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MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Abela, M.P., Ministru tal-Finanzi, Dwana u Investimenti Finanzjarji tal-Poplu u moqri għall-Ewwel darba fis-Seduta tal-25 ta' Lulju, 1978.

ATT biex jirregola l-professjoni ta' l-accountancy u biex jipprovdi għal hwejjeg li għandhom x'jaqsmu ma' dik il-professjoni jew li huma ancillari għaliha.

C. MIFSUD

Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Joseph Abela, M.P., Minister of Finance, Customs and People's Financial Investments and read the First time at the Sitting of the 25th July, 1978.

AN ACT to regulate the accountancy profession and to provide for matters connected therewith or ancillary thereto.

C. MIFSUD

Clerk to the House of Representatives

ABBOZZ TA' LIGI

msejjah

ATT biex jirregola l-professjoni ta' l-accountancy u biex jipprovi għal hwejjeġ li għandhom x'jaqsmu ma' dik il-professjoni jew li huma ancillari għaliha.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, ħareġ b'ligi dan li ġej:—

Titolu fil-qosor
u bidu fis-sehh.

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1978 dwar il-Professjoni ta' l-*Accountancy*.

(2) Dan l-Att għandu jibda jseħħ f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jstabbilixxi b'avviż fil-Gazzetta u jistgħu jiġu hekk stabbiliti dati differenti dwar disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

Tifsir

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'oħra —

“*accountant*” u “*uditor*” tinkludi, rispettivament, soċjetà ta' *accountants* u soċjetà ta' udituri;

“*Bord*” tfisser il-Bord ta' l-*Accountancy* imwaqqaf bl-artikolu 6 ta' dan l-Att;

“*korp ta' accountancy approvat*” tfisser għaqda ta' *accountants* lokali li għal dak iż-żmien tkun magħrufa mill-Ministru bħala korp ta' *accountancy* approvat taħt l-artikolu 9 ta' dan l-Att;

“*Ministru*” tfisser il-Ministru responsabbli għall-finanzi u, sal-limitu ta' kull funzjonijiet delegati lilu mill-Ministru, tinkludi l-Bord;

“*preskritt*” tfisser preskritt b'regolamenti taħt dan l-Att.

(2) Għall-finijiet ta' dan l-Att riferenzi għal *warrant* maħruġ bis-saħħa tiegħu jinkludu riferenzi għal *warrant* meqjusa li hekk inħarġu.

3. (1) Ebda persuna ma tista' teżerċita l-professjoni ta' *accountant* kemm-il darba ma jkollhiex *warrant* maħruġ taħt l-artikolu 4 jew l-artikolu 5 ta' dan l-Att.

Mehtieg
warrant
għall-eżerċizzju
tal-professjoni.

(2) Ebda persuna ma tista' taġixxi ta' uditur kemm-il darba ma jkollhiex *warrant* maħruġ taħt l-artikolu 5 ta' dan l-Att.

(3) Persuna ma tikkwalifikax għal *warrant* taħt ebda wieħed mill-imsemmija artikoli, hliet jekk —

- (a) tkun ċittadin ta' Malta;
- (b) tkun ta' kondotta tajba u ta' karattru morali tajjeb;
- (ċ) tkun tista' taġixxi għal kollox skond il-liġi; u
- (d) jew —

(i) isimha jkun imniżżel fir-reġistru ta' membri assoċjati ta' korp ta' *accountancy* approvat, jew

(ii) ikollha dak il-grad ta' l-università jew kwalifika akkademika ekwivalenti dwar il-professjoni ta' l-*accountancy* li fiż-żmien rilevanti tkun magħrufa mill-Bord bħala biżżejjed għall-finijiet ta' dan is-subartikolu.

(4) Minkejja d-disposizzjonijiet tas-subartikoli (2) u (3) ta' dan l-artikolu, il-Ministru jista', wara konsultazzjoni mal-Bord, jofroġ, lil xi persuna li tkun kwalifikata kif imiss biex taġixxi bħala uditur barra minn Malta, *warrant* biex taġixxi bħala uditur f'Malta għal dak il-perijodu limitat jew għal dawk il-perijodi limitati jew għal dak l-għan speċifiku jew għal dawk l-għanijiet speċifiċi, jew kemm għal dak il-perijodu kif ukoll għal dak l-għan, u suġġett għal kull kondizzjoni oħra li tista' tiġi speċifikata fil-*warrant*.

(5) Kull persuna li taġixxi bi ksur ta' xi waħda mid-disposizzjonijiet ta' dan l-artikolu tkun haġta ta' reat u tehel dwar kull reat meta tinsab haġta, dwar l-ewwel reat multa ta' mhux iżjed minn mitt lira u dwar it-tieni reat jew reati oħra wara multa ta' mhux iżjed minn hames mitt lira jew priġunerija għal żmien ta' mhux iżjed minn sitt xhur, jew dik il-multa, u priġunerija flimkien, u fil-każ ta' reat kontinwu multa addizzjonali ta' mhux iżjed minn għaxar liri għal kull ġurnata li matulha jkompli r-reat.

(6) Kull persuna li, sabiex tikseb *warrant* taħt dan l-Att, tagħti xi tagħrif hażin jew xort'oħra taġixxi b'mod qarrieqi jew bi frodi, tkun haġta ta' reat u tehel għal kull reat meta tinsab haġta multa ta' mhux iżjed minn elf lira jew priġunerija għal mhux iżjed minn tnaħ-il xahar jew dik il-multa u priġunerija flimkien.

(7) Kull persuna li, meta ma tkunx id-detentur tal-*warrant* xieraq maħruġ taħt dan l-Att, tassumi t-titolu jew l-isem ta' "*accountant* pubbliku ċertifikat" jew ta' "*accountant* u uditur pubbliku ċertifikat" jew l-abbrevjazzjoni tagħhom "*CPA*" jew "*CPAA*" jew b'xi mod ieħor turi li jkollha l-jedd li teżerċita l-professjoni ta' *accountant* jew li taġixxi ta' uditur f'Malta, tkun haġta ta' reat u tehel, għal kull reat meta tinsab haġta multa ta' mhux iżjed minn mitt lira u dwar it-tieni reat jew reati oħra wara priġunerija għal żmien ta' mhux iżjed minn tliet xhur jew dik il-multa u priġunerija flimkien.

4. (1) *Warrant* għall-eżerċizzju tal-professjoni ta' *accountant* jinħareġ mill-Ministru fuq ir-rakkomandazzjoni tal-Bord lil kull persuna li tissodisfa l-htigiet tas-subartikolu (3) ta' l-artikolu 3 ta' dan l-Att.

Accountants
Pubbliċi
Ċertifikati.

(2) Id-detentur ta' *warrant* maħruġ taħt dan l-artikolu jkollu l-jedd li juża l-isem ta' "*Accountant* Pubbliku Ċertifikat" kif ukoll l-abbrevjazzjoni "CPA".

Accountants
u Udituri
Pubbliċi
Ċertifikati.

5. (1) *Warrant* biex persuna taġixxi bħala uditur jinħareġ mill-Ministru fuq ir-rakkomandazzjoni tal-Bord lil persuna li tkun *accountant* pubbliku ċertifikat u li tissodisfa lill-Bord li jkollha l-kwalifika u l-esperjenza xierqa fil-verifika:

Iżda l-Ministru jista' għal darba jibgħat lura dik ir-rakkomandazzjoni biex il-Bord jikkonsidraha mill-ġdid.

(2) Awtorizzazzjoni biex persuna taġixxi bħala uditur maħruġa qabel il-25 ta' Lulju, 1978, skond id-disposizzjonijiet ta' l-artikolu 140 ta' l-Ordinanza ta' l-1962 dwar is-Soċjetajiet Kummerċjali, kif fis-seħh meta tkun inħarġet dik l-awtorizzazzjoni, favur persuna li f'dak iż-żmien kienet membru ta' korp ta' komputisti magħruf għall-finijiet ta' dak l-artikolu, ikollha, għall-finijiet kollha, l-istess effett bhal *warrant* maħruġ taħt dan l-artikolu u għandha titqies li tkun hekk harġet.

(3) Id-detentur ta' *warrant* maħruġ taħt dan l-artikolu jkollu l-jedd juża l-isem "*Accountant* u Uditur Pubbliku Ċertifikat" kif ukoll l-abbrevjazzjoni "CPAA".

Bord ta'
l-*Accountancy*.

6. (1) Għandu jkun hemm Bord, li jkun magħruf bħala l-Bord ta' l-*Accountancy*, li jkun magħmul minn president u minn erba' membri oħra, li jkunu maħtura mill-Ministru u għandhom iżommu l-kariga għal dak iż-żmien, ta' mhux iżjed minn tliet snin, u taħt dawk il-kondizzjonijiet li jiġu stabbiliti fl-ittri tal-hatra tagħhom:

Iżda meta jgħaddi z-żmien tal-hatra ta' persuna skond dan is-subartikolu, dik il-persuna tkun tista' tiġi maħtura mill-ġdid.

(2) Il-president u żewġ membri mill-erbgha l-oħra għandhom ikunu persuni ta' livell u esperjenza magħrufa fil-qasam tan-negozju, jew fil-qasam professjonali jew akkademiku, jew f'relazzjonijiet industrjali jew fis-servizz pubbliku; iż-żewġ membri l-oħra jkunu detenturi ta' *warrant* maħruġ taħt l-artikolu 4 jew l-artikolu 5 ta' dan l-Att, u għandhom jiġu maħtura wara li l-Ministru jkun ikkonsulta xi assoċjazzjoni li għal dak iż-żmien tkun magħrufa bħala korp ta' *accountancy* approvat:

Iżda l-ewwel membri li għandhom jiġu maħtura taħt dan l-artikolu bħala z-żewġ membri l-oħra kif intqal qabel jistgħu jiġu magħzula minn fost persuni li fil-fehma tal-Ministru jikkwalifikaw għal dak il-*warrant*, iżda dawk il-persuni għandhom iżommu l-kariga għal perijodu ta' mhux iżjed minn sena.

(3) In-numru ta' membri preżenti meħtieġ biex ikun hemm *quorum* ikun ta' tlieta, iżda, dejjem jekk ikun hemm *quorum*, il-Bord jista' jaġixxi minkejja kull vakanza fost il-membri tiegħu.

(4) Barra minn dak li ntqal qabel il-Bord jista' jagħmel ir-regoli tiegħu stess u xort'oħra jirregola l-proċedura tiegħu stess.

(5) Il-Ministru jista' wkoll jagħżel uffiċjal pubbliku biex jagħmilha ta' segretarju tal-Bord, iżda s-segretarju ma jkollux vot.

Funzjonijiet
tal-Bord.

7. (1) Il-funzjonijiet tal-Bord huma —

(a) li jikkonsidra applikazzjonijiet għall-hruġ ta' *warrant* taħt l-artikolu 4 jew l-artikolu 5 ta' dan l-Att u li jagħmel ir-rak-

komandazzjonijiet tiegħu dwarhom lill-Ministru;

(b) li jittratta każijiet li jwasslu għas-sospensjoni jew l-irtirar ta' l-imsemmija *warrants* kif provdut f'dan l-Att jew bis-saħħa tiegħu;

(ċ) li jagħti pariri, jew jagħmel rakkomandazzjonijiet jew xort'oħra jagħti l-fehmiet tiegħu, lill-Ministru dwar kull haġa li dwarha l-Ministru jikkonsulta lill-Bord jew li fuqha l-Bord għandu jagħmel rakkomandazzjonijiet lill-Ministru jew li fuqha l-Ministru jkun talab il-fehma jew ir-rakkomandazzjoni tal-Bord;

(d) dawk il-funzjonijiet l-oħra li johorġu minn dan l-Att jew minn xi liġi oħra jew li jiġu delegati lil Mill-Ministru.

(2) Fl-eżerċizzju tal-funzjonijiet tiegħu taht il-paragrafu (ċ) jew (d) tas-subartikolu (1) ta' dan l-artikolu, il-Bord jista' jikkonsulta ma' dawk il-persuni li jidhirlu xierqa, u jista' wkoll jahtar kumitati, li l-president tagħhom ikun membru tal-Bord sabiex ikunu jistgħu jsiru dawk l-istudji jew dak ix-xogħol l-iehor li l-Bord jista' jagħtihom.

(3) Il-Bord għandu, mhux iktar tard minn tliet xhur wara li tispicċa kull sena, jippubblika lista tal-persuni li, fil-31 ta' Diċembru ta' l-imsemmija sena, kellhom *warrant* maħruġ taht dan l-Att.

8. Il-Ministru jista', wara konsultazzjoni mal-Bord, jagħmel regolamenti li ma jkunux inkonsistenti mad-disposizzjonijiet ta' dan l-Att, biex jagħti effett aħjar lil xi waħda minn dawk id-disposizzjonijiet u b'mod ġenerali biex tiġi regolata l-professjoni ta' l-*accountants*, u, bla hsara għall-ġeneralità ta' dak li ntqal, qabel, dawk ir-regolamenti jistgħu b'mod partikolari jinkludu disposizzjonijiet dwar —

Regolamenti.

(a) it-twaqqif ta' livelli, proċeduri u dmirijiet u prattika oħra dwar l-*accountancy* u l-verifika tal-kontijiet li għandhom jiġu mħarsa minn *accountants* jew udituri, jew mit-tnejn, jew b'mod ġenerali jew f'oqsma ta' attivitá partikolari;

(b) l-imġieba professjonali ta' *accountants* u udituri u l-livelli ta' kompetenza u integritá li għandhom jinżammu f'dik il-professjoni;

(ċ) il-hruġ ta' linji ta' kondotta u pariri oħra lil *accountants* u udituri;

(d) it-tagħrif ta' korp ta' *accountancy* approvat, il-kondizzjonijiet għal dak l-għarfen u s-sospensjoni jew l-irtirar tiegħu;

(e) ix-xogħol li ma jistax isir u s-servizzi li ma jistgħux jin-għataw, sew għal kollox jew f'parti, hlief minn persuna li jkollha *warrant* taht dan l-Att;

(f) ix-xogħol li ma jistax isir u s-servizzi li ma jistgħux jin-għataw minn persuni li jkollhom *warrant* taht dan l-Att;

(g) id-drittijiet li għandhom jithallsu lil *accountants* u udituri sew għas-servizzi tagħhom bhala hekk jew għal servizzi oħra mogħtija minnhom f'karigi oħra li, fil-fehma tal-Ministru, ikollhom x'jaqsmu mal-kwalifiki professjonali tagħhom; l-awtoritá, jekk ikun hemm, li għandha tiddeċiedi kull kwistjoni dwar dawk id-drittijiet u l-proċedura li fuqha għandha timxi kull awtoritá bħal dik;

(h) kull haġa li b'dan l-Att hi meħtieġa jew awtorizzata li tiġi preskritta;

(i) il-proċeduri li fuqhom għandhom jitmexxew każijiet ta' mġieba hażina u każijiet oħra li jwasslu għas-sospensjoni jew l-irtirar ta' *warrant* maħruġ taħt l-artikolu 4 jew l-artikolu 5 ta' dan l-Att;

(j) il-pieni, penalitajiet u konsegwenzi u effetti oħra li persuna tkun sugġetta għalihom jew li jistgħu jiġru fil-każ ta' xi ksur ta', jew nuqqas ta' tharis ma', xi disposizzjoni ta' xi regolament magħmul taħt dan l-artikolu; hekk iżda li ebda piena hekk imposta ma tkun iżjed minn multa ta' elfejn lira, jew priġunerija għal żmien ta' sena, jew dik il-multu u priġunerija flimkien, jew, fil-każ ta' reat kontinwu, multa ta' għaxar liri għal kull ġurnata li matulu jkompli r-reat, sew b'żieda sew mhux b'żieda ma' l-imsemmija pieni.

Korp ta' *accountancy* approvat.

9. (1) Il-Ministru jista', wara konsultazzjoni mal-Bord, jagħraf kull assoċjazzjoni lokali ta' *accountants* bħala korp ta' *accountancy* approvat għall-finijiet ta' dan l-Att jekk ikun sodisfatt, fost dawk il-ħwejjeġ l-oħra li jistgħu jiġu preskritti, li l-kwalifiki edukattivi u professjonali mitluba minn dik l-assoċjazzjoni sabiex wiehed isir membru assoċjat tagħha jkunu jaqblu mal-livelli aċċettati għal dak iż-żmien u li ċ-ċittadini kollha ta' Malta li jkollhom dawk il-kwalifiki jkunu jistgħu jidhlu membri.

(2) Dak l-għarfien għandu jkun sugġett għal dawk il-kondizzjonijiet li l-Ministru jista' jimponi fl-ghoti ta' dak l-għarfien jew kif jista' jiġi preskritt minn żmien għal żmien; u jekk f'xi żmien xi waħda mill-imsemmija kondizzjonijiet, jew xi waħda mid-disposizzjonijiet li jinsabu fi jew li jiġu preskritti taħt is-subartikolu li jaħbat wara dan, ma tiġix imħarsa jew sodisfatta, jew ikun hemm tibdil materjali fiċ-ċirkostanzi li taħthom ikun ingħata l-għarfien, il-Ministru jista', wara li jikkonsulta lill-Bord, jissospendi jew jirtira dak l-għarfien.

(3) Korp ta' *accountancy* approvat għandu jzomm regjistru tal-membri assoċjati tiegħu u għandu jirregistra fih l-ismijiet tal-persuni kollha li jikkwalifikaw bħala membri tiegħu. L-imsemmi regjistru għandu jinżamm b'dak il-mod li jiġi preskritt.

Soċjetajiet ta' *accountants* jew ta' udituri.

10. (1) Meta żewġ *accountants* pubbliċi kwalifikati jew iktar ikun bi ħsiebhom jaħdmu flimkien bħala *accountants*, jew żewġ *accountants* u udituri pubbliċi ċertifikati jew iktar ikun bi ħsiebhom jaħdmu flimkien bħala udituri, jew kemm bħala udituri u bħala *accountants*, huma jistgħu jiffurmaw soċjetà ċivili li l-iskop waħdieni tagħha jkun ix-xogħol ta' l-*accountancy* (f'dan l-Att imsejja "soċjetà ta' *accountants*") jew, skond il-każ, il-qadi ta' funzjonijiet bħala udituri jew kemm bħala udituri u bħala *accountants* (f'dan l-Att imsejja "soċjetà ta' udituri"), u li jkollha dawk is-setgħat li huma meħtieġa biex jintlahqu l-għanijiet tas-soċjetà.

(2) Ebda persuna barra minn *accountant* pubbliku ċertifikat jew *accountant* u uditur pubbliku ċertifikat ma tista' tkun imsieħba f'soċjetà ta' *accountants*; u ebda persuna barra minn *accountant* u uditur pubbliku ċertifikat ma tista' tkun imsieħba f'soċjetà ta' udituri.

(3) Kull soċjetà bħal dik għandha, meta tkun iffurmata kif imiss skond il-liġi, tiġi registrata mal-Bord, u ma' dik ir-registrazzjoni s-soċji jkunu, sakemm jibqgħu hekk registrati, awtorizzati mill-

Ministru biex jaġixxu f'isem is-soċjetà, bħala *accountants* pubbliċi ċertifikati jew bħala *accountants* u udituri pubbliċi ċertifikati, jew bħala t-tnejn, skond il-każ, u s-soċjetà jkollha l-jedd li jkun li tuża wiehed mill-ismijiet imsemmija u l-abbrevjazzjoni korrispondenti "CPAs" jew "CPAAs".

(4) Kull soċjetà bħala dik għandha tagħti lill-Ministru jew lill-Bord dak it-tagħrif li jkun raġonevolment meħtieġ jew li jista' jiġi preskritt, u għandha tagħti avviz lill-Ministru jew lill-Bord b'kull tibdil rilevanti f'kull tagħrif li qabel ikun ingħata lilhom fi żmien ħmis-tax-il jum mid-data li fiha jkun sar dak it-tibdil.

(5) Dwar soċjetà registrata taħt dan l-artikolu, id-disposizzjonijiet li ġejjin għandhom japplikaw minkejja kull disposizzjonijiet oħra ta' dan l-Att jew ta' kull reġistrazzjoni oħra u minkejja kull ftehim kuntrarju, jiġifieri —

(a) kull għemil jew haġa li tista' ssir mid-detentur ta' *warrant* taħt dan l-Att tista' ssir minn wiehed jew iżjed mis-soċji f'isem is-soċjetà u kull għemil jew haġa li ssir f'isem is-soċjetà għandha ssir minn wiehed jew iżjed mis-soċji;

(b) kull projbizzjoni mposta b'dan l-Att jew taħtu dwar wiehed mis-soċji għandha tapplika għas-soċji kollha u għas-soċjetà ukoll jekk l-egħmil projbit jew ristrett, jew li minnu tinqala' l-projbizzjoni jew ir-restrizzjoni, ikun sar minn wiehed mis-soċji;

(c) is-soċji jkunu responsabbli *in solidum* għall-egħmil u għan-nuqqasijiet ta' kull wiehed minnhom fil-qadi ta' dmirijiet-hom, it-tizim tal-livelli u l-imġieba professjonali meħtieġa u b'mod ġenerali għall-obbligi tagħhom taħt dan l-Att jew taħt xi liġi oħra applikabbli, u għandhom hekk *in solidum* ikunu responsabbli għal kull telf jew danni riżultanti;

u l-imsemmija responsabilitajiet għal kull haġa li tkun saret jew li tkun naqset milli ssir matul il-perijodu li fih il-persuna kienet soċju m'għandhomx jieqfu, dwar dik il-persuna, minhabba li din tkun irtirat, mietet jew għal xi raġuni oħra li minhabba fiha ma tibqax soċju.

(6) Kull persuna li tagħmel użu mill-isem "*accountants* pubbliċi ċertifikati" jew "*accountants* u udituri pubbliċi ċertifikati" jew l-abbrevjazzjonijiet tagħhom "CPAs" jew "CPAAs" dwar soċjetà li ma tkunx registrata taħt dan l-artikolu jew li b'xi mod iehor xjentement tagħmel użu minn isem falz li jindika li teżisti soċjetà ta' *accountants* jew ta' udituri, jew li dik is-soċjetà tkun registrata, jew li xort'oħra tista' tiffunzjona, taħt dan l-artikolu, jew li tagħmel xi att iehor maħsub biex iwassal għat-twemmin li jeżisti xi wiehed mill-imsemmija fatti meta dan fil-fatt ma jkunx jeżisti, tkun hatja ta' reat u tehel dwar kull reat meta tinsab hatja, dwar l-ewwel reat multa ta' mhux iżjed minn mitt lira, u dwar it-tieni reat jew reati oħra wara multa ta' mhux iżjed minn ħames mitt lira jew priġunerija għal żmien ta' mhux iżjed minn tliet xhur jew dik il-priġunerija u multa flimkien, u fil-każ ta' reat kontinwu multa addizzjonali ta' mhux iżjed minn għaxar liri għal kull ġurnata li matulha jkompli r-reat.

(7) Id-disposizzjonijiet tas-subartikolu (6) ta' l-artikolu 3 ta' dan l-Att għandhom, bil-modifiki u l-adattamenti meħtieġa, japplikaw għar-reġistrazzjoni ta' soċjetà taħt dan l-artikolu kif japplikaw għall-hruġ ta' *warrant* taħt dan l-Att.

11. (1) Kull persuna li jkollha *warrant* biex taġixxi ta' uditur jew, dwar żewġ persuni bħal dawk jew iktar li jkunu rreġistraw soċ-

Assigurazzjoni
għal indenniz.

jetà taht l-artikolu 10 ta' dan l-Att, kull soċjetà bħal dik, għandhom, sakemm ikollhom dak il-warrant jew, skond il-każ, sakemm jibqgħu hekk reġistrati, ikunu koperti minn assigurazzjoni għal indenniz, minn dik il-kumpannija, b'dak il-mod u għal dak l-ammont kif jistgħu jiġu preskritti, kontra kull responsabbiltà li dik il-persuna jew dik is-soċjetà jista' jkollhom għal kumpens dwar xi telf jew danni li klient jew xi persuna oħra tista' gġarrab minhabba xi tort, negligenza, nuqqas, imġieba hażina jew xi għemil hażin ieħor jew ommissjoni oħra, jew minhabba n-nuqqas ta' tħaris ta' xi regolamenti, minn dik il-persuna jew soċjetà, jew minn xi soċju tagħha, fil-qadi tal-funzjonijiet tagħhom bħala udituri.

(2) Kull persuna jew soċjetà li tinqos li tħares xi waħda mid-disposizzjonijiet ta' qabel ta' dan l-artikolu tkun hatja ta' reat u tehel għal kull reat meta tinsab hatja multa ta' mhux iżjed minn ħames mitt lira, jew priġunerija għal żmien ta' mhux iżjed minn tliet xhur, jew dik il-multa u priġunerija flimkien, u fil-każ ta' reat kontinwu multa addizzjonali ta' mhux iżjed minn ħamsin lira għal kull ġurnata li matulha jkompli r-reat.

Ftehim
projbit.

12. Kull ftehim jew arrangament ieħor li jkollu l-ħsieb li jeżenta lil *accountant* jew lil uditur minn xi responsabbiltà, piż jew dmir ieħor taht dan l-Att jew taht xi leġislazzjoni oħra, jew li teħilsu minn-hom, jew, ħlief taht polza ta' assigurazzjoni magħmula taht l-artikolu 11 ta' dan l-Att, biex jingħata indenniz kontra kull responsabbiltà bħal dik jew piż bħal dak, ikun null u mingħajr effett.

Rimunerazzjoni
ta' udituri, eċċ.

13. (1) Uditur jithallas biss bid-drittijiet tiegħu; u d-drittijiet li jistgħu jintalbu minn uditur għal servizzi bħala uditur ma jistgħux ikunu iżjed mid-drittijiet preskritti jew ikunu kontra dawk ir-regoli li jistgħu jiġu preskritti.

(2) *Accountant* jew uditur li jagħti servizz f'xi kariga oħra, jew parti bħala *accountant* jew uditur u parti f'dik il-kariga l-oħra, għandu, dwar is-servizz mogħti f'dik il-kariga l-oħra, jithallas biss bid-drittijiet tiegħu; u d-drittijiet li jista' jitlob għal dak is-servizz ma jistgħux ikunu iżjed minn dawk preskritti.

(3) *Accountant* jew uditur m'għandux ihallas jew jagħti, jew jiftiehem li jhallas jew li jagħti, lil xi persuna, sew direttament jew indirettament, xi kummissjoni jew senselija, jew xi sehem jew parti mid-drittijiet tiegħu jew minn xi dhul ieħor professjonali, f'ċirkostanzi li soltu tithallas kummissjoni jew tingħata senselija.

Sospensjoni,
revoka jew
irtirar ta'
warrants u
sospensjoni
jew thassir ta'
reġistrazzjonijiet.

14. (1) *Warrant* mahruġ taht xi waħda mid-disposizzjonijiet ta' dan l-Att jista' jiġi sospiż jew revokat, u r-reġistrazzjoni ta' soċjetà taht l-artikolu 10 ta' dan l-Att tista' tiġi sospiża jew imħassra, mill-Ministru, skond id-disposizzjonijiet li ġejjin ta' dan l-artikolu, jekk il-persuna li lilha jkun inħareġ il-warrant jew is-soċjetà jew wiehed mis-soċji tas-soċjetà —

(a) ikun, wara inkjesta li ssir mill-Bord, instab hati ta' xi wiehed mill-atti jew nuqqasijiet li ġejjin —

(i) dizonestà, imġieba hażina jew negligenza qawwija fl-eżercizzju tal-professjoni tiegħu;

(ii) imġieba bi ksur ta' regolamenti dwar il-livell, Prattika jew integrità professjonali;

(iii) imġieba li tiskredita l-professjoni;

(iv) nuqqas ta' tharis ta' xi kondizzjoni mqeghda fil-*warrant* taht is-subartikolu (5) ta' dan l-artikolu; jew

(b) ikun instab hati minn qorti —

(i) ta' reat taht dan l-Att jew xi regolamenti magh-
mula bis-sahha tieghu; jew

(ii) ta' delitt li jolqot fiducja pubblika jew ta' serq jew
frodi jew li xjentement ikun ircieva proprjeta miksuba b'serq
jew bi frodi.

(2) *Warrant* mahrug taht dan l-Att u r-registrazzjoni ta'
soċjeta taht l-artikolu 10 ta' dan l-Att jistghu —

(a) jigu rtirati jew imhassra mill-Ministru fuq it-talba tad-
detentur tal-*warrant* jew tas-soċjeta;

(b) jigu revokati jew kancellati mill-Ministru wara konsul-
tazzjoni mal-Bord, kull meta l-Ministru jkun tal-fehma li jkun
hemm cirkostanzi materjali dwar il-persuna li lilha jkun inghata
l-*warrant* jew dwar is-soċjeta li, kieku dak il-*warrant* ma jkunx
gie mahrug jew is-soċjeta ma tkunx giet registrata, skond il-każ,
dik il-persuna kienet tigi skwalifikata milli tikseb *warrant* jew
dik is-soċjeta kienet tigi skwalifikata milli tigi registrata.

(3) Fl-eżercizzju tal-funzjonijiet tieghu taht dan l-artikolu
l-Bord ghandu jagħixxi skond dawk ir-regoli u proceduri li jigu pres-
kritt; u d-deċizzjonijiet tal-Bord ikunu suġġetti li jintbaghtu lura,
jigu riveduti jew isir appell minnhom, skond kif jigi preskritt.

(4) Meta *warrant* jew registrazzjoni tkun giet sospiza taht
xi waħda mid-disposizzjonijiet ta' dan l-artikolu, is-sospensjoni tista'
titneħħa f'kull żmien mill-Ministru; u meta l-*warrant* jew ir-regis-
trazzjoni tkun giet irtirata taht il-paragrafu (a) tas-subartikolu (2) ta'
dan l-artikolu, jista' jinhareġ *warrant* ġdid, jew tista' ssir registraz-
zjoni ġdida f'kull żmien jekk il-kondizzjonijiet għal dak il-hrug jew
għal dik ir-registrazzjoni jkunu sodisfatti.

(5) Meta *warrant* ikun gie revokat taht xi waħda mid-dis-
posizzjonijiet ta' dan l-artikolu, barra mill-paragrafu (a)(i) u l-paragra-
fu (b)(ii) tas-subartikolu (1) u barra mill-paragrafu (b)(i) ta' l-imsemmi
subartikolu dwar reat kontra s-subartikolu (6) ta' l-artikolu 3 jew is-
subartikolu (7) ta' l-artikolu 10 ta' dan l-Att, il-Ministru jista', wara
li jghaddu sentejn mid-data tar-revoka, u jekk il-Bord hekk jirrak-
komanda, joħroġ *warrant* ġdid taht l-artikolu 4 jew l-artikolu 5 ta'
dan l-Att, skond il-każ, taht dawk il-kondizzjonijiet li jidhiru xierqa.

(6) Mar-revoka jew irtirar ta' *warrant* mahrug taht dan
l-Att, jew matul dak il-perijodu li dak il-*warrant* ikun sospiz, il-per-
suna li lilha l-*warrant* ikun gie mahrug ma tibqax id-detentur ta' dak
il-*warrant*; u mat-tfassir ta' xi registrazzjoni ta' soċjeta taht l-artikolu
10 ta' dan l-Att, jew għal dak il-perijodu li matulu dik ir-registrazzjoni
tkun sospiza, is-soċjeta ma tibqax hekk registrata.

15. (1) Id-disposizzjonijiet ta' dan l-Att li jistabbilixxu reati
u pjeni dwarhom ma jolqtux l-applikazzjoni ta' xi liġi oħra li tistab-
bilixxi reati u pjeni dwar l-istess atti jew ommissjonijiet u m'ghand-
homx, b'mod partikolari, jolqtu l-applikazzjoni ta' xi piena oghla
taht xi liġi oħra.

Disposizzjonijiet
oħra dwar
reati.

(2) Għall-finijiet tas-subartikolu (7) ta' l-artikolu 3 u tas-
subartikolu (6) ta' l-artikolu 10 ta' dan l-Att, l-użu ta' xi biljett,
karta ta' l-ittri, tabella, kartellun, pjanċa, reklam jew ta' mezz, stru-

ment jew dokument ieħor miktub, stampat jew imnaqqax, tal-kliem "accountant pubbliku ċertifikat" jew "accountant u uditur pubbliku ċertifikat" jew l-abbrevjazzjonijiet "CPA" jew "CPAA", sew fil-forma singolari tagħhom jew fil-plural, dwar isem, ikun prova biżżejjed tat-tagħrif ta' dak l-użu mill-persuna li dwar isimha l-imsemmija kliem jew abbrevjazzjonijiet ikunu wżati, kemm-il darba dik il-persuna ma tippruvax li l-użu sar mingħajr it-tagħrif tagħha u li meta saret taf b'dak l-użu hadet il-passi xierqa biex twaqqfu.

(3) Għall-finijiet ta' dan l-Att —

(a) persuna ma titqiesx li teżerċita l-professjoni ta' *accountant* jew li taġixxi bħala uditur jekk biss taġixxi bħala mpjegat jew bħala assistent ta', *accountant* pubbliku ċertifikat jew *accountant* u uditur pubbliku ċertifikat jew ta' soċjetà ta' *accountants* jew udituri, u ma toħroġ ebda dikjarazzjoni ta' kontijiet jew dikjarazzjoni finanzjarja bil-firma tagħha;

(b) persuna ma titqiesx li teżerċita l-professjoni ta' *accountant* jekk tagħmel biss dak ix-xogħol, servizzi, atti jew funzjonijiet li jistghu jiġu preskritti għall-finijiet ta' dan il-paragrafu.

Emendi.

16. Il-liġijiet imsemmija fl-ewwel kolonna ta' l-Iskeda ta' dan l-Att għandu jkollhom effett skond dawk l-emendi speċifikati dwarhom fit-tieni kolonna ta' dik l-Iskeda.

SKEDA

Artikolu 16

<i>Liġi</i>	<i>Kif Emendata</i>
Ordinanza ta' l-1962 dwar is-Sočjetajiet Kummerċjali Ord. XX ta' l-1962	<p>1. Minflok l-artikolu 140 għandu jidhol dan li ġej:</p> <p>"140. (1) Persuna ma tkunx kwalifikata għall-hatra bħala uditur ta' kumpannija kemm-il darba ma jkollhiex <i>warrant</i> biex taġixxi bħala uditur mahruġ jew meqjus bħala mahruġ taht l-Att ta' l-1978 dwar il-Professjoni ta' l-<i>Accountancy</i>, jew jekk ma tkunx soċjetà ta' udituri registrati kif imiss taht l-imsemmi Att u —</p> <p>(a) fil-każ ta' individwu, tkun —</p> <p>(i) uffiċjal jew impjegat tal-kumpannija; jew</p> <p>(ii) soċju ma' uffiċjal jew impjegat tal-kumpannija jew fl-impieg tiegħu; jew</p> <p>(iii) qarib bid-demm jew bi żwieġ f'linja diretta, jew, sat-tielet grad, fil-linja kollaterali, ma' xi uffiċjal tal-kumpannija;</p> <p>(b) fil-każ ta' soċjetà xi wiehed mis-soċji jkun individwu li ma jkunx kwalifikat għall-hatra bħala uditur tal-kumpannija.</p> <p>(2) Id-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu dwar il-hatra ta' uditur għandhom japplikaw ukoll dwar it-tizim ta' dik il-hatra."</p>

*Liġi**Kif Emendata*

2. Fis-subartikolu (4) ta' l-artikolu 148 minflok il-kliem "tas-subartikolu (1) u l-paragrafi (b) u (ċ) tas-subartikolu (2)" għandhom jidhlu l-kliem "tal-paragrafi (ii) u (iii) tas-subartikolu (1)".

Att ta' l-1970 dwar
il-Kummerċ
Bankarju

Att Nru. V ta'
l-1970

Minflok is-subartikolu (6) ta' l-artikolu 20 għandu jidhol dan li ġejj:

"(6) Għall-finijiet ta' dan l-artikolu uditur approvat għandu jkun persuna li tkun kwalifikata biex tkun l-uditur tal-bank skond l-artikolu 140 ta' l-Ordinanza ta' l-1962 dwar is-Socjetajiet Kummerċjali, u jkollha l-awtorizzazzjoni tal-Ministru biex taġixxi bħala uditur ta' bank."

Għanijiet u Raġunijiet

L-Għan ta' dan l-Abbozz huwa li jirregola l-professjoni ta' *accountants* u udituri sabiex jogħlew aktar il-livelli professjonali s'issa milhuqa, u li jdahhal Prattika komuni u jiżgura grad oġhla ta' integrità fost il-professjoni, Dawn id-disposizzjonijiet u disposizzjonijiet oħra, inkluża l-htieġa li l-udituri kollha jkunu assigurati kontra responsabbiltà għal telf jew danni li jinholqu minhabba tort, negligenza jew għemil ieħor hażin minn naħa tagħhom jagħtu protezzjoni akbar — li f'ċerti każijiet hija ġdida għal kollox — lill-pubbliku in ġenerali u b'mod partikolari lil *shareholders*, depożitanti u investituri.

A BILL

entitled

AN ACT to regulate the accountancy profession and to provide for matters connected therewith or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and
commencement.

1. (1) This Act may be cited as the Accountancy Profession Act, 1978.

(2) This Act shall come into force on such date as the Minister responsible for finance shall by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes of this Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires —

“accountant” and “auditor” include, respectively, a partnership of accountants and a partnership of auditors;

“approved accountancy body” means a local association of accountants for the time being recognized by the Minister as an approved accountancy body under section 9 of this Act;

“Board” means the Accountancy Board established by section 6 of this Act;

“Minister” means the Minister responsible for finance and, to the extent of any functions delegated to it by the Minister, includes the Board;

“prescribed” means prescribed by regulations under this Act.

(2) For the purposes of this Act references to a warrant issued thereunder includes references to a warrant deemed to have been so issued.

Warrant
required to
practise the
profession.

3. (1) No person shall practise the profession of accountant unless he is the holder of a warrant issued under section 4 or under section 5 of this Act,

(2) No person shall act as auditor unless he is the holder of a warrant issued under section 5 of this Act.

(3) A person shall not qualify for a warrant under either of the sections aforesaid unless —

- (a) he is a citizen of Malta;
- (b) he is of good conduct and moral character;
- (c) he is of full legal capacity; and
- (d) either —
 - (i) his name is entered in the register of associate members of an approved accountancy body, or
 - (ii) he is in possession of such university degree or equivalent academic qualification relating to the accountancy profession as at the relevant time recognized by the Board to be sufficient for the purposes of this subsection.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, the Minister may, after consulting the Board, issue, to any person who is duly qualified to act as auditor in any country outside Malta, a warrant to act as auditor in Malta for such limited period or periods or such specific purpose or purposes, or both such period and purpose, and subject to such other conditions as may be specified in the warrant.

(5) Any person who acts in contravention of any of the provisions of this section shall be guilty of an offence and shall be liable on conviction for each offence, in respect of the first offence to a fine (*multa*) not exceeding one hundred pounds and in respect of a second or subsequent offence to a fine (*multa*) not exceeding five hundred pounds or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment, and in the case of a continuing offence to an additional fine (*multa*) not exceeding ten pounds for each day during which the offence continues.

(6) Any person who, for the purpose of obtaining a warrant under this Act, gives any wrong information or otherwise acts in a deceitful or fraudulent manner, shall be guilty of an offence and shall be liable on conviction for each offence to a fine (*multa*) not exceeding one thousand pounds or to imprisonment not exceeding twelve months or to both such fine and imprisonment.

(7) Any person who, not being the holder of the appropriate warrant issued under this Act, assumes the title or designation of "certified public accountant" or of "certified public accountant and auditor" or their abbreviations "CPA" or "CPAA" or in any other manner indicates that he is entitled to exercise the profession of accountant or to act as auditor in Malta, shall be guilty of an offence and shall be liable on conviction for each offence to a fine (*multa*) not exceeding one hundred pounds and in respect of a second or subsequent offence to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

4. (1) A warrant to practise the profession of accountant shall be issued by the Minister on the recommendation of the Board to any person who satisfies the requirements of subsection (3) of section 3 of this Act.

Certified
Public
Accountants

(2) The holder of a warrant issued under this section shall be entitled to use the designation "Certified Public Accountant" as well as the abbreviation "CPA".

Certified
Public
Accountants
and Auditors.

5. (1) A warrant to act as auditor shall be issued by the Minister on the recommendation of the Board to a person who is a certified public accountant and satisfies the Board that he has adequate qualifications and experience in auditing:

Provided that the Minister may once refer back that recommendation for reconsideration by the Board.

Ord. No. XX
of 1962.

(2) An authorisation to act as auditor issued prior to the 25th July, 1978 under the provisions of section 40 of the Commercial Partnerships Ordinance, 1962 as in force at the time of the issue of the authorization, in favour of a person who was then a member of a body of accountants recognized for the purposes of that section, shall for all purposes have the same effect of a warrant issued under this section and be deemed to have been so issued.

(3) The holder of a warrant issued under this section shall be entitled to use the designation "Certified Public Accountant and Auditor" as well as the abbreviation "CPAA".

Accountancy
Board.

6. (1) There shall be a board, to be known as the Accountancy Board, consisting of a chairman and four other members, who shall be appointed by the Minister and shall hold office for such term, not exceeding three years, and under such conditions as may be set out in their respective letters of appointment:

Provided that on the expiration of the term for which a person is appointed under this subsection, he shall be eligible for re-appointment.

(2) The chairman and two of the other four members shall be persons of recognized standing and experience in business or professional or academic matters, or in industrial relations or in the public service; the other two members shall be holders of a warrant issued under section 4 or section 5 of this Act, and shall be appointed after the Minister has consulted any association for the time being recognized as an approved accountancy body:

Provided that the first members to be appointed under this section as the other two members aforesaid may be chosen from among persons who in the opinion of the Minister could qualify for such a warrant, but such persons shall hold office for a period not exceeding one year.

(3) The number of members present necessary to form a quorum shall be three, but, subject to the presence of a quorum, the Board may act notwithstanding any vacancy among its members.

(4) Save as aforesaid the Board may make its own rules and otherwise regulate its own procedure.

(5) The Minister may also designate a public officer to act as secretary to the Board, but the secretary shall not have a vote.

Functions of
the Board.

7. (1) The functions of the Board are —

(a) to consider applications for the issue of a warrant under section 4 or section 5 of this Act and make its recommendations thereon to the Minister;

(b) to deal with cases leading to the suspension or withdrawal of any of the warrants aforesaid as provided by or under this Act;

(c) to advise, or make recommendations or otherwise express its views to, the Minister on any matter on which the Minister is to consult with the Board or on which the Board is to make recommendations to the Minister or on which the opinion or recommendation of the Board is sought by the Minister;

(d) such other functions as arise from this Act or any other law or as may be delegated to it by the Minister under this Act.

(2) In the exercise of its functions under paragraph (c) or (d) of subsection (1) of this section, the Board may consult with such persons as it may deem appropriate, and may also appoint committees, of which the chairman shall be a member of the Board, for the carrying out of such studies or other work as the Board may assign to them.

(3) The Board shall, not later than three months after the end of each year, publish a list of the persons who, on 31st December of the said year, were holders of a warrant issued under this Act.

8. The Minister may, after consulting the Board, make regulations not inconsistent with the provisions of this Act, to give better effect to any of such provisions and generally to regulate the profession of accountants, and, without prejudice to the generality of the foregoing, such regulations may in particular include provisions with respect to —

Regulations

(a) the establishment of accountancy and auditing standards, procedures and other duties and practices to be followed by accountants or auditors, or by both, either generally or in particular fields of activity;

(b) the professional conduct of accountants and auditors and the standards of competency and integrity to be kept by the profession;

(c) the issue of guidelines and other advice to accountants and auditors;

(d) the recognition of an approved accountancy body, the conditions for such recognition and the suspension or withdrawal thereof;

(e) the work which cannot be performed and the services which cannot be rendered, whether wholly or in part, except by a person holding a warrant under this Act;

(f) the work which cannot be performed and the services which cannot be rendered by persons holding a warrant under this Act;

(g) the fees that may be charged by accountants and auditors whether for their services as such or for other services given by them in other capacities which, in the opinion of the Minister, are related to their professional qualifications; the authority, if any, by which any dispute concerning such fees may be settled and the procedure to be followed by any such authority;

(h) any matter which is required or is authorised by this Act to be prescribed;

(i) the procedures to be followed in cases of professional misconduct and other cases leading to the suspension or with-

drawal of a warrant issued under section 4 or section 5 of this Act;

(j) the punishments, penalties and other consequences and effects to which a person may become liable or which may take place in the event of any contravention of, or non-compliance with, any provision of any regulation under this section; so however that no punishment so imposed shall exceed a fine (*multa*) of two thousand pounds, or imprisonment for a term of one year, or of both such fine and imprisonment, or, in the case of a continuing offence, a fine (*multa*) of ten pounds for each day during which the offence continues, whether or not in addition to the punishments aforesaid.

Approved
Accountancy
body.

9. (1) The Minister may, after consulting the Board, recognize any local association of accountants as an approved accountancy body for the purposes of this Act if he is satisfied, among such other matters as may be prescribed, that the educational and professional qualifications demanded by such association for associate membership thereof conform to currently accepted standards and that such membership is open to all citizens of Malta having such qualifications.

(2) Such recognition shall be subject to such conditions as the Minister may in granting recognition impose or as may from time to time be prescribed; and if at any time any of the conditions aforesaid, or any of the provisions contained in or prescribed under the next following subsection, is not observed or fulfilled, or there is a material change in the circumstances under which the recognition was granted, the Minister may, after consulting the Board, suspend or withdraw the recognition.

(3) An approved accountancy body shall keep a register of its associate members and shall enter therein the names of all persons who qualify for such membership. The said register shall be kept in such manner as may be prescribed.

Partnerships
of accountants
or of
auditors.

10. (1) Where two or more certified public accountants intend to practise jointly as accountants, or two or more certified public accountants and auditors intend to practise jointly as auditors, or as both auditors and accountants, they may form a civil partnership having for its exclusive object the practice of accountancy (in this Act referred to as "partnership of accountants") or, as the case may be, the performance of functions as auditors or of both auditors and accountants (in this Act referred to as "partnership of auditors"), and having such powers as are necessary for the attainment of the objects of the partnership.

(2) No person other than a certified public accountant or a certified public accountant and auditor may be a partner in a partnership of accountants; and no person other than a certified public accountant and auditor may be a partner in a partnership of auditors.

(3) Any such partnership shall, when duly formed according to law, be registered with the Board, and upon such registration the partners shall, for so long as it is so registered, be authorised by the Minister to act, in the name and on behalf of the partnership, as certified public accountants or as certified public accountants and auditors, or both, as the case may require, and the partner-

ship shall be entitled accordingly to one of the designations aforesaid and the corresponding abbreviation "CPAs" or "CPAAs".

(4) Every such partnership shall give to the Minister or to the Board such information as they may reasonably require or as may be prescribed, and shall give notice to the Minister or to the Board of any relevant change in any information previously given to them within fifteen days after the date on which the change occurs.

(5) With respect to a partnership registered under this section, the following provisions shall apply notwithstanding any other provisions of this Act or of any other enactment and notwithstanding any agreement to the contrary, that is to say —

(a) any act or thing that may be done by the holder of a warrant under this Act may be done by any one or more of the partners in the name of the partnership; and any act or thing done in the name of the partnership shall be done by one or more of the partners;

(b) any prohibition imposed by or under this Act in respect of one of the partners shall apply to all the partners and to the partnership even where the act prohibited or restricted, or giving rise to the prohibition or restriction, is done by one of the partners;

(c) the partners shall be jointly and severally responsible for the actions and omissions of each and every one of them in the performance of their duties, the maintenance of the required professional standards and conduct and generally in the fulfilment of their obligations under this Act or any other applicable law, and shall be so jointly and severally liable for any loss or damage resulting therefrom;

and the responsibilities and liabilities aforesaid for any thing done or omitted to be done during the period in which a person was a partner shall not cease, in respect of such person, by his retirement, death or other cause by which he ceases to be a partner.

(6) Any person who makes use of the designation "certified public accountants" or "certified public accountants and auditors" or their abbreviation "CPAs" or "CPAAs" in relation to a partnership which is not registered under this section or in any other manner knowingly makes use of a name falsely implying the existence of a partnership of accountants or of auditors, or that such a partnership is registered, or may otherwise lawfully function, under this section, or does any other act calculated to lead to the belief that any of the facts aforesaid exists when in fact it does not, shall be guilty of an offence and shall be liable on conviction, for each offence, in respect of a first offence to a fine (*multa*) not exceeding one hundred pounds, and in respect of a second or subsequent offence to a fine (*multa*) not exceeding five hundred pounds or to imprisonment to a term not exceeding three months or to both such imprisonment and fine, and in the case of a continuing offence to an additional fine (*multa*) not exceeding ten pounds for each day during which the offence continues.

(7) The provisions of subsection (6) of section 3 of this Act shall, with the necessary modifications and adaptations, apply to the registration of a partnership under this section as they apply to the issue of a warrant under this Act.

Indemnity
insurance.

11. (1) Every person who is the holder of a warrant to act as auditor or, with respect to two or more of such persons who have registered as a partnership under section 10 of this Act, every such partnership, shall, for so long as they hold such a warrant or, as the case may require, for so long as they are so registered, be covered by an indemnity insurance, by such company, in such manner and for such amount as may be prescribed, against any liability which such person or partnership may incur for compensation in respect of any loss or damage which a client or any other person may suffer as a result of any fault, negligence, failure, misconduct or other wrongful act or omission, or through non-observance of any regulations, by any such person or partnership, or any partner thereof, in the carrying out of their functions as auditors.

(2) Every person or partnership who fails to comply with any of the foregoing provisions of this section shall be guilty of an offence and shall be liable on conviction for each offence to a fine (*multa*) not exceeding five hundred pounds, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment, and in the case of a continuing offence to an additional fine not exceeding fifty pounds for each day during which the offence continues.

Prohibited
agreements.

12. Any agreement or other arrangement purporting to exempt an accountant or an auditor from any liability, responsibility or duty under this Act or under any other enactment, or to relieve him therefrom, or, except under a policy of insurance made out under section 11 of this Act, to indemnify him against any such liability or responsibility, shall be null and void.

Remuneration
of auditors,
etc.

13. (1) An auditor shall be remunerated solely by his fees; and the fees that may be charged by an auditor for services as such may not exceed the prescribed fees or be in contravention of such rules as may be prescribed.

(2) An accountant or an auditor who renders a service in any other capacity, or partly as accountant or auditor and partly in such other capacity, shall, in respect of the service rendered in such other capacity, be remunerated solely by his fees; and the fees which he may charge therefor may not exceed those prescribed.

(3) An accountant or auditor shall not pay or allow, or agree to pay or allow, to any person, whether directly or indirectly, any commission or brokerage, or any share or portion of his fees or other professional income in circumstances in which a commission or a brokerage fee is normally paid or allowed.

Suspension,
revocation
or withdrawal
of warrants
and suspension
or cancellation
of registrations.

14. (1) A warrant issued under any of the provisions of this Act may be suspended or revoked, and the registration of a partnership under section 10 of this Act may be suspended or cancelled, by the Minister, in accordance with the following provisions of this section, if the person to whom such a warrant was issued or the partnership or any of the partners of the partnership —

(a) has, following an enquiry held by the Board, been found guilty of any of the following acts or omissions —

(i) dishonesty, misconduct or gross negligence in the exercise of his profession;

(ii) conduct in contravention of regulations with respect to professional standards, practices or integrity;

(iii) conduct discreditable to the profession;

(iv) failure to comply with any condition attached to a warrant under subsection (5) of this section; or

(b) has been found guilty by a court of law —

(i) of an offence under this Act or any regulations made thereunder; or

(ii) of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud.

(2) A warrant issued under this Act and the registration of a partnership under section 10 of this Act may be —

(a) withdrawn or cancelled by the Minister at the request of the holder of the warrant or of the partnership;

(b) revoked or cancelled by the Minister, after consultation with the Board, whenever the Minister is of the opinion that there are material circumstances concerning the person to whom the warrant was issued or the partnership which, if the warrant had not been issued or the partnership registered, as the case may require, would disqualify such person from obtaining a warrant or such partnership from being registered.

(3) In exercising its functions under this section the Board shall act in accordance with such rules and procedures as shall be prescribed; and the findings of the Board shall be subject to such reference back, review or appeal as may be prescribed.

(4) Where a warrant or registration has been suspended under any of the provisions of this section, the suspension may be lifted by the Minister at any time; and where the warrant or registration has been withdrawn under paragraph (a) of subsection (2) of this section, a new warrant may be issued or a new registration made at any time if the conditions for such issue or registration are satisfied.

(5) Where a warrant has been revoked under any of the provisions of this section, other than paragraph (a) (i) and paragraph (b) (ii) of subsection (1) and other than paragraph (b) (i) of the said subsection in respect of an offence against subsection (6) of section 3 or subsection (7) of section 10 of this Act, the Minister may, after the expiration of two years from the date of the revocation, and if the Board so recommends, issue a fresh warrant under section 4 or section 5 of this Act, as the case may require, under such conditions as he may deem appropriate.

(6) Upon the revocation or withdrawal of a warrant issued under this Act, or during such period as such a warrant is suspended, the person to whom the warrant was issued shall cease to be the holder of such warrant; and upon the cancellation of any registration of a partnership under section 10 of this Act, or for such period as such registration is suspended, the partnership shall cease to be registered.

15. (1) The provisions of this Act establishing offences and punishments in respect thereof shall not affect the operation of any other law establishing offences and punishments in respect of the same acts or omissions and shall not, in particular, affect the application of any higher punishments under any other law.

Additional provisions with respect to offences.

(2) For the purposes of subsection (7) of section 3 and of subsection (6) of section 10 of this Act, the use on any card,

letter head, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the words "certified public accountant" or "certified public accountant and auditor" or their abbreviations "CPA" or "CPAA", whether in their singular or their plural form, in relation to a name, shall be sufficient evidence of the knowledge of such use by the person in relation to whose name the said words or abbreviations are used, unless such person proves that the use was made without his knowledge and that upon becoming aware of the use he took adequate steps to stop it.

(3) For the purposes of this Act —

(a) a person shall not be deemed to exercise the profession of accountant or to act as auditor if he acts simply as an employee of, or assistant to, a certified public accountant or a certified public accountant and auditor, or a partnership of accountants or of auditors, and does not issue any accounting or financial statement over his name;

(b) a person shall not be deemed to exercise the profession of accountant if he performs only such work, services, acts or functions as may be prescribed for the purposes of this paragraph.

Amendments

16. The enactments mentioned in the first column of the Schedule to this Act shall have effect subject to the amendments specified in relation thereto in the second column of that Schedule.

SCHEDULE

Section 16

<i>Enactment</i>	<i>Extent of Amendment</i>
<p>Commercial Partnerships Ordinance, 1962 Ord. No. XX of 1962</p>	<p>1. For section 140 there shall be substituted the following: "140. (1) A person shall not be qualified for appointment as auditor of a company unless he is an individual who holds a warrant to act as auditor issued under the Accountancy Profession Act, 1978, or is a partnership of auditors duly registered under the said Act and —</p> <p>(a) in the case of an individual, he is not —</p> <p>(i) an officer or servant of the company; or</p> <p>(ii) a partner or in the employment of an officer or servant of the company; or</p> <p>(iii) related by consanguinity or affinity in the direct line, or, up to the third degree, in the collateral line, to any officer of the company;</p> <p>(b) in the case of a partnership none of the partners is an individual who is not qualified to be appointed as auditor of the company.</p>

*Enactment**Extent of Amendment*

(2) The provisions of subsection (1) of this section in regard to the appointment of an auditor shall also apply in regard to the holding of such appointment."

2. In subsection (4) of section 148 for the words "subsection (1) and paragraphs (b) and (c) of subsection (2)" there shall be substituted the words "paragraphs (ii) and (iii) of subsection (1)".

Banking Act, 1970
Act No. V of 1970

For subsection (6) of section 20 there shall be substituted the following:

"(6) For the purposes of this section an approved auditor shall be a person who is qualified to be the auditor of the bank in accordance with section 140 of the Commercial Partnerships Ordinance, 1962 and holds the Minister's authorisation to act as auditor of a bank."

Objects and Reasons

The Object of the Bill is to regulate the profession of accountants and auditors in order to raise even higher the professional standards so far reached, and to introduce common practices and ensure a higher degree of integrity among the profession. By these and other provisions, including the requirement that all auditors shall be insured against liability for loss or damage caused by their fault, negligence, and other wrongful acts, a much greater protection — which will be completely new in certain respects — will be given to the public at large and to shareholders, depositors and investors in particular.