public if the full subscription for such shares would cause the paid up capital and capital reserves of the company concerned to total £750,000 at least or such equivalent as aforesaid);
  - (c) for the purchase of any other moveable or personal property;
  - (d) for the making of loans with or without security; and
  - (e) for placing on deposit with any banker, public authority, institution or company in the United Kingdom or in the European Economic Community whose normal business includes the acceptance of such deposits;

and the Council may from time to time vary such investments.

### **Borrowing**

89. The Council may from time to time borrow money for the purposes of the Institute and may pay interest thereon out of the funds of the Institute.

### **Annual Accounts and Report**

90. The financial statements of the Institute shall be made up annually as at 31 December and shall be laid for approval duly audited before the next annual general meeting, together with an annual review by the Council, which annual review shall include a report by the Chairman of the Oversight Board, an assessment by the Council of the work of that Board in the same

period, an assessment of the Council's fulfilment of the Institute's representational and public interest objectives in terms of the Royal Charters, and the report of the public interest members referred to at Rule 45(2)(ii).

## **XV INDEMNITY**

### **Indemnification of Council, etc.**

91. Every member of the Council or of any Committee or Sub-Committee and every other office-bearer (other than the Auditor), officer or servant of the Institute shall be indemnified by the Institute against all expenses and losses incurred by him in the execution of his office or in relation thereto, unless the same shall have been incurred through his own wilful default or dishonesty.

## **XVI BYE-LAWS**

### **Council to Make and Alter Bye-Laws**

92. In addition to its powers to make Bye-Laws for the specific purposes provided in certain of these Rules, the Council may, from time to time, make Bye-Laws for regulating the affairs of the Institute, for the use of the halls and libraries and for the better carrying out in detail of these Rules and may, from time to time, alter any such Bye-Laws, provided always that such Bye-Laws shall not be inconsistent with these Rules.

## **XVII DIPLOMAS, ETC.**

### **Diplomas, Certificates and Other Awards**

93. (1) The Institute in general meeting, by a majority of votes of the members voting, may approve and adopt any scheme, whether initiated by the Institute alone or jointly with other professional bodies, or previously initiated by one or more other professional bodies and now to be joined by the Institute, for the granting of diplomas, certificates and other award (with or without prior examination) to members of the Institute and of any other professional bodies who are parties to the scheme, in any activity with which the accountancy profession is concerned, and for the use of designatory letters by persons granted such diplomas, certificates and awards, provided always that no such designatory letters shall be used unless such use shall have been expressly approved by the Lords of Her Majesty's Most Honourable Privy Council, and may with regard to any such scheme empower the Council:-
- (a) to organise, maintain and manage, or to join in the organisation, maintenance and management of, such scheme as from such date as the Council may fix, and by such means, including the appointment of organisers or managers or the nomination of representatives of the Council upon the Joint Board of such scheme, as the Council may determine;
  - (b) to finance, or join in financing, the requirements of such scheme, whether by way of loan, advance or outright contribution as the Council may at any time or from time to time consider appropriate;

- (c) to approve of alterations or additions to such scheme and to the regulations (if any) made thereunder for the purpose of implementing the same; provided that the Council shall not permit any such alteration or addition to be made which in the opinion of the Council would fundamentally alter the scheme as approved except with the further approval of the Institute in general meeting by a majority of votes of the members voting;
  - (d) as from such date as the Council may fix, to withdraw the Institute from being a party to such scheme either in the Council's own discretion or, if so instructed by resolution of the Institute in general meeting, by a majority of votes of the members voting;
  - (e) to make and to alter from time to time, all in terms of Rule 92, Bye-Laws binding upon the members of the Institute relating to such scheme; and
  - (f) generally to do all acts or things as the Council may deem necessary or desirable to further the interests of the Institute or of its members through the operation of such scheme.
- (2) Any scheme to which the Institute is a party in terms of this Rule and which is for the time being operative (including any regulations made under such scheme for the purpose of implementing the same) shall be binding upon the Institute and all its members to the same effect as if such scheme (including any such regulations) formed part of the Bye-Laws of the Institute; but no member of the Institute shall in any circumstances be obliged to participate in such scheme.

## **XVIII ALTERATION OF RULES**

### **Alteration of Rules at Special General Meetings**

94. (1) No alteration to these Rules shall be made unless such alteration (with or without amendment proposed as hereinafter set forth) has been approved by at least two-thirds of the votes of the members voting at a special general meeting called by a notice specifying the proposed alteration and sent by the Secretary to each member at least twenty-eight clear days before the date of the meeting, or on a poll directed or demanded at such meeting: provided that if, after receipt of such notice, any member, with the support of at least nine other members, desires to propose any amendment thereto he shall give notice thereof to the Secretary at least twenty-one clear days before the date of the meeting, and the Council shall order such proposed amendment to be notified to each member at least fourteen clear days before the date of the meeting.
- (2) If the said alteration with or without amendment be approved by the required majority and thereafter by The Lords of Her Majesty's Most Honourable Privy Council, it shall have effect from the date of Their approval.

## **XIX FINALITY OF RULES**

### **Rules and Bye-Laws Binding on Members**

95. No member of the Institute or CA Student shall be entitled to plead exemption from, or to challenge the operation of, these Rules or the Bye-Laws on the ground of not being aware of the existence or purport thereof.

## **XX REGULATED NON-MEMBERS**

96. (1) Every applicant for Regulated Non-Member status shall satisfy the Council of his having fulfilled such terms and conditions as the Council may by regulation issued hereunder specify.
- (2) The Council may from time to time make regulations relating to the categories of Regulated Non-Member and the terms and conditions relating to Regulated Non-Member status including, without prejudice to the generality of the foregoing, regulations as to fitness, discipline and fees.
97. Every person before being so recognised as a Regulated Non-Member shall undertake to be bound by the Royal Charters, Rules, Bye-Laws and Regulations in force at that time or which may thereafter from time to time be made.

## **XXI AFFILIATED FIRMS**

98. (1) Every firm applying for Affiliation shall satisfy the Council of its having fulfilled such terms and conditions as the Council may by regulation issued hereunder specify.
- (2) The Council may from time to time make regulations relating to Affiliated Firms and the terms and conditions relating to Affiliation including, without prejudice to the generality of the foregoing, regulations as to fitness, discipline and fees, including Regulatory Penalties.
99. Every firm before applying for Affiliation shall undertake to be bound by the Royal Charters, Rules, Bye-laws and Regulations in force at that time or which may thereafter from time to time be made.

## Appendix – Fees and Subscriptions 2008

The amounts of fees and subscriptions payable shall be as follows:

		<u>2008</u>	<u>2007</u>
(1)	Annual subscription of a member (other than a retired member under Rule 11):		
	(a) resident in the European Union, Channel Islands and Isle of Man	£ 369	(£360)
	(b) resident elsewhere	£214	(£209)
(2)	Annual practising certificate fee (for a member in public practice in the United Kingdom)	£418	(£433)
(3)	Admission fee	£ 767	(£748)

# **SCHEDULE A**

**(formerly Schedule B)**

**(for information)**

The original Schedule incorporated the Joint Disciplinary Scheme.

The Scheme, which is referred to in Rule 57(1), operates under the terms of the Supplementary Charter of 1979.

# SCHEDULE B

## PART I

Rules with regard to the election of electoral area representative Members of Council

1. Elections for electoral area representatives on Council shall subject to the provisions hereof take place at each Annual General Meeting.
2. The Secretary shall on or before a date not later than eighty-four days before the date of each Annual General Meeting cause to be published in *The Accountant's Magazine* or in such other manner as the Council may determine a notice of the impending election of electoral area representative members of Council for the vacancies which are about to occur. The notice of election shall be in the appropriate form set out in Part III of this Schedule or in a form substantially to the like effect.
3.
  - (a) No person may be elected an electoral area representative member of Council unless a nomination paper in respect of such person is lodged with the Secretary at the place stated in the notice of election on or before a date specified in the notice of election not less than fifty-six days before the day of the election.
  - (b) Nominations for any electoral area made by the Area Committee for that electoral area in terms of Rule 56 (3) shall be lodged by the secretary of such Area Committee and such secretary's Certificate shall be sufficient to vouch the authenticity of such nomination. Nominations for any electoral area may also be made by ten members having a place of business in the same electoral area as the person nominated subscribing a nomination paper in the appropriate form set out in Part III of this Schedule or in a form substantially to the like effect.
  - (c) Nomination papers shall contain a signed statement by the candidate that he consents to be nominated and that, if elected, he will act as a member of Council.
  - (d) Each nomination paper may include such biographical details of the candidate, not exceeding fifty words, as may be suggested by the proposers of that candidate with the consent of the candidate for inclusion in any form of voting paper.
  - (e) A nomination may be withdrawn at any time before the latest date for lodging nomination papers.
4. If at the latest date for lodging nomination papers the number of persons remaining validly nominated for any electoral area does not exceed the vacancies occurring in that electoral area the Secretary shall cause to be published in *The Accountant's Magazine* or in such other manner as the Council may determine a notice intimating the election of the persons nominated as members of Council for the electoral areas in respect of which they have been nominated and that no voting will take place in respect of such nominations.
5.
  - (a) If at the latest date for lodging nomination papers the number of persons remaining validly nominated for any electoral area exceeds the vacancies occurring in that electoral area an election shall be held in accordance with the provisions of this Schedule and any Bye-Laws made hereunder to decide which of the members nominated shall fill each vacancy for which there is more than one valid nomination.
  - (b) The Secretary shall immediately after the last date for lodging nomination papers cause voting papers and identification envelopes to be prepared for each vacancy in respect of which an election is to take place. Voting papers shall contain the name and place of business (actual and deemed) of each person nominated to fill each vacancy, by whom each candidate has

been nominated, the place to which voting papers are to be returned and the latest date and time by which they may be received and shall also include such biographical details of each candidate, as may have been supplied with such candidate's consent by the persons or Area Committee nominating such candidate together with a passport-size contemporary photograph of the candidate. Identification envelopes shall bear a declaration of identity. Each voting paper and identification envelope shall be, or as nearly as may be appropriate, in the form set out in Part III of this Schedule.

- (c) The Secretary shall on or before a date to be fixed by the Council being not less than thirty-five days before the date of the next Annual General Meeting cause voting papers for each vacancy in respect of which an election is to be held to be forwarded by post to every member whose place of business is in or is deemed to be in the electoral area concerned at his place of business together with an identification envelope and a covering envelope. Votes may not be given except upon the voting papers provided by the Secretary.
  - (d) A member recording his vote (i) shall place a cross (thus "X") on the right-hand side of the voting paper opposite the name of each candidate for whom he votes; and (ii) shall sign the declaration upon the identification envelope. Each member shall have one vote in respect of each vacancy.
6. (a) The President, the Vice-President, the Auditor and the immediate Past President or any two of them shall *ex officio* act as scrutineers in respect of any election: provided that if any of the foregoing is himself a candidate for election then he will not act as a scrutineer in respect of that election. Immediately after the last day appointed for the return of voting papers the scrutineers shall ascertain the validity of the votes cast by an examination of the identification envelopes and shall cause the identification envelopes found to be valid to be opened and the voting papers withdrawn, kept folded face inwards, and placed apart. An identification envelope which has not been signed shall, together with the voting papers therein contained, be treated as invalid.
- (b) The scrutineers shall thereafter examine the voting papers for each vacancy and shall reject as invalid any voting paper which is not completed in accordance with the foregoing provisions or which is unmarked or void for uncertainty or which is defaced.
  - (c) The scrutineers shall, in the case of each vacancy, cause the votes found to be valid to be counted in their presence and shall declare the candidate with the greatest number of votes to be elected.
  - (d) The decision of the scrutineers shall be conclusive as to the result of any election which shall be declared at the Annual General Meeting and which shall be published in *The Accountant's Magazine* or in such other manner as the Council may determine.
7. Notwithstanding anything in this Schedule, if after the latest date appointed for lodging nomination papers a candidate withdraws with the result that there is only one remaining candidate for any vacancy the Secretary shall cancel the election for that vacancy and declare the remaining candidate to be elected.
8. If a candidate remaining validly nominated dies before the latest date appointed for lodging nomination papers his nomination shall be treated as having been withdrawn but if such a candidate dies after that day but before the day of the election the Council shall order a fresh election to be held.
9. Notwithstanding anything in this Schedule, the Council may make Bye-Laws varying the provisions of this Schedule by prescribing a method of voting paper otherwise than by means of the combination of the voting paper and identification envelope as herein before provided and by prescribing another form of voting paper and making such other consequential amendments of the provisions of this Schedule as appear to the Council to be necessary.

**PART II**

**(Scottish Areas are based on unitary authorities under Local Government, etc (Scotland) Act 1994)**

1 AREA	2 COMPRISING	3 HEADQUARTERS	4 REPRESENTATIVES Prior to commencement of transitional provision	5 REPRESENTATIVES At conclusion of Transitional provision
GLASGOW AND WEST OF SCOTLAND	<i>Glasgow city, East Dunbartonshire, West Dunbartonshire, North Lanarkshire, South Lanarkshire, Renfrewshire, East Renfrewshire, Inverclyde, Argyll and Bute</i>	Glasgow	6	3
LOTHIAN AND BORDERS	<i>City of Edinburgh, West Lothian, Midlothian, East Lothian, Stirling, Clackmannanshire, Falkirk, Scottish Borders</i>	Edinburgh	4	2
TAYSIDE	<i>Perth and Kinross, Fife, Dundee City, Angus</i>	Dundee	2	1
HIGHLAND	<i>Highland, Moray, Orkney Islands, Western Isles (Comhairle nan Eilean Siar)</i>	Inverness	1	1
GRAMPIAN	<i>Aberdeen City, Aberdeenshire, Shetland Islands</i>	Aberdeen	2	1
SOUTH WEST SCOTLAND	<i>Dumfries and Galloway, North Ayrshire, South Ayrshire, East Ayrshire</i>	Ayr	2	1
ENGLAND AND WALES	<i>England &amp; Wales: South &amp; East England &amp; Wales: North &amp; West Channel Islands</i>	London	6	4
EU	<i>Member States of European Union, Northern Ireland, Isle of Man</i>	Edinburgh	1	1
INTERNATIONAL	<i>All areas outwith the above</i>	Edinburgh	1	1

**PART III**

**NOTICE OF ELECTION**

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF SCOTLAND**

*Election of electoral area representative members of Council*

Notice is hereby given that an election of \_\_\_\_\_ members of Council representing the members of the Institute having places of business in the several electoral areas undernoted is about to be held. Every member of the Institute having or being deemed to have a place of business as defined in the Rules of the Institute in any electoral area in which an election is to be held is eligible to be elected to represent that area:-

<i>Electoral Area</i>	<i>Number of Members to be elected as Members of Council</i>
-----------------------	--

No person may be elected a member of Council unless he is a member of the Institute and unless a nomination paper in respect of such person is sent by pre-paid post or delivered by hand so as to reach the Secretary of the Institute at \_\_\_\_\_ on or before noon on the \_\_\_\_\_ day of \_\_\_\_\_ 20 .

Forms of nomination papers may be obtained from the Secretary on application. Every person proposed for election for an electoral area must be nominated by a separate nomination paper in the appropriate form contained in Part III of Schedule B of the Rules of the Institute. Every nomination paper must either be subscribed by ten proposers whose places of business are within the electoral area for which a nomination is made or be made by the relevant Area Committee and shall contain a statement subscribed by the candidate that he consents to be nominated and that, if elected, he accepts office as a member of the Council.

Dated ..... 20

**FORM OF NOMINATION PAPER**  
**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF SCOTLAND**  
**ELECTION OF MEMBERS OF COUNCIL**  
**ELECTORAL AREA OF**

We, (here insert names of proposers and places of business)

having our place of business in the electoral area of  
hereby nominate (here insert name and place of business of candidate)

being a member of the Institute for election as a member of the Council of the Institute at the next ensuing election.

(\* The following biographical details of the candidate are supplied with the candidate's consent, for inclusion in any voting paper).

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---

I, the Nominee for election, consent to be nominated as a candidate and if elected accept office as a member of the Council of the Institute.

(I confirm the accuracy of the biographical details given by my nominators).

---

To: The Secretary of the Institute

\* Optional

**FORM OF VOTING PAPER**

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF SCOTLAND**

**ELECTION OF MEMBERS OF COUNCIL**

Election of member of Council for the Electoral Area of

<i>Names of Candidates</i>	<i>Place of business of Candidates</i>	<i>By whom nominated</i>	<i>Place "X" below</i>
----------------------------	--	--------------------------	------------------------

**X**

Directions for the Guidance of Electors

- (a) A contemporary photograph and such biographical details as have been supplied on or behalf of each of the candidates are reproduced overleaf.
- (b) The elector may vote for only one candidate. If the elector votes for more than one candidate his voting paper shall be treated as invalid.
- (c) The elector will place a cross on the right-hand side of the voting paper opposite the name of the candidate for whom the elector votes (thus "X") and will not sign or otherwise mark this voting paper.
- (d) If the elector inadvertently spoils the voting paper the elector may return it to the Secretary of the Institute who will, if satisfied of such inadvertence and if time permits, forward another paper.
- (e) This paper should be folded face inwards and placed in the enclosed identification envelope which should be securely fastened and signed and then placed in the covering envelope which must be sent by pre-paid post or delivered by hand to the Secretary of the Institute at

and must be received there before noon on the \_\_\_\_\_ day of \_\_\_\_\_ 20 .

**(BACK OF VOTING PAPER)**

Official Stamp and Number

**NOTE:** The number on the voting paper should be the same as that on the identification envelope issued with it.

**FORM OF DECLARATION OF IDENTIFICATION ENVELOPE**

To:

Place of Business:

I, the undersigned, hereby declare that I am the person to whom the enclosed voting paper was addressed as above and that I have not marked any other voting paper in this election.

\_\_\_\_\_  
Official Stamp and Number

# SCHEDULE C

(formerly Schedule D)

## CONSTITUTION FOR AREA COMMITTEES

### 1. Interpretation

- (1) In this Constitution the following expressions shall bear the meanings respectively ascribed to them in Rule I of the Rules of the Institute:-

“CA Magazine”

“the Bye-Laws”

“C.A. Student”

“the Council”

“the Institute”

“electoral area”

“member”

“place of business”

- (2) In the event of any inconsistency between the provisions of this Constitution and the Rules of the Institute the Rules of the Institute shall prevail.

### 2. Name

The name of the Committee shall be “The Area Committee of the Institute of Chartered Accountants of Scotland” (hereinafter referred to as “the Committee”).

### 3. Objects: Observance of Rules

- (1) The objects for which the Committee is established are:-
- (a) To improve member engagement by acting as a communication forum between the Institute and its members.
  - (b) To assist the Institute to uphold the integrity and standing of the profession of the chartered accountant in the interests of society and membership.
  - (c) To assist the Council in the formulation and execution of its policies by acting as a medium for consultation of and communication with all categories of the area members (as defined in Clause 4 hereof).
  - (d) To liaise with the C.A. Student Society and to assist such society in the pursuit of its objectives.
  - (e) To sponsor, arrange or support meetings, seminars, discussion groups and other meetings on subjects of importance to area members and C.A. Students.
  - (f) To arrange events at which area members and C.A students may meet socially.
  - (g) To nominate area members to serve on the Council pursuant to their duty under Rule 56 (3) of the Rules of the Institute.

- (h) To identify the names of area members and C.A. Students who may wish to participate in the affairs of the Institute and/or who may wish to serve on Committees
  - (i) Subject always to the approval of the Council, to do all or any things which may be conducive to the attainment of these objects.
- (2) The Committee shall observe this Constitution and, so far as the same are applicable thereto, the Rules of the Institute and the Bye-Laws and in particular it shall duly fulfil the duties imposed upon it by paragraphs (3) to (6) inclusive of Rule 56 of the said Rules.

#### 4. **Area Members**

Every member who is entitled under Rule 46 (4) of the Rules of the Institute to vote in any election for membership of the Council in respect of the electoral area of the Committee shall be an area member.

#### 5. **Membership of the Committee**

- (1) The Committee shall consist of not less than six elected members. Only area members shall be eligible for election. In addition to elected members:-
- (a) all members of the Council who are area members shall *ex officio* be members of the Committee; and
  - (b) the Committee may co-opt area members to the Committee not exceeding the greater of 50% of the elected members or one-third of the total membership of the Committee, that is to say elected members, members co-opted and members “*ex officio*” by virtue of being members of the Council, all as at immediately prior to the proposed co-option. Every appointment of a co-opted member of the Committee and the term thereof shall be reported to the next succeeding Annual General Meeting of the area members for ratification.
  - (c) the Committee may invite a representative of the C.A. Student Society to attend Committee meetings. Such representative shall not be deemed to be a member of the Committee.

The Committee shall include both practising and non-practising members (as these terms are defined for the purposes of Rule 46 (1) of the Rules of the Institute), in such proportions as the Committee, subject to the approval of the Council, may decide.

- (2) If a member of the Committee shall, during his term of office, change his place of business so that his place of business is no longer within the electoral area of the Committee, he shall notwithstanding remain in office as a duly elected or co-opted member of the Committee: and for the purposes of this Committee the place of business of a duly elected or co-opted member of the Committee shall be deemed to remain within the electoral area of the Committee during the whole of his elected or co-opted term of office.

## 6. **Chairman**

The Committee shall appoint from its members a Chairman who shall hold office for three years. The Chairman, after termination of his period of office, or, in the event of his resignation, shall be eligible for re-appointment as Chairman for one further three year term.

## 7. **Secretary and Treasurer**

- (a) The Committee shall appoint an area member to be Secretary and Treasurer of the Area Committee who shall hold office for five years.
- (b) The Secretary and Treasurer shall be eligible for reappointment for further one year terms with the approval of the Committee.
- (c) The appointment of the Secretary and Treasurer and the terms of any such appointment will be subject to the approval of Council.
- (d) The remuneration of the Secretary and Treasurer will be determined by the Executive and be subject to the approval of the Executive Board.
- (e) In the event that the Secretary and Treasurer wishes to resign prior to the cessation of his term of office then, other than in such exceptional circumstances as are approved by the Committee, he/she requires to give three months notice in writing to the Area Chairman and Council.
- (f) The Secretary and Treasurer shall not be a member of the Committee.

## 8. **Elections to the Committee**

The Committee shall be elected by the area members at an Annual General Meeting, the vacancies on the Committee having previously been notified in *CA Magazine* and the Institute's website or by such other means as the Council may from time to time determine. The number of area members required to nominate a candidate for election to the Committee shall be two. Nominations for election to the Committee must be in the hands of the Secretary and Treasurer at least two clear days before the date of the Annual General Meeting.

## 9. **Term of Office**

The term of office of an elected member of the committee shall be from the conclusion of the Annual General Meeting at which he is elected until the conclusion of the third Annual General Meeting thereafter. The term of office of a co-opted member of the Committee shall be such term not exceeding three years as the Committee may fix and different terms may be fixed for different persons. A retiring member of the Committee, whether elected or co-opted, shall be eligible for re-election or for further co-option: but no member of the Committee shall be eligible for re-election or further co-option after holding office as a member of the Committee for a continuous period of six years until the expiry of one year from the date upon which such member has vacated office as a member of the Committee.

## 10. **Vacation of Office by Member of Committee**

- (1) Any member of the Committee may be removed from office before the expiration of his term by a resolution carried by a majority of the votes (whether personally or by proxy) given thereon at a meeting of the area members specially called for the purpose. Notice of the intention to move the said resolution must be given by a written requisition addressed to the Secretary and Treasurer of the Committee. This notice shall be signed by a number of area members at least equivalent to the number of elected members of the Committee (subject to a maximum of ten) of whom at least one quarter shall not be Committee members. The meeting shall be convened by not less than twenty-eight days' notice (giving details of the resolution to be proposed at the meeting) published in *CA Magazine* and the Institute's website or by such other means as the Council may determine, and shall be held within three calendar months of the receipt by the Secretary and Treasurer of the requisition. The meeting shall not transact any business other than that mentioned in the notice convening the meeting. The provisions of Clauses 11 and 12 of this Constitution relating to the proceedings at an Annual General Meeting of the area members, and the quorum therefore, shall apply.
- (2) A member of the Committee may at any time give notice in writing of their resignation to the Secretary and Treasurer of the Committee. Such resignation takes effect either upon the delivery of the notice or on a date (being a date not later than such member's date of retiral from office in terms of Clause 9 hereof) specified by the member, whichever is the later.
- (3) If the place of an elected member of the Committee becomes vacant before the expiration of such member's term of office, whether by death, resignation, removal from office or otherwise, the Committee may appoint an area member to fill the vacancy thus until the conclusion of the next Annual General Meeting of the area members. At this meeting this area member shall be eligible for election to the same office without nomination, and any period of office served by such person under this provision shall be disregarded for the purposes of Clause 9 hereof.

## 11. **Annual General Meeting**

- (1) The Annual General Meeting of the area members shall be held once every calendar year on such date in March (being not later than the third Friday therein) and at such place and time as the Committee may decide. In the case of the first Annual General Meeting, the Council may decide the place and time. The meeting shall be called by notice in *CA Magazine* and the Institute website or by such other means as the Council may from time to time determine, published not less than one full month in advance of the meeting. The notice shall detail vacancies on the Committee and inform members that if they wish to stand for election they must be nominated in accordance with Clause 8 hereof.
- (2) The business of an Annual General Meeting shall be to elect members of the Committee and any other business included in the notice convening the meeting. At all Annual General Meetings the chairman of the Committee shall preside. If he is not present or if he is unwilling to act as chairman the other members attending shall choose a chairman from their number who is willing to act.
- (3) Votes at the Annual General Meeting may be given by the area members either personally or by proxy and every area member present in person or by proxy shall have

one vote. No other person shall be entitled to vote. In the case of an equality of votes the chairman of the meeting shall have a second or casting vote.

- (4) The instrument appointing a proxy shall be in writing in any usual or common form and no person shall be appointed a proxy who is not an area member and qualified to vote. A person appointed a proxy shall have the same right as the person appointing him to speak at the meeting. Proxies shall not be valid unless deposited with the Secretary and Treasurer of the Committee not less than forty-eight hours before the time of holding the meeting at which it is to be used.

## 12. **Quorum**

At an Annual General Meeting or at any other members' meeting a quorum shall be constituted by the number of area members equivalent to the number of elected members of the Committee (subject to a maximum of ten) of whom at least one half shall not be Committee members.

## 13. **Amendment of Constitution**

Neither the Committee nor the area members in general meeting shall have any power to amend, repeal or replace this Constitution.