

# CONSTITUTION

## 1. Name

The name of the Institute is THE SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS.

## 2. Definitions

- 2.1. “Associate” means a person who has satisfied the requirements for associateship pursuant to the By-laws and who has been granted associateship of the Institute;
- 2.2. “Board” means the Board of the Institute;
- 2.3. “By-laws” means the By-laws of the Institute in force from time to time under this Constitution;
- 2.4. “Chairman” means the chairman of the Institute and shall include the person who holds the office of the chairman of the Institute from time to time, by whatever title he or she may be known;
- 2.5. “Chief Executive Officer” means the Chief Executive Officer of the Institute and shall include the person who occupies such position from time to time, by whatever title he or she may be known;
- 2.6. “Constituency” means the members resident in a region or forming part of an interest group, as the case may be;
- 2.7. “District Association” means an association of members resident in a sub-region of a region as determined by the applicable regional council from time to time;
- 2.8. “Entrenched rights” means the right of the members residing within a region to appoint members resident in that region to the Regional Council which encompasses that region;
- 2.9. “Interest group” means an interest group identified and recognised as such by the Board from time to time; the interest groups identified and recognised by the Board at the date of adoption of this Constitution are more fully defined in Appendix 1 to the By-laws;
- 2.10. “International Members” means members of the Institute that are based in foreign countries.
- 2.11. “Institute” means The South African Institute of Chartered Accountants;
- 2.12. “Member” means a person who has satisfied the requirements for membership pursuant to the By-laws and who has been admitted to membership of the Institute;
- 2.13. “Provincial Association” means an association of members resident in a region that is substantially aligned with the boundaries of a province and which may include District Associations;
- 2.14. “Region” means a region as determined by the Board from time to time; the regions determined as such by the Board at the date of adoption of this Constitution are more fully defined in Appendix 1 to the By-laws;
- 2.15. “Registered Address” means a member’s address as defined in the By-laws;
- 2.16. “Republic” means the Republic of South Africa;
- 2.17. “Trainee Accountant” means a person or learner who is in the permanent employ of a training office and who is serving under a training contract;

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- 2.18. “Vice Chairman” means the Vice Chairman of the Institute and shall include the person who holds the office of Vice Chairman of the Institute from time to time, by whatever title he or she may be known;
- 2.19. “Year” means a year commencing on 1 January.

### 3. Legal Persona

The Institute is a body corporate with perpetual succession capable of suing and being sued in its own name and of performing such acts as are necessary for or incidental to the achievement of its objects, the exercise of its powers and the performance of its functions and duties under this Constitution or under any statute of the Republic.

### 4. Membership, associateship and designations

- 4.1. Only a chartered accountant who is a member in good standing is entitled to use the designations reserved for members of the Institute in terms of the Chartered Accountants Designation (Private) Act, 1993.
- 4.2. Associates of the College of General Accountants are entitled to use the designation “Associate General Accountant (South Africa)” or “AGA(SA)”. Nothing in this Constitution or in the By-laws shall be construed as conferring upon an associate any rights to use any of the designations reserved for Chartered Accountants who are members of the Institute in terms of the Chartered Accountants Designation (Private) Act, 1993.
- 4.3. Nothing in this Constitution or in the By-laws shall be construed as conferring upon a trainee accountant any rights to use any of the designations reserved for members of the Institute in terms of the Chartered Accountants Designation (Private) Act, 1993, for associates in terms of this Constitution.

### 5. Objects

The objects of the Institute are:

- 5.1. to promote the interests of the members of the Institute and support the development of the South African economy and society by means other than carrying on by the Institute of any trading or other profit-making activities, or the participation by the Institute in any business, profession or occupation carried on by any of its members or associates, or the provision to any of its members or associates, or the provision of financial assistance or of any premises or continuous services or facilities required by its members or associates for the purpose of carrying on any business, profession or occupation;
- 5.2. to create a pipeline of trainee accountants who are representative of the country’s economically active population, both in terms of race and gender;
- 5.3. to advance the theory and practice of accountancy in all its aspects;
- 5.4. to preserve at all times the professional independence of members and associates;
- 5.5. to insist upon a high standard of professional behaviour on the part of members, associates and students of the Institute and to preserve and maintain the integrity and status of the profession, to take any steps which may be thought necessary to stop or prevent dishonourable conduct and practices by members, associates and trainee accountants, and for this purpose to hold enquiries into the conduct of members, associates and trainee accountants and to take disciplinary action against members, associates and trainee accountants, including the termination of their membership, associateship or registration, as the case may be, and their expulsion from the Institute;

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- 5.6. to consider and pass comment on actual or impending legislation in the Republic affecting the accountancy profession or otherwise and to apply for, petition for or promote any Act of Parliament or other legislative enactment desirable for the improvement or enhancement of the accountancy profession;
- 5.7. to provide for research into accounting, auditing, financial management and kindred matters and to provide members, associates and trainee accountants with information on developments in professional thought and methods both inside and outside the Republic;
- 5.8. to provide opportunities for an exchange of views among members, associates and trainee accountants;
- 5.9. to implement steps to enable the accountancy profession as far as is practicable to speak with one voice on matters of national or international importance affecting the profession;
- 5.10. to promote and develop on behalf of members, associates and trainee accountants a public relations organisation designed to inform the general public about the accountancy profession and to give a proper appreciation of its functions and problems;
- 5.11. to liaise and co-operate with professional and regulatory bodies impacting the accountancy profession;
- 5.12. to apply for membership of and to co-operate with national and international bodies representing the interests of the accountancy profession;
- 5.13. to publish, distribute and sell a journal to members and associates of the Institute, trainee accountants, members of other professions and interested members of the public, and to publish, distribute and sell to any of those persons books, pamphlets or other publications relating to the professional affairs of the Institute or of its members or relating to the accountancy profession;
- 5.14. to provide, in support of lifelong learning and continuous professional development, products and services for members, associates, trainee accountants, members of other professions and interested members of the public, and to charge reasonable fees to persons attending such courses;
- 5.15. to co-operate with and, if necessary, assist financially by way of grant or otherwise, those educational institutions, Regional Councils, Provincial Associations and District Associations which provide education and training for persons wishing to qualify as Chartered Accountants and associates;
- 5.16. to make available from time to time lists of members and associates to allow for verification of registration;
- 5.17. to assist and collaborate in the formulation of financial reporting standards (by whatever name they may be known) for the Republic;
- 5.18. to assist and co-operate with the Independent Regulatory Board for Auditors with regard to the monitoring of the Institute's professional development programme;
- 5.19. to assist and collaborate with representative bodies of professional institutes and associations in regard to the accountancy profession;
- 5.20. to establish, support or administer, or to aid in the establishment of or administration of companies, funds and trusts calculated to benefit employees, members, associates or trainee accountants of the Institute;

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- 5.21. to establish and, where appropriate, to register approved training schemes and trainers, to regulate service under such training schemes, to prescribe the fees which shall be payable in respect of such training schemes, and to insist upon a high standard of training;
- 5.22. to co-operate at all times with the South African Qualifications Authority established in terms of the South African Qualifications Authority Act 58 of 1995 or its successor authority;
- 5.23. to prescribe syllabi in respect of examinations and relevant competency assessments for trainee accountants and for persons wishing to become members, associates or trainee accountants; to prescribe, or conduct or make arrangements for the conduct of such examinations and competency assessments, including examinations and competency assessments of a university in the Republic or elsewhere, or of any institution approved by the Board in its discretion; to exempt from the obligation to pass any such examination or competency assessment any person who has passed, and other examination or competency assessment prescribed or approved by the Board; and to prescribe fees which are payable by such persons in respect of such syllabi, examinations or competency assessments or in respect of such exemptions;
- 5.24. to prescribe the education and training assessment requirements to be obtained by any person wishing to become a member, associate or trainee accountant, or entitling any person to exemption from the requirements to be complied with by such persons, as well as the fees which shall be payable to the Institute in respect of such exemptions;
- 5.25. to conduct programmes to promote and facilitate the education and training of chartered accountants so that new members reflect the demographics of the republic.
- 5.26. to provide the underlying support structure and administration of a sector code of the CA sector and to play an active role in promoting a transformed, dynamic and globally competitive CA profession that will reflect the demographics of the South African population and contribute to the establishment of an equitable society;
- 5.27. to create a platform for members to participate in Enterprise and Socio Economic Development initiatives;
- 5.28. to facilitate or conduct or participate in projects that enhance the standing of the profession or that promote the profession or its leadership role in the community;
- 5.29. generally to do and undertake and advise on all matters which may be expedient and in the interests of members, associates and trainee accountants and the general public in relation to matters of concern to the accountancy profession;
- 5.30. to establish legal entities or enter into partnerships to achieve any of the above objectives;
- 5.31. generally to do such other things as may be incidental or conducive to the attaining of the above objects.

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### 6. Board

- 6.1. The affairs of the Institute are governed by a Board, of whom:
  - 6.1.1. two members shall be appointed from time to time by the Council of the Central Region;
  - 6.1.2. two members shall be appointed from time to time by the Council of the Eastern Region;
  - 6.1.3. two members shall be appointed from time to time by the Council of the Northern Region;
  - 6.1.4. two members shall be appointed from time to time by the Council of the Southern Region;
  - 6.1.5. two members shall be appointed from time to time by the board of The Association for the Advancement of Black Accountants of Southern Africa (ABASA);
  - 6.1.6. one member shall be appointed from time to time by the Members in Business interest group;
  - 6.1.7. one member shall be appointed from time to time by the Large Practices interest group;
  - 6.1.8. one member shall be appointed from time to time by the Small and Medium Practices interest group;
  - 6.1.9. one member shall be appointed from time to time as a representative of International Members;
  - 6.1.10. maximum of five members may be co-opted to the Board in accordance with the provisions of paragraph 6.2.1 below;
  - 6.1.11. the Chief Executive Officer shall be an *ex officio* member;
  - 6.1.12. one other member of management recommended by the Chief Executive Officer, shall be an *ex officio* member of the board.
- 6.2. The Board shall elect from among its members a chairman and a maximum of two vice chairmen in accordance with the provisions of paragraph 8 below. The constituencies that originally appointed the chairman and each vice chairman, shall have the right to nominate a replacement representative to the Board:
  - 6.2.1. The Board shall have the right at any time to co-opt a maximum of five additional members to the Board whenever it deems such additional appointments necessary, provided that such co-option is agreed to by three-fourths (rounded upwards to the nearest whole number) of the members of the Board as then constituted.
  - 6.2.2. In addition to the five co-opted seats, the Board may, at any time, co-opt any person to the Board as a non-voting observer, whenever it deems such co-option necessary, provided that such co-option is agreed to by three-fourths (rounded upwards to the nearest whole number) of the members of the Board as then constituted.
  - 6.2.3. The Board shall have the right to recuse, suspend or remove any member of the board whenever it deems it appropriate to do so.

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- 6.3. Subject to the entrenched rights, the provisions of paragraph 6.1 above shall not be amended unless such amendment is agreed to by three-fourths (rounded upwards to the nearest whole number) of the members of the Board as then constituted, and thereafter approved by not less than three-fourths of the members of the Institute who are present in person or by proxy at a General Meeting of which the requisite notice has been given with full particulars of the proposed amendments.

### 7. Powers of the Board

- 7.1. In directing and governing the affairs of the Institute, the Board shall exercise and/or delegate any or all powers of the Institute to the Chief Executive Officer, except such powers as are expressly reserved by the provisions of this Constitution to the members in general meeting.
- 7.2. Without in any way limiting the scope of its powers as generally described in paragraph 7.1 and in addition to powers given to it elsewhere in this Constitution or the By-laws, the Board shall have power in the name of and on behalf of the Institute:
- 7.2.1. to receive and accept donations, grants and other moneys;
  - 7.2.2. to purchase or otherwise acquire, take on lease or hire, exchange, improve, sell, mortgage, pledge, let, dispose of or otherwise deal in property of any description whatsoever;
  - 7.2.3. to raise or borrow or secure any sum of money or to secure the performance of any obligation in such manner and upon such terms and conditions as it deems fit and, in particular, by the execution of mortgage or notarial bonds or the issue of debentures or debenture stock charged upon all or any of the property of the Institute;
  - 7.2.4. to invest the funds of the Institute or any portion thereof in such securities and in such manner as the Board may from time to time determine and to vary or transpose such investments in its discretion;
  - 7.2.5. to open and operate banking accounts and savings accounts with registered banking institutions;
  - 7.2.6. to apply and use the funds and income of the Institute to promote the objects of the Institute;
  - 7.2.7. to institute and defend legal proceedings;
  - 7.2.8. to appoint any person as the Chief Executive Officer of the Institute and to determine his/her duties, remuneration and other terms of employment;
  - 7.2.9. to pay reasonable travelling, subsistence and other expenses incurred in connection with the affairs of the Institute by any members, associates or trainee accountants of the Institute or the Board or any officer or employee of the Institute;
  - 7.2.10. to enter into contracts and to authorise the settling of the terms of and the signature of any contract or any other document;
  - 7.2.11. to interpret any clause of the Constitution or By-laws if any dispute arises as to its meaning, such interpretation being binding on the members, associates or trainee accountants of the Institute if accepted by not less than nine members of the Board or their alternates;
  - 7.2.12. to prescribe the form of the instrument appointing a proxy; and

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- 7.2.13. generally to do whatever the Board deems necessary to enable it to carry out the objects of the Institute and to exercise the powers and to perform the functions and discharge the duties given to or imposed upon it in terms of this Constitution.

### **8. Election of Chairman, Vice Chairman and Second Vice Chairman**

The Board shall elect from amongst its members a chairman and a maximum of two vice chairmen to hold office until the election of their successors. The person elected as Chairman shall have served on the Board for a period of not less than nine months immediately prior to his or her election as chairman.

### **9. Disciplinary Panel, Professional Conduct Committee and Disciplinary Committee**

The Board shall appoint a Disciplinary Panel, a Professional Conduct Committee and a Disciplinary Committee which shall have the powers to carry out the duties and exercise the functions granted to those committees under the By-laws.

### **10. Other committees**

The Board may appoint other committees to assist it in the performance of its functions and duties and may appoint such of its members and such persons who are not members of the Board or the Institute as it may deem fit, to be members of any such committee. In appointing any such committee the Board shall have regard to the need of the reasonable representation of each constituency.

### **11. Funds of the Institute**

- 11.1. The Institute shall, subject to the provisions of this Constitution, apply its funds and income exclusively in promoting the objects of the Institute or for investment purposes.
- 11.2. The Institute shall not distribute any surpluses or gains by way of dividend or otherwise to its members, associates or trainee accountants or to any other person.
- 11.3. The Institute may not pay to any employee, office bearer, member or other persons any remuneration, as defined in the fourth schedule of the Income Tax Act, 58 of 1962, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.
- 11.4. Should the Institute be wound up, a person who has ceased to be a member, associate or trainee accountant of the Institute or the executors, administrators, heirs or assigns of such person, shall in no circumstances have any claim to or against the Institute by reason only of such previous membership, associationship or registration.
- 11.5. Should the Institute be wound up, its funds shall be dealt with in accordance with the provisions of this Constitution and the By-laws.

### **12. Shares and interests in members' business**

- 12.1. The Institute may not have a share or other interest in any business, profession or occupation which is carried on by its members.
- 12.2. No member of the Institute may directly or indirectly have any personal or private interest in the Institute.

### **13. Reporting requirements**

- 13.1. The Institute shall comply with such reporting requirements as may be determined by the Commissioner for the South African Revenue Service from time to time, provided that such reporting requirements are reasonable and in line with the South African Tax Laws as administered by the South African Revenue Service.

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- 13.2. The Institute is not knowingly and shall not knowingly become a party to, and does not knowingly and will not knowingly permit itself to be used as part of an impermissible tax avoidance arrangement contemplated in part IIA of chapter III or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act, 58 of 1962.

### 14. Annual general meeting

- 14.1. The annual general meeting of the Institute shall be held at the head office of the Institute, or such other place as determined by the Board, for the purposes of transacting the following business:
- 14.1.1. the consideration of the annual financial statements;
  - 14.1.2. the consideration of reports by the Chairman and the Chief Executive Officer;
  - 14.1.3. the consideration of a report by the auditors;
  - 14.1.4. the appointment of the auditors.
- 14.2. The annual general meeting shall be held on a date and at a time determined by the Board, but no later than 30 June in each year.
- 14.3. Fifteen days' notice of an annual general meeting, specifying the place, date and time of the meeting and the business to be dealt with, shall be sent to each member at his or her registered address. The accidental omission to give notice to any member shall not invalidate the proceedings at any such meeting.
- 14.4. The quorum at an annual general meeting shall be twenty members personally present who are entitled to vote. Unless twenty members are personally present within 30 minutes of the time appointed for the meeting, the meeting shall stand adjourned for the same time, at the same place and on the same day of the next week, and if such day be a public holiday, to the next business day thereafter. At an adjourned meeting the members present shall form a quorum and shall have full power to transact the business of the meeting which could have been transacted had the meeting been held on the date for which it was called.
- 14.5. Every member of the Institute who is not in arrears in the payment of his or her annual subscription or any contribution or charge payable by him or her to the Institute shall be entitled to be present in person or by proxy at an annual general meeting. Each such member shall have one vote, but all voting shall be by poll by those members present in person or by proxy in accordance with paragraph 14.6. Proxies in the form laid down by the Board shall be lodged at the head office of the Institute not less than 48 hours before the time of the meeting.
- 14.6. Every motion proposed and seconded at an annual general meeting of the Institute shall be decided by way of a poll. A poll demanded on any issue other than the meeting of the business as reflected in the agenda, shall be taken at such time as the chairman of the meeting directs. A poll shall be taken in such manner as the chairman directs and the result of the poll shall be deemed to be the resolution of the meeting.
- 14.7. Scrutineers, not being proposers or seconders of the resolution, shall be elected to declare the result of the poll and their declaration, which shall be announced by the chairman of the meeting, shall be deemed to be the resolution of the meeting at which the poll was demanded, and an entry to that effect in the minutes of the proceedings shall be conclusive evidence of the result.

### 15. Special general meetings



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- 15.1. The Board may, whenever it thinks fit, and shall, on the receipt of a written requisition expressing the objects of the proposed meeting and signed by not less than 5% of the members in good standing specifying the business required to be dealt with at that meeting (which business shall be expressed in the form of a resolution which shall be voted on at that meeting without amendment), call a special general meeting.
- 15.2. The notice calling such special general meeting shall be issued by the Board within 15 days of the receipt of the request, and the provisions of paragraphs 14.3 to 14.6 relating to the annual general meeting, shall apply *mutatis mutandis* to such a special general meeting.

### 16. By-laws

- 16.1. The By-laws of the Institute shall be those annexed hereto.
- 16.2. The Board may from time to time amend these By-laws and make new By-laws.
- 16.3. The Board, in amending and making new By-laws, may cover any matter which the Board considers necessary or expedient to prescribe for the better execution of this Constitution and the furtherance of the objects of the Institute.

### 17. Indemnities

- 17.1. Every member of the Board or of any committee appointed by it and every officer and employee of the Institute shall be indemnified by the Institute against claims made against him or her and any losses and expenses incurred by him or her in or about the execution of his or her duties, except claims, losses or expenses arising from his or her own fraud or wilful default.
- 17.2. No member, associate or trainee accountant of the Institute shall have any claim against the Institute, or against a member of the Board or of any committee appointed by it, or against any officer or employee of the Institute, in respect of anything done *bona fide* by it or them or any of them in the execution of their duties.

### 18. Limitations of liability

- 18.1. A member, associate or trainee accountant of the Institute shall not have any liability for any commitments undertaken by the Institute. All persons shall be deemed to contract or deal with the Institute on this basis.
- 18.2. The liability of a member, associate or trainee accountant is limited to the payment to the Institute of any outstanding fees, subscriptions and contributions and settlement of any other debts to the Institute which he or she may have incurred.

### 19. Amendment of Constitution

The Constitution may from time to time be amended provided that such amendments are:

- 19.1. approved by not less than three-fourths of the members of the Institute who are present in person or by proxy at a General Meeting of which the requisite notice has been given with full particulars of the proposed amendments; and
- 19.2. submitted to the Commissioner for the South African Revenue Services; provided that should the entrenched rights be affected by any proposed amendment, before the proposed amendment is placed before the general body of members of the Institute, such amendment shall be approved by not less than three-fourths of the members residing within the relevant province who are present in person or by proxy at a General Meeting of such members. Such General Meeting shall be held in accordance with the provisions of paragraphs 14.3 to 14.6 above, *mutatis mutandis*.

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### **20. Amalgamation**

With the approval of not less than three-fourths of members who are present in person or by proxy at a General Meeting duly convened and constituted for that purpose, the Institute may amalgamate or incorporate or join with other bodies of accountants in the Republic or elsewhere, whether or not incorporated by statute, provided these other bodies have objects similar to those of the Institute. For this purpose the Institute may take over and assume the assets and liabilities of the aforesaid bodies of accountants including books, records, documents and coats of arms or may make over part or all of the assets and liabilities of the Institute.

### **21. Winding up**

- 21.1. The Institute may be wound up in terms of the provisions of the By-laws by a resolution of not less than three-fourths of the members who are present in person or by proxy at a General Meeting duly convened and constituted for that purpose.
- 21.2. Members, associates or trainee accountants shall not have any claim in respect of any surplus there may be on winding up of the Institute, which shall be dealt with in terms of the By-laws.
- 21.3. Upon its being wound up any funds or assets of the Institute remaining after the payment of the debts and expenses of the Institute and the costs of winding up shall be distributed to or amongst such kindred or related associations, bodies or institutions with objects similar to those of the Institute, including educational institutions (but excluding individual members, associates or trainee accountants or firms or companies controlled by members, associates or trainee accountants) as the Board shall decide, provided that such associations, bodies or institutions are themselves exempt from liability to pay income tax as a result of being so approved by the Commissioner for the South African Revenue Service.