

CHARTERED ACCOUNTANTS DESIGNATION (PRIVATE) ACT, 67 OF 1993

Use of designation “Chartered Accountants” and related designations

1.(1) Every member of The South African Institute of Chartered Accountants or of any successor in title to that Institute and every member of The Cape Society of Chartered Accountants or The Natal Society of Chartered Accountants or The Orange Free State of Chartered Accountants or The Transvaal Society of Chartered Accountants, or of any successor in title to any of the aforementioned Societies, shall be entitled to use the designation "Chartered Accountant", "Geoktrooierde Rekenmeester", "Chartered Accountant (South Africa)", "Geoktrooierde Rekenmeester (Suid-Afrika)", "Chartered Accountant (SA)" or "Geoktrooierde Rekenmeester (SA)", or the initials "FCA (SA)", "ACA (SA)", "CA", "GR", "CA (SA)" or "GR (SA)".

(2) Any company, close corporation or other body, firm or partnership which engages in public practice as accountants and auditors and of which every shareholder, every director, every member or every partner, as the case may be, is a member of the Institute or of one of the Societies referred to in subsection (1), shall be entitled to use the designations or initials referred to in that subsection.

Member of a body of chartered accountants established outside the Republic

2. A member of a body of chartered accountants established outside the Republic of South Africa may use the designation or initials which he is entitled to use by virtue of his membership of that body, provided the country where the qualification was obtained is clearly indicated in or after the designation or initials.

Prohibition relating to name or business style of company, close corporation or other body

3. No person, whether or not he is entitled to use any designation or initials referred to in section 1(1) or 2, may use, or permit the use of, such designation or initials in the name or business style of any company, close corporation or other body, firm or partnership which does not engage in public practice as accountants and auditors.

Penalties

4.(1) Any person who uses any designation or initials referred to in section 1(1), either alone or in combination with any other words or initials or any name, title or description, shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 unless he proves that he is a member of the Institute or one of the Societies referred to in that section.

(2) Any person who permits a company, close corporation or other body, firm or partnership to use any designation or initials referred to in section 1(1), either alone or in combination with any other words or initials or any name, title or description, when any shareholder, director, member or partner of such company, close corporation or other body, firm or partnership is not entitled to use such designation or initials, shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000.

(3) Any person who contravenes the provisions of section 2 or 3 shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000.

Repeal of laws, and saving

5.(1) The Chartered Accountants Designation (Private) Act, 1927 (Act No. 13 of 1927), and the Chartered Accountants Designation Amendment (Private) Act, 1971 (Act No. 97 of 1971), are hereby repealed.

(2) Nothing in this Act contained shall be construed as prohibiting any person who, immediately prior to its commencement, lawfully used any designation or initials referred to in section 1(1) or 2, from so using such designation or initials.

Short title

6. This Act shall be called the Chartered Accountants Designation (Private) Act, 1993.

**OBJECTS OF THE CHARTERED ACCOUNTANTS
DESIGNATION (PRIVATE) ACT, 1993**

- .01 The 1927 Act provided that only persons who were admitted as members of The Cape Society of Chartered Accountants, The Natal Society of Chartered Accountants, The Orange Free State Society of Chartered Accountants and The Transvaal Society of Chartered Accountants were entitled to use the designation "Chartered Accountant (SA)" and related designations. It is envisaged that some of these Societies may decide to delegate to The South Africa Institute of Chartered Accountants their power to admit persons to membership and thereby to allow such persons to use these designations. Furthermore, it is envisaged that a national designation should be conferred by a national body and accordingly the Societies agreed that the national body as well as the four provincial bodies should be able to confer the national designation. It has therefore been provided in the 1993 Act that members of the Institute as well as members of Societies are entitled to use the designations "Chartered Accountant" or "Chartered Accountant (SA)" and related designations.
- .02 The 1927 Act prohibited a firm of chartered accountants in public practice from using the designation "Chartered Accountants" or "Chartered Accountants (SA)". There seems to be no valid reason for this restriction. Firms in public practice have been using the designations in this manner for many years, which, in the view of the Institute and the Societies, was not misleading to the public. Provision has been made in the 1993 Act to regularise this position and also to permit incorporated practices to use such designations.
- .03 A person who was entitled to use the designations or initials referred to in section 1(2) of the 1927 Act by virtue of his membership of a body of chartered accountants established outside South Africa was not required to indicate the country where the designation concerned was obtained. In order that the public is not confused or misled, the 1993 Act provides that when a person who is a member of a body of chartered accountants established outside South Africa, uses the designations or initials referred to in section 1(2) he is required to indicate where the qualification was obtained.

The 1927 Act provided specifically that persons who were members of one of the Societies may use the designation "Chartered Accountant (SA)" and the initials "CA (SA)". It did not specify that such designations may be used only in connection with professional practice and in particular did not prohibit their use in the name or business style of a company, close corporation or other body or firm which did not engage in public practice as accountants or auditors, for example, "Chartered Accountant Placement Services" or "Chartered Accountant Booksellers". The use of the designations "Chartered Accountant" and "Chartered Accountant (SA)" and the initials "CA" and "CA (SA)" in the name or business style of an entity which does not engage in public practice as accountants or auditors, may be misleading to the public because it may infer some kind of recognition, approval or endorsement by the Institute or the Provincial Societies. It may even mislead the public into thinking that that entity is an official arm of the Institute. Provision has been made in the 1993 Act to clarify the issue by restricting the use of these designations and initials in the name of an entity. .04

The maximum fine of R500 provided for in the 1927 Act was fixed many years ago and became substantially devalued with the passage of time. The penalty was regarded as inadequate considering the serious light in which the chartered accountancy profession views misuse of its protected designation, and the potential prejudice to the public when persons who are not entitled to do so use the designations and initials permitted by the Act or use such designations, or permit them to be used, in the name or business style of any company, close corporation or other body or firm which does not engage in public practice as accountants or auditors. Provision has been made for a penalty commensurate with the seriousness of the offence and of such an amount as to be a deterrent to persons considering using the designations who are not so entitled. .05

The 1927 Act provided that a person who was a member of a body of chartered accountants established outside the Republic of South Africa and was entitled to registration as an accountant and auditor under the Public Accountants' and Auditors' Act, 1991, without being required to pass any examination in the Republic, was entitled to use the designation "Chartered Accountant (SA)" and the initials "CA (SA)". .06

This provision was obsolete and has been deleted in the 1993 Act as every person who is a member of a body of chartered accountants established outside the Republic of South Africa is required to pass at least an examination in the law of the Republic in terms of section 19 of the Public Accountants' and Auditors' Act, 1991, before being entitled to registration as an accountant and auditor.

- .07 The 1927 Act provided that a person who proved that he was a member of a body of chartered accountants established outside the Republic of South Africa and South West Africa and was entitled to registration as an accountant and auditor under the Public Accountants' and Auditors' Act, 1991, without being required to pass any examination in the Republic or South West Africa other than such examination in the law of the Republic as the Public Accountants' and Auditors' Board may determine, may use the designations or initials set out in the Act. The Institute and the Societies considered that it was inappropriate for the use of such designations or initials to be subject to the requirements of the Public Accountants' and Auditors' Act. It was also inappropriate for the designations and initials to be used by persons who were not members of the Institute or of any of the Societies and who were accordingly not subject to disciplinary action by the Institute or any of the Societies. Section 1(2)(c) of the 1927 Act has been omitted from the 1993 Act.
- .08 The 1927 Act stated that "nothing in this section contained shall be construed as prohibiting any person who, immediately prior to the commencement of the Chartered Accountants Designation Amendment (Private) Act, 1971, practised in the Republic as a chartered accountant from practising as such". The Act does not give a person the right to practise. It only deals with the right to use the designations and initials set out in the Act. This reference has been omitted from the 1993 Act.