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Chairman

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Secretary

Dated this Day of 20.....

Certificate Number:.....

This Certificate is the Property of the Malawi Accountants Board

Made this 18th day of November, 2016

GOODALL E. GONDWE
*Minister of Finance, Economic
 Planning and Development*

(FILE NO: D53:06)

GOVERNMENT NOTICE No. 4

PUBLIC ACCOUNTANTS AND AUDITORS ACT

(CAP 53:06)

REGISTRATION OF ACCOUNTANTS REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

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IN EXERCISE of the powers conferred by Section 57 of the Public Accountants and Auditors Act, I, GOODALL EDWARD GONDWE, Minister of Finance, Economic Planning and Development, on recommendation of the Malawi Accountants Board, make the following Regulations—

PART I—PRELIMINARY

- Citation
1. These Regulations may be cited as the Registration of Accountants Regulations, 2017.

2. In these Regulations unless the context otherwise requires— Interpretation
 “*Institute*” means Institute of Chartered Accountants in Malawi; and
 “*Users*” means any person who has been recognised as the user of services rendered by an accountancy or advisory service provider.
- 3.—(1) These regulations apply to the following situations— Application
 (a) registration of Diplomat Accountant; and
 (b) registration of Chartered Accountant.
- (2) The Board, in applying and implementing these Regulations, shall—
 (a) have exclusive control over the registration of all Accountants in Malawi;
 (b) suspend or remove from the register any accountant upon proof, sufficient to satisfy the Board that the registered accountant has—
 (i) violated or caused, aided or abetted, the violation of the Act, or any regulations made under the Act;
 (ii) failed to carry out a lawful order of the Board;
 (iii) obtained or attempted to obtain, or assisted another person to obtain, or attempted to obtain a registration by fraudulent means; and
 (c) review all operations of public practicing accountants to ascertain whether their operations conform to the requirements of these Regulations or the Act.
4. Objectives of these Regulations are — Objectives of regulations
 (a) to promote accountancy profession in Malawi and ensure that the provision of accountancy services meet the required professional standards;
 (b) to ensure fair and transparency in registration of Diplomat Accountants and Chartered Accountants;
 (c) to set out procedures, standards and compliance requirements for all registered members by setting out rights and obligations, to ensure that the professional quality of accountancy services is maintained;
 (d) to promote and enhance the responsibilities of the Board as a regulator of accountancy profession in Malawi;
 (e) to implement policy and establish a regulatory framework for the transformation and operation of accountancy profession;
 (g) to develop and transform accountancy profession to meet consumer demands and correspond to the changing economic environment and technology;
 (h) to adopt a user-oriented approach that focuses on ensuring that there is quality of accountancy and auditing services;
 (i) to safeguard the interests of users of accountancy and auditing services;
 (j) to provide a platform for translating international accounting standards into local reporting with the aim of ensuring that the Malawi accountancy profession is abreast with current developments; and

(k) to define procedures and rules of registration of accounting professionals that establish a level playing field for all accounting professionals, based on open, objective, non-discriminatory and transparent ground that support development of the accountancy profession.

PART II—CLASSIFICATION, ELIGIBILITY, REQUIREMENTS AND
REGISTRATION OF ACCOUNTANTS

Registration
Classification

5.—(1) The Board shall maintain a register of accountants that shall be categorized as follows—

- (a) Diplomate Accountants' register;
- (b) Chartered Accountants' register; or
- (c) Chartered Accountants' in Public practice register.

(2) The Board shall register each accountant in Malawi as an individual regardless of whether the person is working in a partnership, a company or is unemployed.

(3) A person shall apply for registration as a Diplomate Accountant or Chartered Accountant through the Institute and not directly to the Board.

(4) A person registered as a Diplomate Accountant or Chartered Accountant may apply for a transfer of a certificate from one category to another in accordance with procedures prescribed under these regulations.

(5) A person registering as a Diplomate Accountant or Chartered Accountant may seek clarification from the Institute where the person is in doubt of which category to register under before undertaking any accountancy services.

(6) The Board shall ensure that all registered accountants within the same certificate category are subjected to similar rules of operation.

(7) The Board shall ensure that there is clear specification of the scope of service to be provided under each of the registration categories and the appropriate set of basic rules in accordance with that category.

Eligibility

6.—(1) A person may apply for registration to the Board through the Institute, under any of the categories, provided that the person meets the registration requirements, as may be specified by the Board from time to time.

(2) The Board shall be entitled to set requirements for eligibility for each category of the register.

(3) A person shall not be qualified for registration as Diplomate Accountant or Chartered Accountant where

(a) the person has been adjudged or otherwise declared bankrupt under a law in force in any country and has not been rehabilitated or discharged, regardless of—

- (i) amount of debt involved and the duration for which the debt has been outstanding;

- (ii) whether there are differences in legislation between the country where the declaration is made and Malawi;
 - (iii) the applicant has or is in the process of appealing against the declaration; and
 - (iv) the past record of the applicant as a law abiding citizen;
- (b) the person has made an assignment to, or arrangement, or composition with his creditors under a law in force in any country and the assignment, arrangement or composition has not been rescinded or set aside; or
- (c) within the period of five years immediately preceding the person's application for registration—
- (i) the person has been convicted of a criminal offense within or outside the jurisdiction of Malawi punishable by a minimum term of six months' imprisonment without the option of a fine, which, in the opinion of the Board, is of a disgraceful or dishonorable nature to the accounting profession;
 - (ii) the person behaved in a manner which, in the opinion of the Board after consultation with the Institute, contravenes the code of ethics of the accounting profession; or
 - (iii) the person has been medically certified, within or outside the jurisdiction of Malawi, as mentally disordered or of unsound mind and the certification remains in force.

7.—(1) All applications for registration shall be made through the Institute, and the Institute, upon being satisfied that the applicant has met the necessary requirements, shall forward the application to the Board, with its recommendations. Registration requirements

(2) A person shall submit the following information required for registration—

(a) for Diplomate Accountants—

- (i) a filled out application form as shall be designed by the Institute from time to time;
- (ii) evidence of completion of training, of at least 250 days, through a registered training contract;
- (iii) recommendation from two referees who shall be accountants registered by the Board;
- (iv) a letter of recommendation from the employer;
- (v) a copy of a certificate, diploma or degree, certified by a commissioner of oaths or a member of the Institute issued by an Institution accredited by the Board;
- (vi) a recommendation from the Institute that the applicant has met registration requirements.

(b) For a Chartered Accountant—

- (i) a filled out application form as shall be designed by the Institute from time to time;

(ii) evidence of completion of training through a registered training contract of at least over 500 days of training or 250 days of training after obtaining diplomate status;

(iii) recommendation from two referees who shall be accountants registered by the Board;

(iv) a letter of recommendation from the employer;

(v) a certificate, diploma or degree issued by an Institution accredited by the Board, certified by a commissioner of oaths or a member of the Institute;

(vi) recommendation from the Institute that the applicant has met registration requirements.

(c) for a Chartered Accountant in Public Practice—

(i) a filled out application form as shall be designed by the Institute from time to time;

(ii) evidence that the applicant has acquired 3 years post qualification experience in the office of a practicing accountant in an audit firm in auditing services;

(iii) submit the application with a recommendation from a supervisor or mentor on the person's competency in auditing services; and

(iv) the applicant has passed Malawi Tax, Malawi Law and Audit Assurance paper set by the Board unless exempted from such.

Registration of
an accountant

8.—(1) Where the Board is satisfied that the Applicant is qualified for registration, the Board shall direct the secretary of the Board to register the applicant in the appropriate part of the register and notify the applicant in writing through the Institute and the Board shall—

(a) in the case of a Diplomate Accountant or Chartered Accountant issue a registration certificate; and

(b) in the case of a Chartered Accountant in public practice, issue practicing certificate.

(2) Where the Board rejects the application for registration the Board shall notify the person, in writing through the Institute, of its decision, specifying reasons for its rejection:

Provided that the Board shall give the applicant an opportunity to defend his application where the applicant wishes to do so.

(3) Where applicable, the Board shall advise the person on areas for improvement in order for the application to be re-considered and the person may re-apply for registration having incorporated the recommendations of the Board.

Terms and
conditions of
registered
members

9.—(1) The Board shall issue terms and conditions applicable to a registered member and shall notify the member upon issuance of a registration or practicing certificate.

(2) Where a registered member contravenes any of the Board's terms and conditions issued under sub regulation 1, the registered member shall face disciplinary action.

10.—(1) The institute shall ensure maintenance of the professional conduct of its members and shall have powers to undertake disciplinary proceedings against its members. Disciplinary proceedings

(2) A member who is not satisfied by the decision of the Institute on the disciplinary hearing may appeal to the Board against such a decision.

(3) The Board, however, may request the Institute to conduct a disciplinary hearing where a complaint was made directly to the Board.

(4) The Institute shall submit to the Board, a written report of the disciplinary hearing proceedings and its decision, within 14 days, after the Institute concludes the disciplinary hearing

(5) The member may, within 30 days, appeal to the Board against any disciplinary sanction which has been imposed by the Institute and the period shall run from the date when he has been informed of the decision and not necessarily from the date when the hearing was made.

(6) A member may request the Board for an extension of the period in which he may lodge his appeal and the Board may grant the request where, in the opinion of the board—

(a) there is evidence that communication of the decision of the Institute did not reach the member in time;

(b) there were technical difficulties for the member to lodge an appeal to the Board as the Board was closed during the stated period;

(c) the member had problems arising from sickness, bereavement or incarceration that it was not possible to lodge the appeal in time to the Board; or

(d) there is no reason which the Board may consider reasonable not to allow the extension of the appeal period.

(7) Where the member has not appealed within the specified 30 days period, the Board may go ahead and review the decision of the Institute and in reviewing the decision of the Institute, the Board may—

(a) uphold the decision of the Institute;

(b) request the Institute to lessen the sanction imposed;

(c) request the Institute to increase the sanction imposed; or

(d) request the Institute to reconsider re-hearing the case.

(8) The Board may set aside the decision of the Institute where—

(a) the Institute failed to follow any procedure which is required to follow in a disciplinary hearing;

(b) the member was not accorded enough notice for the meeting;

(c) the Institute did not provide member with a charge sheet detailing the provisions which have been breached; or

(d) the disciplinary Committee was not properly instituted;

(e) the Institute failed to observe the rules of natural justice;

(f) the decision of the Institute was unreasonable in all circumstances of the case and in such case, the Board shall consider the penalty imposed on the member against whether—

- (i) the contravention is minor;
- (ii) the consequence from the violation is minor;
- (iii) the member took prompt action to correct the contravention;
- (iv) the contravention was accidental; or
- (v) the member voluntarily disclosed the contravention to the Institute.

PART III—GENERAL PROVISIONS

Extension of time 11. Notwithstanding anything contained in these Regulations, where a time period is specified under the Regulations or in any request by the Board for an act to be done or a condition to be fulfilled, the person affected may request for an extension of such time in writing to the Board and the Board may grant such extension of time as it considers appropriate.

Invalidity affecting enforceability 12. Where the regulations are unenforceable due to changes in professional standards or any pronouncements from International Federation of Accountants, the section affected shall be suspended and the new standard or pronouncement shall prevail.

Made this 18th day of November, 2016.

GOODALL E. GONDWE
*Minister of Finance, Economic
Planning and Developmen*

(FILE NO: D53:06)

GOVERNMENT NOTICE NO. 5

PUBLIC ACCOUNTANTS AND AUDITORS ACT

(CAP. 53:06)

REVIEW OF STATUTORY FINANCIAL STATEMENTS AND FINANCIAL REPORTS OF PUBLIC INTEREST ENTITIES REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

REGULATION

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2. Interpretation

PART II—REVIEW FUNCTIONS AND PROCESSES

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