Nepal Chartered Accountants Act, 2053 (1997)

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Amendments:


Act No. 22 of the year 2053 (1997)

An Act Made To Establish and Provide for the Institute of Chartered Accountants of Nepal

Preamble: Whereas, it is expedient to established an institute of accountants of Nepal in order to enhance social recognition and faith in the accountancy by raising public awareness towards the importance of the accountancy as well as towards economic and social responsibility of the accountants to have economic development of the country and to have development, protection and promotion of the accountancy by making the accountants understand their responsibility towards the importance of the accountancy and the accounts;

Now, therefore, be it enacted by parliament in the Twenty Fifth year of the reign of His Majesty the King Birendra Bir Bikram Shah Dev.

Chapter-1

Preliminary

1. Short Title and Commencement: (1) This Act may be called as the "Nepal Chartered Accountants Act, 2053 (1997)".
(2) Sections 29 and 49 of this Act shall commence from such date as Government of Nepal may by a Notification in the Nepal Gazette, appoint and the other Sections shall commence immediately.

2. **Definitions**: In this Act, unless the subject or the context otherwise requires,-

(a) “Institute” means the Institute of Chartered Accountants of Nepal established pursuant to Section 3.

(b) “Council” means the Council constituted pursuant to Section 7.

(c) “Chairperson” means the chairperson of the Council.

(d) “Vice-Chairperson” means the vice-chairperson of the Council.

(e) “Councilor” means a member of the Council and this expression also includes the chairperson and the vice-chairperson.

(f) “Secretary” means the secretary appointed pursuant to Section 38.

(g) “Member” means a person who has obtained membership of the Institute by getting his or her name registered in the Institute pursuant to this Act.

(h) “Chartered accountant” means a person who has obtained the membership of the Institute pursuant to Sub-section (2) of Section 16.

(h1) “Fellow Chartered Accountant (F.C.A.)” means a member who has obtained the membership of the Institute pursuant to Section 17.

(i) “Registered Auditor” means a person having obtained the certificate of auditor under the Auditors Act, 2031 (1975).

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Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).

Inserted by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
(j) “Professional Certificate” means the certificate issued under Section 28 to practice accountancy in a professional manner.

(j1) “Auditing” means auditing to be carried out in accordance with the laws in force, after having obtained the professional certificate.

(j2) “Foreign Accountancy Practitioner Institute” means a chartered accountants institute of national level or accountancy practitioner institute equivalent thereto which is authorized to regulate public accountancy in a foreign country.

(j3) “Accounting Standards Board” means the accounting board formed pursuant to Section 15A.

(j4) “Standards on Auditing Board” means the standards on auditing board formed pursuant to Section 15D.

(j5) “Accounting Standards” means those accounting standards and guidelines and interpretations pertaining thereto as provided or recommended by the Accounting Standards Board in order to systematize and regulate the accountancy and financial reports.

(j6) “Standards on Auditing” means those standards on auditing and guidelines and interpretations pertaining thereto as provided or recommended by the Standards on Auditing Board in order to systematize and regulate the accountancy and auditing.

(k) “Prescribed” or “as prescribed” means prescribed or as prescribed in the Rules or Bye-laws framed under this Act.

* Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
* Inserted by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
Chapter-2

Establishment and Provision of the Institute

3. Establishment of Institute: (1) An institute by the name of the Institute of Chartered Accountants of Nepal is, hereby, established for the development of the accountancy.

   (2) The Institute may be called as “the Institute of Chartered Accountants of Nepal” in the English language.

   (3) The Head Office of the Institute shall be located in Kathmandu Valley, and the Institute may, as per necessity, set up its training centre, branch and sub-branch office in any place within Nepal.

4. Institute to be autonomous body: (1) The Institute shall be an autonomous and body corporate with perpetual succession.

   (2) The Institute shall have a separate seal of its own for its business and acts.

   (3) The Institute may, like an individual, acquire, own, sell, dispose of, or otherwise deal with, any movable and immovable property.

   (4) The Institute may, like an individual, sue and also be sued by its own name.

5. Objectives of Institute: The objectives of the Institute shall be as follows:

   (a) To play the role of a regulatory body to encourage the members to carry on accountancy within the scope of the code of conduct in order to consolidate and carry on developing the accountancy for the economic development of the nation.

   (b) To enhance social recognition and faith in the accountancy by raising awareness of the general public towards the importance of
accountancy and the economic and social responsibility of the accountants.

(c) To develop, protect and promote the accountancy by making the accountants understand their responsibility towards the importance of the accountancy and accounts.

(d) To develop the registration, qualifications of the accountants and the examination system in consonance with international norms and practice so as to make the accountancy respectable and reliable.

6. **No one else allowed to use name, emblem and power of Institute:** Upon the establishment of the Institute pursuant to this Act, no person shall be allowed to use the name or emblem resembling the name of the Institute or to provide the certificate of any type to be granted by the Institute to any one or to give directions of any type to any one on behalf of the Institute as well as to exercise any of such powers as may be exercisable by the Institute.

Chapter-3

Constitution and Functions, Duties and Powers of Council

7. **Constitution of Council:** (1) A Council shall be constituted for carrying out, or causing to be carried out, the programmes necessary for the attainment of the objectives of the Institute in a well planned manner and for monitoring and managing all the acts and actions of the Institute.

   (2) Except as otherwise provided elsewhere in this Act, the Council shall exercise all the powers and perform all the duties conferred on and assigned to the Institute, subject to this Act and the Rules and Bye-laws framed under this Act.

   (3) The Council shall consist of the following councilors:

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*Deleted by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).*
(a) Ten persons elected by the chartered accountant members from amongst themselves

(b) Four persons elected by the registered auditors from amongst themselves

(c) Three persons nominated by Government of Nepal upon the recommendation of the Auditor General, from amongst the persons having experience on accountancy

(4) The councilors shall elect the chairperson and the vice-chairperson from the first class chartered accountants out of the councilors referred to in Clause (a) of Sub-section (3).

(5) The term of office of the chairperson and the vice-chairperson shall be One year; and upon the expiry of their term of office, they may be elected for One more term.

(6) The term of office of the councilors shall be Three years; and upon the expiry of their term of office, they may be re-elected or re-nominated.

(7) The procedures relating to the election of councilors shall be as prescribed.

(8) The functions, duties and powers of the chairperson and the vice-chairperson shall be as prescribed.

8. **Circumstance where councilor ceases to hold office:** (1) A councilor shall cease to hold his or her office in any of the following circumstances:

Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
(a) If the councilor ceases to be a member of the Institute, Provided that, this provision shall not be applicable to the nominated councilor;

(b) If resignation tendered by the councilor from his or her office is accepted by the Council;

(c) If the councilor absents himself or herself from three consecutive meetings of the Council without giving a notice with reason to the Council;

(d) If the term of office of the councilor expires;

(e) If it is proved that the councilor has not abided by the conduct referred to in Section 34;

(f) If the councilor dies.

(3) While tendering resignation pursuant to Clause (b) of Sub-section (1), the chairperson shall tender it to the vice-chairperson and the other councilors, to the chairperson.

9. **Vacancy and fulfillment:** (1) Where the remaining term of office of any councilor elected pursuant to Clause (a) or (b) of Sub-section (3) of Section 7, whose office has become vacant due to his or her death or resignation or being disqualified to be a member of the Institute pursuant to the provisions of this Act, is less than One year, the Council shall designate as the councilor any member of the Institute as referred to in the said respective Clauses of Sub-section (3) of the said Section, and where such term is more than One year, the vacancy shall be filled by way of election.

(2) Any office falling vacant owing to the death of any councilor or resignation tendered by a councilor nominated pursuant to Clause (c) of Sub-section (3) of Section 7 shall be fulfilled by nominating a person as the councilor by following the procedures set forth in the said Clause, for the remaining term of office of such a councilor.
9. Meeting and decision of Council: (1) The Executive Director shall convene the meeting of the Council on such date and at such time and place as may be appointed by the chairperson.

(2) The Council shall generally meet Six times a year, and the interval between the Two consecutive meetings shall not be more than Three months.

(3) The chairperson shall chair the meeting of the Council, and in his or her absence, the vice-chairperson and in the absence of both the chairperson and the vice-chairperson; a councilor selected by the councilors from amongst themselves shall chair the meeting of the Council.

(4) If Twenty Five percent councilors of the total number of councilors make an application in writing to the chairperson that it is necessary to convene a meeting of the Council, the chairperson shall direct the Executive Director to convene a meeting of the Council within Fifteen days of such application.

(5) The presence of Fifty percent councilors of the total number of councilors shall be deemed to constitute a quorum for a meeting of the Council.

(6) The majority of opinion at a meeting of the Council shall be deemed to be a decision of the Council, and in the case of a tie, the person chairing the meeting shall exercise the casting vote.

(7) The decisions of the Council shall be authenticated by the Executive Director.

(8) The Council may, if it deems so necessary, invite any officer of Government of Nepal, any national or foreign expert, advisor or highly reputed person related with the accountancy to attend a meeting of the Council as an observer.
(9) Other Rules of procedures relating to the meeting of the Council shall be as determined by the Council itself.

11. **Functions, duties and powers of Council:**

   The functions, duties and powers of the Council shall be as follows:

   (a) To conduct examinations of candidates who join the accountancy.

   (b) To determine the procedures in relation to the membership of the Institute and registration of name as a member having obtained professional certificate.

   (c) To provide a person who holds the required qualification with an appropriate type of membership of the Council pursuant to Section 16.

   (d) To make coordinative development of the accountancy by having maximum utilization of the available means and resources.

   (e) To determine the qualification required for efficient human resources for the development of the accountancy.

   (f) To determine the type of curriculum and practical training required to pursue the qualification necessary for obtaining the membership.

   (g) To carry out different teaching and training programmes in cooperation with any university or other educational institute by the Institute itself.

   (h) To grant the professional certificate to the members for carrying on the accountancy.

   (i) To enhance the capacity of members by providing them with career development opportunities.

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* Deleted by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).

* Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
(j) To monitor as to whether or not the members or members having obtained the professional certificate have acted in conformity with the professional code of conduct prescribed for the members or members having obtained the professional certificate.

(k) In accordance with the recommendation of the disciplinary committee, to take necessary action against any members and members having obtained the professional certificate for their acts and actions in contravention of the professional code of conduct.

(l) To give theoretical or practical directions and guidelines in various aspects of the accountancy and auditing and carry out other functions as may be necessary for the professional development.

(m) To observe, or cause to be observed, accounting standards and standards on auditing provided or recommended by the Accounting Standards Board and Standards on Auditing Board, and to regulate whether such standards have been observed or not.

(n) To safeguard and promote the rights, interests and reputation of the members.

(o) To render advice and suggestion to Government of Nepal for the improvement of the various laws in force in the fields related with industry, commerce, finance, revenue and accountancy.

*Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).*
(p) To accept membership of the International Federation of Accountants, and regional and sub-regional federations, and establish contact with the accountants institutes of other countries.

(q) To recommend appropriate educational standards for accounting education in coordination with universities and other educational institutes.

(r) To conduct necessary trainings, symposia and seminars in order to enhance professional efficiency of the registered auditors.

(s) To conduct short term or long term trainings, symposia etc. for the benefit of accountancy human resources in service.

(t) To publish materials relating to the accountancy.

(u) To operate a library relating to the accountancy.

(v) To determine the procedures to be followed by the committees to be formed by the Council.

(w) To approve the budget of the Institute and manage the funds.

(x) To appoint such employees as may be required for the Institute and prescribe their remuneration and other facilities.

*(x1) To provide for on-going professional education for members.

*(x2) To develop educational system in order to prepare account technicians and do necessary acts pertaining thereto.

(y) To carry out such other functions as are prescribed by this Act or the Rules and Bye-laws framed under this Act.

(z) To carry out such other functions as may be necessary for the attainment of the objectives of this Act.

* Inserted by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
12. **Act and action not to be invalid:** In cases where any act and action has been done in pursuance of a decision of the Council when the seat of any councilor is vacant or a person who has not possessed such qualification as required to become a councilor has been elected or nominated as the councilor, such act and action already done shall not be invalid by that only reason.

13. **Committees of Council:** (1) The Council may form the following permanent committees which shall be responsible to it:
   (a) Disciplinary committee;
   (b) Examination committee;
   (c) Executive committee;
   (d) Professional guidance committee.

   (2) The Council may, as per necessity, form other committees for the attainment of the objectives of the Institute.

   (3) The functions, duties and powers of the committees formed pursuant to this Section shall be as prescribed.

   (4) In forming a committee under Sub-section (1), the committee shall not be so formed that the members of one committee, save the chairperson and the vice-chairperson, are also included in another committee.

14. **Disciplinary committee:** (1) There shall be a disciplinary committee as follows to inquire into a complaint and recommend the Council for necessary action in cases where any one lodges a complaint in the Institute that any member has done any act or action contrary to this Act or the Rules or code of conduct framed under this Act, or where the Institute receives such information:

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*Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059(2003).*
(a) A fellow chartered accountant designated by the Council from amongst the councilors referred to in Clause (a) of Sub-section (3) of Section 7 -Chairperson

(b) Three persons nominated by the Council from amongst the councilors -Member

(c) Two persons nominated by the Council from amongst the members -Member

(d) One person nominated by the Auditor General -Member

(2) Notwithstanding anything contained in Sub-section (1), the chairperson or any member of the disciplinary committee shall not be entitled to take part and cast vote at a meeting which is to be held to inquire into a complaint made that the chairperson or the member has done any act and action contrary to this Act or the Rules, bye-laws or codes of conduct framed under this Act and to make recommendation to the Council for necessary action.

(3) The procedures relating to the meeting of disciplinary committee and the term of office of the chairperson and members of the disciplinary committee shall be as prescribed.

(4) The disciplinary committee shall have the same powers as are vested in the court in respect of issuing an order to the concerned person, receiving evidence and examining witnesses.

(5) The disciplinary committee shall make recommendation, along with its opinion and finding, to the Council for taking necessary action against a member found guilty from its investigation; and the Council may,
in view of such recommendation, impose any of the following penalties on the concerned member, according to the gravity of the offence:

(a) Reprimanding;
(b) Removing from the membership for a period not exceeding Five years;
(c) Prohibiting from carrying on the accountancy for any specific period;
(d) Canceling the professional certificate or membership.

(6) Where the disciplinary committee, upon investigating the matter that any councilor has done any act or action contrary to this Act or Rules, bye-laws or code of conduct framed under this Act, has made recommendation, along with its opinion and findings, to the Council for instituting necessary action against the councilor, such councilor shall not be entitled to take part and cast vote at the meeting of the Council while taking decision by the Council on such recommendation.

(7) Before imposing penalty as referred to in Sub-section (5), the Council shall provide a reasonable opportunity to the concerned member to defend himself/herself.

(8) The concerned member may, if he or she is not satisfied with the decision referred to in Sub-section (5), make an appeal to the Court of Nepal.

15. Executive committee: (1) There shall be formed an executive committee comprising of the following members in order to carry out the day-to-day business of the Institute, under the direction of the Council:

(a) Chairperson
(b) Vice-chairperson

Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
(c) Two persons nominated by the Council from amongst the councilors -Member

(d) Executive Director -Member-secretary

(2) The functions, duties and powers of the executive committee and the procedures of its meetings shall be as prescribed.

Chapter-3A*

Accounting Standards Board

15A. Formation of Accounting Standards Board: (1) The Government of Nepal shall form an Accounting Standards Board in order to systematize and regulate the accountancy and financial reports.

(2) The Accounting Standards Board shall consist of the following members:

(a) One person nominated by Government of Nepal from amongst the fellow chartered accountants -Chairperson

(b) Representative, Ministry of Finance -Member

(c) Representative, Office of Auditor General -Member

(d) Representative, Office of Financial Comptroller General -Member

(e) Registrar, Office of Company Registrar -Member

* Inserted by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
(f) Director General, Department of Tax -Member

g) Chairperson, Securities Board -Member

(h) Five persons nominated by Government of Nepal from amongst the chartered accountants, upon the recommendation of the Council -Member

(i) One person nominated by Government of Nepal from amongst the registered auditors, upon the recommendation of the Council -Member

(3) The Accounting Standards Board may, if it deems so necessary, invite any concerned expert to attend its meeting as an observer.

(4) The term of office of the members mentioned in Clauses (a), (h) and (i) of Sub-section (2) shall be Three years, and they may, on the expiry of their term, be re-appointed or nominated.

(5) The Rules of procedures relating to the meeting of the Accounting Standards Board shall be as determined by the Board itself.

(6) The secretariat of the Accounting Standards Board shall be situated in the Head Office of the Institute.

15B. **Functions, duties and powers of Accounting Standards Board:** The functions, duties and powers of the Accounting Standards Board shall be as follows:

(a) To provide for accounting standards, also based on international accounting standards, in order to systematize and regulate the accountancy and financial reports;
(b) To prepare appropriate modalities in order to develop accounting standards and publish materials relating to accounting standards;
(c) To amend, improve and revise accounting standards;
(d) To interpret accounting standards;
(e) To perform other acts relating to accounting standards.

15C. **Circumstance where member ceases to hold office:** (1) A member of the Accounting Standards Board shall cease to hold his or her office in any of the following circumstances:

   (a) If the member tenders resignation;
   (b) If the member absents himself or herself from three consecutive meetings of the Accounting Standards Board without giving a notice;
   (c) If the member is convicted by a court of a criminal offence involving moral turpitude and punished for such offence;
   (d) If the member becomes insane;
   (e) If the member dies;
   (f) If, in the case of a member of the Institute, the name of the member is removed from the membership register pursuant to Section 22.

**Chapter-3B**

**Standards on Auditing Board**

15D. **Formation of Standards on Auditing Board:** (1) Government of Nepal shall form a Standard on Auditing Board in order to systematize and regulate the accountancy and auditing.

   (2) The Standards on Auditing Board shall consist of the following members:

   (a) One person nominated by Government of Nepal from amongst the fellow -Chairperson
chartered accountants

(b) Representative, Ministry of Finance -Member

(c) Representative, Office of Auditor General -Member

(d) Three persons nominated by Government of Nepal from amongst the chartered accountants, upon the recommendation of the Council -Member

(e) One person nominated by Government of Nepal from amongst the registered auditors, upon the recommendation of the Council -Member

(3) The Standards on Auditing Board may, if it deems so necessary, invite any concerned expert to attend its meeting as an observer.

(4) The term of office of the members mentioned in Clauses (a), (d) and (e) of Sub-section (2) shall be Three years, and they may, on the expiry of their term, be re-appointed or nominated.

(5) The Rules of procedures relating to the meeting of the Standards on Auditing Board shall be as determined by the Board itself.

(6) The secretariat of the Standards on Auditing Board shall be situated in the Head Office of the Institute.

15E. **Functions, duties and powers of Standards on Auditing Board:** The functions, duties and powers of the Standards on Auditing Board shall be as follows:
(a) To provide for standards on auditing, also based on international standards on auditing, in order to systematize and regulate the accountancy and financial reports;
(b) To prepare appropriate modalities in order to develop standards on auditing and publish materials relating to standards on auditing;
(c) To amend, improve and revise standards on auditing;
(d) To interpret standards on auditing;
(e) To perform other acts relating to standards on auditing.

15F. **Circumstance where member ceases to hold office:** (1) A member of the Standards on Auditing Board shall cease to hold his or her office in any of the following circumstances:

(a) If the member tenders resignation;
(b) If the member absents himself or herself from three consecutive meetings of the Standards on Auditing Board without giving a notice;
(c) If the member is convicted by a court of a criminal offence involving moral turpitude and punished for such offence;
(d) If the member becomes insane;
(e) If the member dies;
(f) If, in the case of a member of the Institute, the name of the member is removed from the membership register pursuant to Section 22.

**Chapter-4**

**Membership of Institute**

16. **Membership of Institute:** (1) The membership of the Institute shall be divided into the following classes:

(a) Chartered accountant; and
(b) Registered auditors.

*Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059(2003).*
(2) The membership of chartered accountant shall, subject to Section 18, be given to a person having possessed the following qualification:

(a) One who has a certificate of registered auditor of class ‘A’ pursuant to the Auditors Act, 2031 (1975) or a certificate of registered auditor of class ‘B’ based on the ground of having passed the chartered accountancy examination, at the time of the commencement of this Act.

(b) One who has passed the chartered accountancy examination or equivalent thereof from the Institute or any foreign other institute of chartered accountants recognized by the Institute and obtained a professional training relating to the accountancy.

(3) The membership of registered auditor shall, subject to Section 16, be granted to a person who has obtained the certificate of auditor of class ‘B’, ‘C’, or ‘D’ pursuant to the Auditors Act, 2031 (1975) at the time of the commencement of this Act.

17. Fellow chartered accountant (FCA): The membership of fellow chartered accountant may be granted to the following members in such manner as prescribed:

(a) Those who have obtained the certificate of registered auditor of class ‘A’ pursuant to the Auditors Act, 2031 (1975), at the time of the commencement of this Act;

(b) The chartered accountant members who have been engaged in the accountancy for at least Five years.

Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
18. **Disqualification for membership registration:** The following person shall not be deemed to be qualified to be enrolled as a member of the Institute:

(a) One who has not the qualification referred to in Sub-sections (2) and (3) of Section 16;
(b) One who has not attained the age of Twenty One years;
(c) ..................
(d) One who has become insolvent being unable to repay loan to creditors;
(e) One who has been convicted by the court of a criminal offence involving moral turpitude;
(f) One who is of unsound mind.

19. **Name to be registered:** (1) A person who intends to become a member of the Institute and has possessed the qualification referred to in this Act shall submit an application setting out the details as prescribed to the Institute in the format as prescribed.

(2) The fees as prescribed shall be paid to have the name registered for the purpose of obtaining membership of the Institute pursuant to Sub-section (1).

(3) Where a person having possessed the qualification to obtain the membership pursuant to Sub-section (3) of Section 16 desires to have his or her name registered in the membership of the Institute, he or she shall submit an application to the Institute no later than Six months after the date of the commencement of Sections 29 and 49 of this Act, by Government of Nepal upon notification in the Nepal Gazette. A person who fails to submit
an application for the membership within that period shall not be entitled to obtain the membership as referred to in this Act.

20. **Certificate of membership registration:** (1) If a person making application under Sub-section (1) of Section 19 is found to be eligible to be enrolled as a member of the Institute, the Council shall register the name of such person in the membership of the Institute and grant the certificate of membership registration with setting out the class of member, in the format as prescribed.

(2) The Institute shall maintain separate membership registration book as prescribed as per the class of membership.

(3) Other provisions relating to the registration of membership of the Institute shall be as prescribed.

21. **To notify in the event of ceasing to carry on profession or changing address:** Where a member ceases to practice his or her profession or change his or her address, he or she shall notify the Institute thereof within Thirty-five days from the date on which he or she ceases to practice the profession or changes the address.

22. **Provision on removal and re-registration of name:** (1) The Council may issue an order to remove the name of any member from the membership register, in any of the following circumstances:

(a) If the member is convicted by a court of a criminal offence involving moral turpitude and punished for such offence;

(b) If the member fails to pay the fees required to be paid to the Institute;

(c) If the member fails to abide by the professional conduct referred to in this Act and the Rules framed under this Act;
(d) If the member becomes insane; or
(e) If the member dies.

(2) If a person whose name has been removed from membership pursuant to Sub-section (1) makes an application, accompanied by a reasonable ground, to again obtain membership, the Council may decide to grant membership, by re-registering his or her name, upon receipt of the fees as prescribed.

23. **Certificate to be cancelled:** Where an information is received that the name of any person has happened to be registered in the membership of the Institute by fraud or mistake and such matter is found to be true upon holding an inquiry into the matter, the Council may cancel the membership registration certificate of such person, and also the accountancy certificate, if any, granted to such person; and a notice thereof shall be published in a newspaper.

**Chapter-5**

**Provisions Relating to Examination**

24. **To provide for curricula and course-books:** (1) The Council may determine such educational standards, curricula and course-books as required to become an accountancy practitioner or accountancy technician† and hold examinations.

(2) If, in providing for the examinations as referred to in Sub-section (1), the Council considers necessary, it may also seek advice and assistance of any university in Nepal and accountancy institute or organization in any other country or any expert.

(3) The Council may itself or with the assistance of any native or foreign university or other institute hold the examinations as referred to in Sub-section (1).

† Inserted by the Nepal Chartered Accountants (First Amendment) Act, 2059(2003).
(4) The qualification required to attend an examination relating to accountancy practitioner or accountancy technician shall be as prescribed.

(5) The other provisions relating to the holding of examinations shall be as prescribed.

(6) The provisions relating to teaching and study to be conducted by the Institute pursuant to this Chapter shall be as prescribed.

25. **To issue certificate:** The Council shall give certificate, as prescribed, to the person who has passed the examination given pursuant to this Chapter.

**Chapter-6**

**Recognition of Educational Qualification**

26. **Council to give recognition:**

   (1) A person who has passed the chartered accountancy or examination equivalent thereto and taken training from any foreign accountancy practitioner institute shall make an application, as prescribed, to the Institute for the recognition of such examination and training; and if an application is so made for recognition, the Council shall make decision to or not to recognize such examination and training.

   (2) If the Council holds that any term has to be fulfilled by the applicant prior to recognizing the examination and training referred to in Sub-section (1), such term shall also be specified.

   (3) If any term to be fulfilled is so specified under Sub-section (2), an application may be made for the membership of the Institute under this Act only after the fulfillment of such term.

27. **Recognition to foreign accountancy practitioner institute:**

   (1) The Council may, with the prior approval of Government of Nepal, recognize any foreign accountancy practitioner institutes and the examinations and trainings held and provided by such institutes.

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*Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).*
(2) The Council shall maintain a list of institutes recognized pursuant to Sub-section (1); and it shall not be necessary to fulfill the procedures set forth in Section 26 in relation to any examinations held and trainings provided by such institutes.

Chapter-7

⇒ Professional Certificate

28. Professional certificate: (1) A member who intends to provide auditing service shall make an application in the format as prescribed to the Institute to obtain the professional certificate.

(2) After the member making application pursuant to Sub-section (1) has fulfilled the terms as prescribed, the Council shall grant the profession certificate in the format as prescribed to such member.

(3) The Council may determine the terms for the members who have obtained the professional certificate and require them to observe such terms, and make and enforce the code of conduct for such members.

28A. Registration of accountancy practitioner institute: (1) If a member who has obtained the professional certificate intends to operate auditing service by the name of an accountancy practitioner institute, the member shall make an application in the format as prescribed to the Institute for the registration of such institute.

(2) The procedures relating to the registration of the accountancy practitioner institute shall be as prescribed.

(3) After the procedures referred to in Sub-section (2) have been fulfilled, the Council shall grant the certificate of registration of accountancy practitioner institute in the format as prescribed.

⇒ Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
⇒ Inserted by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).
29. **Prohibition on providing auditing service**: No person shall be entitled to provide the auditing service without obtaining the professional certificate.

Provided that, this Section shall not be deemed to prevent the making of separate provisions and, carrying out regulation, by Government of Nepal in relation to auditing, other than the auditing of any company or professional organization established under the Companies Act.

30. **Special provision relating to registered auditor**: Notwithstanding anything contained elsewhere in this Act, the Council shall, subject to this Act and the Rules and Bye-laws framed under this Act, classify, as prescribed, the registered auditors existing at the time of the commencement of this Section and grant the professional certificate to them to provide the auditing service pursuant to this Act.

Provided that, such registered auditors shall not be deprived of such facilities as they have been obtaining under the Auditors Act, 2031 (1975).

30A. **Ceiling of auditing**: The ceiling of auditing which the members who have been classified under Section 30 and have obtained the professional certificate can carry out shall be as prescribed by the Council, with the approval of Government of Nepal.

30B. **Upgrading of class of professional certificate**: The Council may, in pursuance of the procedures as prescribed, upgrade the class of the professional certificate by a registered auditor pursuant to Section 30.

31. **Matters to be set out in report**: A member having obtained the professional certificate shall set out the matters as prescribed in the report of audit carried out by him or her.

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*Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).*

*Inserted by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).*
32. **Publication of name-list:** The Institute shall, no later than Three months after the expiry of each financial year, publish a name-list of members and accountancy practitioners.

33. **Fees to be paid:** The members, members having obtained the professional certificate and accountancy practitioner institutes registered pursuant to Section 28A, shall pay the fees as prescribed to the Institute.

**Chapter-8**

**Conduct**

34. **Conduct to be observed:** (1) The member and member having obtained professional certificate shall fully observe this Act or the Rules framed under this Act.

(2) No member shall carry out auditing in collaboration by way of partnership or otherwise with any person who has not obtained the accountancy practitioner certificate of his or her class.

(3) No member shall make any kind of partnership in the audit fees or remuneration received or earned by, or sharing in the profits made by, that member with any person other than a person who has obtained member of the Institute nor shall he or she give commission, brokerage etc. from the professional fees which he or she has received or earned to any person including a person who has obtained membership.

(4) No member shall, showing fear, terror, swank or influence, whether directly or indirectly, any person in order to get the business of accountancy practice.

(5) No member shall supply or disclose any information and explanation which he or she has got in the course of his or her business to any person other than the person who employs him or her and the person to whom such information was given.

*Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).*
whom he or she is compelled by the laws in force to supply or disclose such information and explanation.

(6) No member having obtained the professional certificate shall certify any financial returns or make any kind of report without making examination and verification by himself or herself or his or her partner or employee.

(7) While making any kind of report or certifying any financial returns of an organization in which he or she or his or her partner has interest, a member having obtained the professional certificate shall also clearly set down that he or she or his or her partner has such interest.

Provided that, where such member is merely a shareholder of a company, he or she shall not be deemed to have an interest.

(8) A member having obtained the professional certificate shall clearly show any material details known to him or her in order to actually reflect any financial statements certified by him or her or shall also clearly mention the false details or explanations, if any, inherent in the financial statements certified by him or her, to the best of his or her information.

(9) A member having obtained the professional certificate shall carefully perform the duties required to be performed in the course of practicing his or her profession and shall draw attention of all the concerned towards any material things which are not or have not been done in consonance with the laws in force and the recognized principles on auditing.

(10) No member having obtained the professional certificate shall base the remuneration to which he or she is entitled for his or her work on a percentage of profits or on any other uncertain result.
(11) No member shall knowingly or recklessly mention any false matter in any notice, explanation or statement required to be given to any office or department of Government of Nepal or any organization.

(12) No member shall carry out auditing of an organization for which he or she has served, prior to the expiry of at least three years of his or her retirement from the service of that organization.

(13) No member having obtained the professional certificate shall accept his or her appointment as an auditor of any organization without ascertaining that the procedures required by the laws in force for appointment as an auditor have been fulfilled.

(14) A member shall obtain ample related information prior to expressing his or her opinion about auditing.

(15) Other matters relating to conduct to be observed by the member and the member having obtained the professional certificate shall be as prescribed.

35. **Complaint to be made:** (1) Where a member having obtained the professional certificate does not observe the conduct set forth in this Act or the Rules framed under this Act or such member violates this Act or the Rules framed under this Act, the concerned person may make a complaint to the Institute against such member.

   (2) Where there is found a fact to believe that a member having obtained the professional certificate has not observed the conduct required to be observed, the secretary shall submit a motion, accompanied by the available fact, to the Council for taking action against such member.

**Chapter-9**

**Fund**

36. **Fund of Institute:** (1) The Institute shall have a separate fund of its own; and the fund shall consist of the following amounts:
(a) Grants received from Government of Nepal;

(b) Amounts received from any international or foreign organizations or institutions;

Provided that, prior approval of Government of Nepal shall be obtained prior to obtaining such amounts.

(c) Amounts received while registering the names of members of the Institute or issuing the professional certificate;

(d) Amounts earned from the movable and immovable properties of the Institute;

(e) Amounts received by the Institute from any other sources.

(2) All amounts to be received by the Institute shall be credited to an account to be opened with any commercial bank within Nepal.

(3) All expenditures to be incurred by the Institute shall be chargeable on the fund as referred to in Sub-section (1).

Provided that, any amount received by the Institute for any specific purpose shall be spent for that purpose only.

(4) The secretary shall make expenses chargeable on the fund subject to the control and supervision of the Council.

(5) The account of the Institute shall be operated as prescribed by the Council.
37. **Accounts and audit of fund of Institute**: (1) The accounts of the incomes and expenditures of the Institute shall be maintained in the format as prescribed by the Council.

   (2) The accounts of the Institute shall be audited by a member having obtained the professional certificate.

   (3) Government of Nepal may, if it so wishes, inspect, or cause to be inspected, any documents relating to the accounts of the Institute at any time.

**Chapter-10**

**Provisions Relating to Employees**

38. **Secretary**: (1) The Council shall appoint any person who has experience in accountancy to the post of secretary in order to carry out administrative activities of the Institute.

   (2) The term of office of the secretary shall be Four years, and the Council may, if it so wishes, re-appoint him or her.

   (3) The Council may designate any officer employee of the Institute to perform the functions of the secretary during the absence of the latter.

39. **Functions, duties and powers of secretary**: (1) The functions, duties and powers of the secretary shall be as follows:

   (a) To be responsible to the Council and act as the chief of the Institute;

   (b) To perform the day-to-day administrative business of the Institute;

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*Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059(2003).*
(c) To prepare the annual budget of the Institute and submit it to the Council;

(d) To maintain, or cause to be maintained, the accounts of the Institute;

(e) To take custody of, and update, or cause to be updated, the register of members and members having obtained the professional certificate.

(2) The secretary shall act under supervision and control of the Council.

(3) The functions, duties and powers, other than those set forth in this Act, shall be as prescribed.

40. **Other employees of Institute:** (1) The Council shall appoint the employees required for the Institute, who shall be under direct supervision and control of the Director General.

(2) The remuneration, terms and conditions of service and facilities of the employees of the Institute shall be as prescribed.

**Chapter-11
Punishment**

41. **Punishment:** (1) A person who carries out auditing without obtaining the professional certificate pursuant to this Act shall be punished with a fine not exceeding Two Thousand Rupees or with imprisonment for a term not exceeding Three months or with both.

(2) Any person who uses the name, emblem of the Institute or any kind of power exercisable by the Institute in violation of Section 6 shall be punished with a fine not exceeding One Thousand Rupees for the first
instance; and where such person is held to have committed such act even thereafter, such person shall be punished with a fine not exceeding Five Thousand Rupees or with imprisonment for a term not exceeding Six months or with both, for each instance.

Provided that, this Sub-section shall not apply to any statutory body corporate or university or organizations associated with such body.

(3) Where any person who has not obtained the professional certificate is proved to have signed any document in capacity of a member having obtained the professional certificate shall be punished with a fine not exceeding Two Thousand Rupees or with imprisonment for a term not exceeding Three months or with both.

(4) A member who does any act in violation of this Act or the Rules framed under this Act, except any act set forth in this Section, shall be suspended for a period not exceeding Five years and be punished with a fine not exceeding Two Thousand Rupees or with imprisonment for a term not exceeding Three months or with both.

(5) Where it is held that any person has, without any reasonable cause to make a complaint, made a complaint against any member with intent to harass such member, such person shall be punished with a fine not exceeding One Thousand Rupees.

(6) Where such complaints are made to the Council against any member pursuant to Section 35, the cases other than those to be dealt with under Section 14 shall be instituted in the concerned Court of Appeal.

Chapter-12

Miscellaneous

42. **Formation of ad hoc council:** (1) Notwithstanding anything contained elsewhere in this Act, pending the formation of the Council pursuant to Section 7, there shall be formed an *ad hoc* council consisting of the
following members in order to perform the functions to be performed by the Council under this Act in relation to issue the membership registration certificate by registering the name of a person who has the qualification to become a member of the Institute and to hold election to the councilors representing the members to the Council:

(a) Chairperson, Nepal Chartered Accountants Association -Chairperson

(b) Three persons nominated by Government of Nepal from amongst the auditors who have been registered as auditors under the Auditors Act, 2031 (1975) -Member

(c) Gazetted first class officer designated by Government of Nepal -Member secretary

(2) The *ad hoc* Council formed pursuant to Sub-section (1) shall complete election to the councilors representing the members to the Council no later than Six months after the date of the commencement of this Act.

(3) The *ad hoc* Council formed pursuant to Sub-section (1) shall determine the rules of procedures of its meetings and other modus operandi on its own.

(4) The *ad hoc* council formed pursuant to Sub-section (1) shall *ipso facto* be dissolved upon the formation of the Council pursuant to Section 7. After the *ad hoc* council is so dissolved, all acts and actions done and taken by that *ad hoc* Council on behalf of the Council shall be deemed to have been done and taken by the Council itself.
43. **Saving of act done in good faith:** Any member of the Council or a committee of the Institute or secretary or employee of the Institute shall not be personally liable for any act and action done and taken in good faith in accordance with this Act or the Rules framed under this Act.

44. **Delegation of power:** (1) The Council may delegate any or all of the powers conferred to it under this Act to any committee or the secretary, as per necessity.

   (2) Any officer may so delegate any of the powers conferred to that officer under this Act to any officer employee who is subordinate to that officer as such powers are to be exercised under his or her general supervision.

45. **Power to give direction:** (1) Government of Nepal may give necessary direction to the Council in relation to the activities of the Institute.

   (2) The Auditor General may give necessary direction to the Council in relation to the development, protection and promotion of the accountancy.

   (3) It shall be the duty of the Council to abide by the direction given by Government of Nepal or Auditor General pursuant to Sub-section (1) or (2).

46. **Liaison with Government of Nepal:** While making contact with Government of Nepal, the Institute shall do so through the Ministry of Finance.

47. **Power to frame Rules:** (1) The Council may frame necessary Rules in order implement the objectives of this Act.

   (2) Notwithstanding anything contained in Sub-section (1), where the Council is not formed pursuant to Section 7, the *ad hoc* council formed pursuant to Section 42 for the purpose of giving certificate of registration of
membership of the Institute and holding election to the councilors may frame necessary Rules.

(3) The Rules framed pursuant to Sub-sections (1) and (2) shall come into force only after being approved by Government of Nepal.

(4) The Rules framed by the ad hoc council pursuant to Sub-section (2) shall ipso facto be inoperative upon the coming into force of the Rules framed by the Council pursuant to Sub-section (1).

48. **Power to frame Bye-laws:** The Council may, subject to this Act and the Rules framed under this Act, frame Bye-laws for the operation of the day-to-day activities of the Institute.

49. **Repeal and saving:** (1) Auditors Act, 2031 (1975) is, hereby, repealed.

   (2) Where an auditor who is recognized by the Office of Auditor General under any law in force is recognized as a recognized auditor for the purpose of that law, such recognized auditor shall, after the commencement of this Act, be deemed to mean a member having the professional certificate under this Act.

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*Amended by the Nepal Chartered Accountants (First Amendment) Act, 2059 (2003).*