# NAMIBIA INSTITUTE OF PROFESSIONAL ACCOUNTANTS

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NIPA By-Laws 2017
BY-LAWS of the NAMIBIA INSTITUTE OF PROFESSIONAL ACCOUNTANTS

1) DEFINITIONS

Words defined in the Constitution of the Institute shall have the same meaning in these By-laws, unless the context otherwise requires. In these By-laws, unless inconsistent with the context:

a) “Accredited Bookkeeper” means a person who has been admitted to affiliate membership of the Institute.

b) Affiliate member means a member with no voting rights of the affairs of the Institute on any AGM or SGM. These members are Accredited Bookkeepers and Trainee Accountants.

c) “DC” means the Disciplinary Committee of the Institute;

d) “IC” means the Investigation Committee of the Institute;

e) “Meeting” means meeting of members of the Institute;

f) “Month” means a calendar month;

g) “NQF” means the academic level assigned by the Namibian Qualifications Authority;

h) “Officer” means an executive or other staff member, evaluator or committee member appointed by Council and designated as such;

i) “practice” means any form of business entity under which, or in association with which, a Practicing Member, as defined, operates an accounting practice and shall include a sole proprietorship, partnership, trust, joint venture, close corporation and company. All members and ultimate beneficial members (or shareholders, partners or beneficiaries, as the case may be) of a practice must be registered and continue to be so registered as practising members with NIPA or ICAN;

j) “professional incompetence” includes, but is not limited to, the performance of professional work, whether as a principal, employee, director or as an individual, incompetently to such an extent or on such a number of occasions as to fall significantly short of the standards to be expected of a member.

k) “professional misconduct” includes, but is not limited to, any serious act, default or omission, whether in the course of professional work or not, that is likely to bring discredit on the person concerned, the Institute or the accounting profession in general, or any serious failure to meet the standards to be expected of a member.

l) “Registered address” in respect of any member means the address of such member last recorded or deemed to have been recorded in terms of By-law 6;
m) “Secretariat” means the offices where the officers and employees appointed by the Council perform their duties;

n) “Trainee Accountant” means a person registered as such in terms of paragraph 5 of the Constitution;

o) “unsatisfactory professional conduct” includes, but is not limited to, any act, default or omission, whether in the course of professional work or not, that falls below the standard to be expected of a member.

Unless inconsistent with the context, words and expressions in the masculine gender include the feminine and words signifying the singular include the plural and vice versa. The headings and sub-headings shall not affect the interpretation of these By-laws.

2) SECRETARIAT

The Council shall be responsible to maintain offices for the Institute in Namibia, referred to as the Institute’s secretariat. The secretariat shall be open every work day for no less than 5 hours to its members and the public, save for the yearend recess as determined by Council. Council may appoint such officers and employees for the Institute on such terms and conditions as it shall deem fit and may remove them or any of them or appoint another or others in their place.

3) MEMBERS

a) Membership Register

i) The Institute shall maintain a register in which is recorded the name postal address, physical work address, email address, telephonic contact details and such other particulars as Council may from time to time require to be provided by every person in every category of membership. In the event of any person ceasing to be a member for any reason whatsoever, his name shall be deleted from the Register. In the case of Trainee members, the register shall also state the name and address of the ATC where the Training contract is registered.

ii) All information relating to any member whose death has been established to the satisfaction of Council shall be deleted from the register.

iii) The Institute shall be entitled to convert any hard copy documentation received from members to electronic format for storage and other purposes relevant to the maintenance of the register and to use any form of internet, cloud or other electronic means of data creation, storage and retrieval in the administration and management of the register.
iv) The Institute may make available to the public all information contained in the membership register.

v) The physical work address provided by the member shall be his domicilium citandi et executandi.

b) Application for Membership

Application for membership of all classes of the Institute shall be made to the Council in a form from time to time prescribed by the Council. Each applicant shall:

i) Pay the application fee, if any, and the subscription for the year current as determined from time to time;

ii) Certify in the prescribed form that the information given by him therein is true and correct in every detail;

iii) Undertake in the event of his admission to observe and adhere to the provisions of the Constitution and the By-laws and all rules framed there under in force from time to time; and,

iv) Satisfy the Council in such manner as it may require at the date of his application that he is qualified for admission under By-law 4.

4) QUALIFICATION FOR MEMBERSHIP

a) Members in Practice

In order to be admitted as a member, the applicant must be able to demonstrate the acquisition of significant academic knowledge and practical experience.

1) Academic requirements:

   Applicants must have obtained a University degree approved by Council from time to time. Such degree must include subjects at the following NQF Levels:

   (i) Financial Accounting NQF 7
   (ii) Taxation NQF 7
   (iii) Auditing or Internal Auditing NQF 7
   (iv) Cost and Management Accounting NQF 6
   (v) Commercial and Business Law NQF 6
   
   or such subjects which in the opinion of Council are significantly similar to the above subjects and NQF levels

2) Practical experience:
i) Applicants must be in possession of a Practical Experience Certificate issued by the Institute. Such Certificate will be issued where the trainee logbook issued by the Institute of the applicant indicates that he has successfully obtained the practical experience required and -:
   a. Applicants have served a period of traineeship with an ATC and are able to provide proof in the form prescribed by Council of having so served.
   b. Traineeship shall be 4 years or 6800 working hours, whichever is the longer. The maximum allowable period for traineeship is 7 years, which may, upon special application to and consideration and approval by council, be extended by a further maximum of 3 years.
   c. In a case where an applicant has interrupted his period of traineeship with an ATC for longer than 4 months, the time spent with any ATC prior to such interruption shall not be counted towards his practical experience. Where the interruption is due to the trainee furthering his academic studies on a full-time basis at a university, previous practical experience will be counted provided the interruption does not exceed two years and the trainee has successfully completed his/her degree during that time.
   d. Council may, under extraordinary circumstances, recognize all or part of prior practical experiences if the applicant, in writing, can show the merit of why such break was unavoidable.
   e. Traineeship may have been served with more than one ATC; however any period with one employer less than eight months may not be recognized by Council, in their sole discretion.
   f. In a case where a trainee changes between one or more ATC's, his or her traineeship will be extended by the longer of 6 months or 1000 working hours, for every change in ATC. Only upon exceptional circumstances may this this extension of time be waived or reduced by council. Where a change in ATC was necessitated by circumstances beyond the control of the applicant, Council may waive the condition contained in this subparagraph f).
   g. In a case where a trainee who has served a part of an ICAN traineeship when registering as a NIPA trainee, the time so served up to a maximum of two years shall be counted towards his practical experience.

3) Applicants, who at the time of application are practising members in good standing at SAIPA or ICAN, are exempt from the provisions of paragraph 4(a)(2) above.

4) Applicants who have satisfied the academic and practical requirements of this paragraph 4 will be required to demonstrate their ability to apply their...
academic and practical knowledge to an evaluation panel appointed by Council. Upon the recommendation of such evaluation panel and fulfilment of all other entrance requirements, Council may admit the applicant as a Member.

a. Applicants who have not passed the evaluation may apply for re-evaluation, however not within 4 months after the prior evaluation;

b. Applicants will have a maximum of 3 re-evaluations, after which they may not re-apply;

c. Evaluation sessions for applicants will be held once every semester, or such other frequency as Council deems expedient.

5) It is required that all Practicing Members acquire Professional Indemnity insurance for not less than N$ 1,000,000 or such other amount as may be prescribed by Council from time to time] within 3 months after registering as a practising member. Failing the submission of such proof within the specified period, the membership may be revoked.

6) It is required that all Members shall comply with the CPD requirements applicable to members as prescribed from time to time by Council and submit the results thereof for any period from 1 January to 31 December later than 90 days after the following year-end of the Institute.

7) It is required that all members will be subject to a Practice Support Visit as prescribed by Council from time to time. Members will be required to demonstrate professional competence that includes, but is not limited to, the performance of professional work, whether as a principal, employee, director or as an individual.

8) A firm, whether incorporated or not, may be registered as a practising firm, provided all members and ultimate beneficial members (or shareholders, partners or beneficiaries, as the case may be) are registered and continue to be so registered as practising members with the Institute.

9) The firm name to be registered with the Institute is subject to approval by Council, who has the right to decline a name if it is deemed to be undesirable or misleading.

b) Trainee Members

1) Trainee membership applicants must be registered at an accredited university or be eligible to be so enrolled, for a degree leading to the
compliance with the academic entrance requirements in paragraph 4(a)(1); and

2) Applicants must submit proof that they are permanently employed at an ATC, and have signed a Training contract.

3) An application for registration as a Trainee member shall be supported, in a form prescribed from time to time by Council, by the person agreeing to act as Principal in respect of the practical experience requirements, as provided for in the ATC/Training guidelines and in the Constitution.

c) Accredited Bookkeepers

In order to be admitted as an Accredited Bookkeeper, the applicant must be able to demonstrate the acquisition of significant academic knowledge and practical experience.

(1) The admission requirements for the Accredited Bookkeeper fall into 4 different categories:

(a) Competency based qualifiers: Applicants who have obtained qualification as Certified Accounting Technician at the approved Institutes will be accepted if they comply with the practical experience requirements as stipulated below in paragraph 4(c)(2)

(b) Part qualified NIPA Trainees: Registered NIPA trainees, or NIPA trainees that abandoned the program, who have completed the practical experience of their training, but not their academic requirements will be accepted, if they comply with the practical experience requirements as stipulated below in paragraph 4(c)(2).

(c) Part qualifiers: Applicant who hold only a part academic qualification, or a degree that is not prescribed by the Institute, with at least Accounting II AND have relevant experience of a minimum of 5 years will be accepted if they comply with the practical experience requirements as stipulated below in paragraph 4(c)(2)

(d) Experienced qualifiers: Applicants who hold no academic but at least Grade 12 AND have relevant experience of a minimum of 5 years will be accepted if they comply with the practical experience requirements as stipulated below in paragraph 4(c)(2).

(2) Practical experience:

(a) Applicants will be evaluated to determine the level of practical experience. It is required to demonstrate their ability to apply their knowledge to an evaluation panel appointed by Council. Upon the recommendation of such evaluation panel and fulfilment of all other entrance requirements, Council may admit the applicant as a affiliate Member.
(i) Applicants who have not passed the evaluation may apply for re-evaluation, however not within 4 months after the prior evaluation;

(ii) Applicants will have a maximum of 3 re-evaluations, after which they may not re-apply;

(iii) Evaluation sessions for applicants will be held once every semester, or such other frequency as Council deems expedient.

(3) It is required that all Accredited Bookkeepers acquire Professional Indemnity insurance for not less than N$ 1,000,000 or such other amount as may be prescribed by Council from time to time, but not less than at least the annual turnover, within 3 months after registering as a practising member. Failing the submission of such proof within the specified period, the membership may be revoked.

(4) It is required that all Accredited Bookkeepers shall comply with the CPD requirements applicable to members as prescribed from time to time by Council and submit the results thereof for any period from 1 January to 31 December later than 90 days after the following year-end of the Institute.

(5) It is required that all Accredited Bookkeepers will be subject to a Practice Support Visit as prescribed by Council from time to time. Accredited Bookkeepers will be required to demonstrate professional competence that includes, but is not limited to, the performance of professional work, whether as a principal, employee, director or as an individual.

(6) A firm, whether incorporated or not, may be registered as a practising firm, provided all Accredited Bookkeepers and ultimate beneficial members (or shareholders, partners or beneficiaries, as the case may be) are registered and continue to be so registered as Accredited Bookkeepers with the Institute.

(7) The firm name to be registered with the Institute is subject to approval by Council, who has the right to decline a name if it is deemed to be undesirable or misleading.

(8) Accredited Bookkeepers may not perform the duties of Accounting Officers, nor will they be allowed to sign off any AFS of a trust, CC or company.

(9) Once admitted to the Accredited Bookkeeper tier, applicants will be able to progress to full membership as prescribed in the By Laws.
Accredited Bookkeepers may apply for full membership without having to comply with ALL the academic requirements.

(a) Accredited Bookkeepers that comply with the following requirements may be admitted as full members of the Institute

(i) Academic requirements:
1. Applicants must at least have obtained a grade 12 certificate
2. Applicants must at least have passed the following subjects:
   a. Financial Accounting NOF level 6
   b. Taxation NQF level 6
   c. Commercial and Business Law NOF level 6
   d. Or any such subjects which in the opinion of Council are significantly similar to the above subjects and NQF levels

(ii) Other requirements:
1. Applicants must be between the ages 35-55
2. Must have practical experience of not less than 10 years

(b) Accredited bookkeepers who have the academic, and practical requirements and fall within the age group will be required to demonstrate their ability to apply their knowledge to an evaluation panel appointed by Council. Upon the recommendation of such evaluation panel and fulfilment of all other entrance requirements, Council may admit the applicant as a Member.

   a. Applicants who have not passed the evaluation may apply for re-evaluation, however not within 4 months after the prior evaluation;

   b. Applicants will have a maximum of 3 re-evaluations, after which they may not re-apply;

   c. Evaluation sessions for applicants will be held once every semester, or such other frequency as Council deems expedient.

(c) The implementation period for this grandfathering route is 1 January 2018 to 31 December 2021, where after no admissions in this class will be permitted.

d) Further Requirements

1) Admission to any category of membership class shall be at the sole discretion of the Council.

2) Each applicant for membership must be recommended as a fit and proper person by two of the following persons:

   (i) His present employer or Principal or the employer or the Principal under whom he received his practical training; and,
(ii) Any Member (other than the person who signed the first recommendation) in good standing of, either the Institute, or a member of any other accounting body recognised by the Council.

3) For any application for membership to the Institute or change in membership class, Council may prescribe subjects to be studied and the syllabi to be followed. The Institute may either set its own examinations or moderate or approve the examinations set by other bodies.

4) Any application for membership shall only be considered on receipt of a non-refundable application fee, as prescribed by Council from time to time. A further evaluation fee shall be payable upon successfully passing the evaluation panel.

5) Applicants who at the time of the application are in default of any of the matters as described in 5(a) (i) to (iii) and (vi) or 5 b) below, will not be admitted to the Institute.

5) CANCELLATION OF MEMBERSHIP

a) The Council shall cancel the membership of any member or affiliate member who, subsequent to his application for admission to membership, is –

i) removed from an office of trust on account of misconduct or has been expelled from any professional Institute or similar organization; or,

ii) convicted of theft, fraud, forgery, or uttering a forged document or perjury and sentenced in respect thereof to imprisonment without the option of a fine; or

iii) declared insane or found to be incapable of managing his own affairs; or

iv) in arrears with any fees, penalties or levies as described in Paragraph 7 h) below; or

v) in breach of the Continued Professional Development requirements as prescribed from time to time by NIPA, including the submission thereof; or


vii) in breach of the PI Insurance requirements as prescribed from time to time by the Institute, including the submission thereof

b) The membership of a firm with the Institute shall automatically terminate at the point in time where a member other than a practising member of the Institute becomes a member or ultimate beneficial members (or shareholders, partners or beneficiaries, as the case may be) of such firm;
c) The Council may also in its discretion cancel the membership of any member or affiliate member whose estate is provisionally or finally sequestrated or who enters into an arrangement with his creditors subsequent to his admission to membership, provided however that before doing so the Council shall afford such member an opportunity of furnishing an explanation in writing. Any such explanation shall be furnished by the member within twenty-one days after being called upon by the Council to do so.

d) When the Council cancels the membership of a person in terms of this By-law, it shall remove his name from the Register immediately, and such person shall not be entitled to apply for his readmission as a member until the expiry of a period of ten years reckoned from the date of such cancellation, provided however that the Council may reduce this period in any particular case where it considers that it would be just and equitable to do so.

e) The Council shall report any such cancellation to members, relevant government institutions or any other person for their information and such report shall in all cases include the name of the person whose membership has been cancelled and may contain the reasons why membership was cancelled.

6) REGISTERED ADDRESS AND NOTICE

Every member or affiliate member shall notify the Secretariat immediately of any change of particulars of all matters recorded in the Institute’s membership register. Any notice required by these By-laws or the Constitution to be given to a member or affiliate member may be given by delivery, by sending it through the post or by e-mail, in each case addressed to such member at his registered address, and such notice shall be deemed to have been served at the time of delivery, posting, or transmission as the case may be.

7) APPROVED TRAINING CENTRES (ATC)

a) A practice, as defined, may apply to register as an ATC to provide training for trainee accountants.

b) The requirements for registration as an ATC will be determined by Council from time to time.

c) Upon meeting the requirements laid down, the practice will be registered as an ATC, and shall thereafter comply with all provisions of the Constitution, By-laws, Rules of Professional Conduct and ATC Training requirements.

d) Where a practice or an entity operates from different geographical locations, every location must be separately evaluated and registered as an ATC.
e) No member (or practice) shall hold himself out as being an approved training centre whilst not so registered with the Institute.

f) The person in an ICAN registered practice responsible for the NIPA ATC functions, shall be a registered NIPA Member.

g) An ATC will afford the Institute access to its facilities and to trainees, at such reasonable times and at such frequency as Council may from time to time require.

h) An ATC shall be required to pay an annual ATC registration fee if any trainees are registered under its name during a year.

i) An ATC will be obliged to pay annual trainee fees to the Institute.

j) Every ATC shall, when required to do so, provide the Secretariat with a list of all trainees engaged at the ATC as well as the name of his supervisor / training officer.

k) An ATC shall forthwith inform the Secretariat if a trainee member’s employment relationship is terminated.

8) RESIGNATION; CANCELLATION DUE TO NON-PAYMENT OF FEES; and RE-ADMISSION

a) Any member or affiliate member who has paid all his dues and subscriptions and is otherwise in good standing may resign his membership by sending to the Council written notice to that effect and such notice shall become effective immediately on acceptance thereof by the Council: Provided that-

i) if any complaint is received or an inquiry is pending against any such member in respect of his professional conduct, no such resignation shall become valid until such complaint or enquiry has been finally dealt with by the Council;

ii) any such acceptance by the Council may be qualified or endorsed through the Secretariat so as to record the finding of the Council in respect of such complaint or enquiry.

iii) any membership fees paid for that particular year shall not be refundable.

b) No resignation once tendered by any member may be withdrawn without the consent of the Council first having been obtained.

c) Any person who has resigned his membership or whose membership has been cancelled due to non-payment of fees shall be entitled to re-admission on proof to the Council that he complies with the conditions of By-law 4 at the date of his application for re-admission notwithstanding By-Law 5(c).

d) A person excluded from membership may apply for re-admission on or after the expiry of a period of five years from the date of such exclusion, or earlier, if the grounds for his exclusion no longer exist or apply and the originating cause for the exclusion has been
fully remedied. The written application for re-admission must state the grounds on which it is based and be approved by the DC. In the event of refusal of such application, no further application may be made until the expiry of the period of two years from the date of such refusal.

9) CERTIFICATES OF MEMBERSHIP

All certificates of membership of the Institute shall be made in the form prescribed from time to time by Council and shall be and remain the property of the Institute. Every member shall be entitled to receive from the Institute a certificate of membership, but in the event of the suspension or removal or cessation of membership for any reason, such certificate shall forthwith be returned to Council. If a certificate becomes defaced or a replacement certificate needs to be issued, the costs in issuing such replacement certificate shall be charged to the member.

10) LIABILITY TO INVESTIGATION AND DISCIPLINARY ACTION

a) Without prejudice to the application of other provisions of these By-laws, liability to investigation and disciplinary action in accordance with the provision of these By-laws, rules, codes of conduct, regulations and other provisions issued by Council under the Constitution of the Institute shall arise where a member or affiliate member is guilty of:

   i) Professional misconduct; and/or
   ii) Professional incompetence; and/or
   iii) Unsatisfactory professional conduct.

b) Liability to investigation and disciplinary action shall further arise in the case of a trainee member who is accused of an act, default or omission that would render that trainee member unfit to become a practising member of the Institute; or that trainee member has, prior to admission to membership, been guilty of such act, default or omission that was not fully disclosed to the Institute prior to admission to membership.

c) Liability to investigation and disciplinary action shall also arise in respect of an act, default or omission under By-law 10 a) which occurred prior to admission to membership of the person concerned, but only in respect of any such act, default or omission that was not fully disclosed to the Institute before admission to membership.

d) A person who ceases to be a member of any category remains liable to investigation and disciplinary action as specified in By-law 10 a) which occurred while that person was in membership.
e) Factors which may be taken into account in considering whether a member or past member is liable to investigation and disciplinary action include, but are not limited to:

   i) Failure to comply with an obligation of membership; and/or
   ii) Disregard of ethical or technical guidance; and/or
   iii) Any adverse finding by any Government or other statutory body or by another professional body or disciplinary or regulatory committee or authorized person.

f) A member or affiliate member shall be guilty of professional misconduct if, during the currency of his membership, he is:

   i) Convicted of a punishable offence; and/or
   ii) Disqualified from acting as a director of a company.

11) SPECIFIC OFFENCES

The following acts and practices (whether of commission or of omission upon the part of any person who is or was a member, affiliate member or Trainee Member of the Institute at the time of the alleged acts or practices) shall be specific offences and such member, former member or affiliate member found guilty thereof after proper enquiry as provided in these By-laws shall be liable to comply with the decision vested in Council:

a) contravening any provision of the:

   i) Constitution, By-laws, Code of Conduct, CPD requirements, PI Insurance requirements or ATC Training Guidelines of the Institute; and of

   ii) CPD requirements applicable to members, by:

   aa) not complying with the prescribed hours

   the submission thereof for any period from 1 January to 31 December later than 90 days after the following year-end of the Institute without first obtaining extension not exceeding 60 days from the Chief Executive Officer of the Institute;

   ab) submitting incorrect hours, e.g. hours attended at a CPD event which are not supported by the attendance register of the event;

   ac) submission of inflated hours.

b) certifying or reporting or expressing an opinion, without such qualification as may be appropriate under the circumstances, to the effect that any account, financial statement (including annexures thereto) or other document relating to the business or financial affairs of any undertaking or entity, fairly presents, agrees to the accounting records, or gives a materially correct representation, of the matters dealt with therein, unless he:-
i) has carried out his work free of any restrictions whatsoever;

ii) has obtained all information, vouchers and other documents which he deemed necessary for the proper performance of his duties;

iii) is satisfied, as is reasonably practicable having regard to the nature of the undertaking in question and the work performed by him, as to the fairness or the truth or the correctness, as the case may be, of such financial statements or annexures.

c) delaying to report on work performed by him beyond four months after the date on which he has completed his assignment;

d) conducting himself with negligence in connection with any work performed by him in his practice or employment, including work or employment in connection with any office of trust which he has undertaken or accepted;

e) associating himself with any accounts, statements, reports or other documents, without taking reasonable steps to ensure the material correctness thereof;

f) non-compliance with the minimum work quality standards as issued by the Institute from time to time;

g) directly or indirectly paying a person a monetary, or other, consideration, as remuneration for bringing him work or for inducing other persons to give him work;

h) accepting directly or indirectly any commission, brokerage or other remuneration in respect of professional or commercial business referred to others as an incident to his service to any client, except with the knowledge and consent of that client;

i) improperly obtaining or attempting to obtain work;

j) divulging to any third party, whether orally or in writing or otherwise, any confidential information which he may have obtained in the course of his professional relationship with his client or employer, unless such consent has been granted by such client or employer;

k) advertising of services, except as provided for in the Rules of Professional Conduct;

l) wilfully refusing or failing to perform or conform with or to carry out any of the provisions of these By-laws while it is his duty to do;

m) committing a flagrant breach of any rule of professional conduct prescribed by the Council from time to time or, after having been previously warned by the Council or any committee appointed by it, continuing to commit a breach of such rules;

n) unlawfully failing to account for, or unreasonably delaying an accounting of, any money or property received for, or, on behalf of, a client or any other person when called upon to do so;
o) signing any account, statement, report or other document which purports to represent work performed by him, unless such work is substantiated by relevant working papers and other documentation to be retained in his possession, and such work was performed by himself, or by employees under his personal supervision or direction or by or under the personal supervision or directions of one or more of his partners;

p) performing work in connection with any matter which is the subject of dispute or litigation on condition that payment for such work shall be made only if such dispute or litigation end favourably for the party for whom such work is performed;

q) conducting him in a manner which, in the opinion of the Disciplinary Committee, is discreditable, dishonourable, dishonest, irregular or unworthy or which is derogatory to the Institute, or tends to bring the profession of accountancy into disrepute.

12) PENAL PROVISIONS

a) A member, affiliate member or trainee accountant who fails to co-operate in any action of the IC or DC and to respond promptly to all related communications or who, following due investigation, is found to have committed a breach of By-laws 10 and or 11, shall be liable to one or more of the following penalties:

i) A verbal warning;

ii) A written warning;

iii) A final written warning;

iv) A financial penalty;

v) Suspension or revoking of any certificate, license, permit or other authorization or the imposition of conditions thereon;

vi) Disqualification from holding any such certificate, license, permit or other authorization;

vii) The imposition of conditions on continuing membership;

viii) A requirement to give undertakings in relation to continuing membership;

ix) Suspension of membership for a period not exceeding one year;

x) Exclusion from membership.

b) A trainee member who, following due investigation is found to have committed a breach of By-law 10 b), may be liable to exclusion from membership and to a prohibition on future admission to any category of membership of the Institute.
c) The Institute may make such order against a member or affiliate member as it deems fit and proper for payment of its cost in respect of any investigation and disciplinary action or the monitoring and enforcement of compliance with the obligations of membership.

13) INVESTIGATION AND DISCIPLINARY COMMITTEES

a. Council shall appoint an Investigations Committee and a Disciplinary Committee which shall carry out the duties and exercise the functions and powers granted to them under these By-laws.

b. Each of the Investigation and Disciplinary Committee shall each consist of three persons (not necessarily members), of whom two shall form a quorum. No person serving on one committee may serve on the other. The Council shall have the right at any time to co-opt additional members to either committee whenever it deems such additional appointments necessary.

c. Council will appoint the chairperson of both Investigation and Disciplinary committees, the latter shall be a practising advocate or attorney of not less than 10 years of standing, invited by Council to serve in this capacity.

d. The Investigations Committee and the Disciplinary Committee appointed in terms of this By-law shall remain in office and function until the date of the appointment of their successors in office, provided that if at that date the said Committee has still before it for investigation or hearing an incomplete case, those members who comprise such Committee shall continue to act as such for the purpose of completing such case only.

e. Any vacancies occurring at any time in the foregoing Committees may be filled by Council.

f. Council shall have the power to make such rules (not inconsistent with the Constitution and By-laws) as may be considered by it necessary for the performance of the respective functions of these two committees, and inform members of the Institute forthwith of any amendments.

14) POWERS AND DUTIES OF INVESTIGATION AND DISCIPLINARY COMMITTEE

a) It shall be the duty of the chairperson of the Institute and the right of any member, affiliate member or any aggrieved person to lay before the Investigations committee any facts or circumstances indicating that a member or former member may have committed an offence under these By-laws. Such complaints shall be in writing and in the format specified by the Investigation Committee. All complaints addressed to any other officer of the Institute shall be referred forthwith to the chairperson.
b) The Investigations Committee shall acknowledge to the complainant receipt of the complaint within five working days after having received same, in writing or per email.

c) If the Investigations Committee considers that the complaint does not reflect a prima facie case of improper conduct, or where a complainant has neglected or refused to comply with the requirements of these By-Laws, dismiss the complaint and inform the complainant accordingly.

d) If the Investigations Committee considers that there appear to be grounds for the complaint, it shall advise the member, former member or affiliate member alleged of the conduct by notice in writing and afford him an opportunity of giving an explanation in the form of an affidavit, within twenty-one days from the date of such notice and, at the same time, he shall be warned that such explanation or answer may be used in evidence against him.

e) The Investigations Committee shall fully consider the facts or circumstances under which the alleged misconduct took place. For that purpose it may carry out whatever preliminary investigations it may deem necessary and shall have the power to order the production for inspection of any books, documents and papers in the possession of or under the control of the member, former member or affiliate member alleged to have committed an offence.

f) If, on receipt of the explanation, the Investigations Committee is not satisfied therewith or if no explanation is forthcoming within said twenty-one days, the Investigations Committee shall refer its findings and evidence together with a formal complaint against the member, former member or affiliate member to the Disciplinary Committee, within 21 days of concluding its investigation. Such formal complaint is not restricted to the original complaint but may include further matters which may have come to light in the course of the investigation.

g) The Investigation Committee shall inform the complainant upon conclusion of the investigation whether it found merit in the complaint and whether the matter is referred to the Disciplinary Committee or not.

h) The Disciplinary Committee may request a member of the Institute (who may be a member of the Investigation Committee) to present the formal complaint of the Investigations Committee or may instruct an attorney to present, or to brief counsel to present, such complaint to the member or former member alleged to have committed an offence.

i) The Disciplinary Committee shall forthwith give to the member, former member or affiliate member notice of the complaint and the way in which it intends to deal with the matter and the member under investigation shall abide by the procedures laid down by the Disciplinary Committee.
j) If after due deliberation the Disciplinary Committee decides either to reprimand or caution the member or former member, the Disciplinary Committee shall make such finding and give the member, former member or affiliate member notice of its decision.

k) If the Disciplinary Committee considers that the alleged offence is so serious that it might result in the member, former member or affiliate member being liable to a penalty or being either excluded or suspended from membership of the Institute it shall forthwith give the member or former member notice of its intention to consider and enquire into the complaint, specifying the time and place of the hearing.

l) Disciplinary committee hearings shall be conducted as open hearings.

m) The Disciplinary Committee shall give such member, former member or affiliate member an opportunity of being heard before it in mitigation and shall, if the member or former member so desires, permit such member or former member to be represented before it by an attorney or by counsel or by a member of the Institute.

n) Should the member, former member or affiliate member against whom any complaint is referred, neglect or fail to attend before the Disciplinary Committee at the time and place indicated in the said notice without valid reason, the Disciplinary Committee shall be entitled to proceed with its consideration of, and any enquiry into, the complaint in his absence.

o) The Disciplinary Committee shall also be entitled to obtain sworn affidavits from any persons if it considers such necessary for purposes of evaluating the seriousness of the complaint.

p) Disciplinary Committee shall also have the power to order the production for inspection of any books, documents and papers in the possession of or under the control of the member, former member or affiliate member against whom the complaint has been made.

q) The Chairperson of the Disciplinary Committee shall be permitted to engage the services of an expert opinion or counsel at any stage of a hearing of the Disciplinary Committee to advise the Disciplinary Committee on points of law and procedure.

r) If the Disciplinary Committee is of the opinion that the member, former member or affiliate member is guilty of a punishable offence, it shall make a finding to that effect and thereupon it shall have full power to order that the member or former member concerned pays a penalty as laid down and / or be excluded from membership of the Institute or suspended from membership for a period not exceeding five years: Provided always that, if in the opinion of the Disciplinary Committee, the offence shall have been proved but the member, former member or affiliate member shall not have been guilty of conduct sufficiently serious to warrant exclusion or suspension, it shall have full power to reprimand or caution the said member or former member.
s) Notice of the finding and the decision of the Disciplinary Committee shall be given forthwith to the member, former member or affiliate member concerned and to the Chairperson of Council. Where a member is suspended or excluded from the Institute, such decision may be published in the mainstream media after the period to file an appeal has passed, or upon conclusion of appeal procedures.

t) Where the member, former member or affiliate member objects to the findings of the Disciplinary Committee, he may appeal to Council within 21 days after the date of the notice of the finding and decision of the Disciplinary Committee for the matter to be reconsidered. Such appeal shall contain all reasons and grounds why the decision of the Disciplinary Committee is objected to.

u) Within 21 days of receipt of the objection of the member, former member or affiliate member concerned, Council shall advise the member, former member or affiliate member whether Council is willing to allow the appeal, and if so, the manner and format in which Council will deal with the matter.

v) Council may obtain such further documentation, including but not limited to all documentation and records of the Investigations Committee and the Disciplinary Committee, as it deems necessary to give due consideration to the case.

w) After due deliberation, Council shall have full powers to confirm or reject the findings of the Disciplinary Committee, and to waive, alter or confirm any such penalty and / or any exclusion or suspension from membership; and notify the member or former member and the Chairperson of the Disciplinary Committee forthwith.

x) The findings of Council shall be conclusive.

y) If the member, former member or affiliate member has been found guilty of misconduct, the Institute shall have the right to recover all and any costs reasonably incurred in the matter from such member.

15) RECORD AND PUBLICATION OF FINDINGS AND DECISIONS

a) All findings and decisions of the Disciplinary Committee shall take effect when made and shall be reported to the Council which shall cause the same to be duly recorded.

b) Where Council has imposed a penalty on a member or former member the Council shall in –

1. the case of a caution or reprimand, report such finding to the members in the Institute’s annual report;

2. all cases where members or former members have been suspended or excluded, inform members and the public as per 14 (p).
GENERAL

16) NOMINATIONS FOR COUNCIL – QUALIFICATION CRITERIA

A member may not be nominated for election as a Council member, if he / she is:-

a) declared insane or found to be incapable of managing his own affairs; or
b) an un-rehabilitated insolvent person, is declared insolvent or makes an offer of compromise to any of his creditors; or

c) removed from an office of trust on account of misconduct; or,
d) convicted of theft, fraud, forgery, or uttering a forged document or perjury and sentenced in respect thereof to imprisonment without the option of a fine; or
e) convicted of any criminal offence which in the opinion of Council is of a disgraceful or improper nature;
f) a person who has, within the previous ten years, been excluded from membership of any other professional body under a disciplinary process;
g) in arrears with any fees, penalties or levies due to the Institute; or
h) in breach of the Continued Professional Development requirements as prescribed from time to time by NIPA; or
i) not a member of the Institute in good standing; or
j) not a Namibian resident.

17) GENERAL PROVISIONS RELATING TO COMMITTEES

a) The provisions of this by-law 17 shall, unless otherwise specified, apply to all committees (save for IC and DC) established by Council.

b) One of the members of a committee may be designated by the Council as chairperson of the Committee. Should the Council not so designate a member as chairperson or should the member designated not be present or be unable to act at any particular meeting, the committee shall elect a chairperson from amongst its members.

c) The Council may determine a quorum for meetings of a committee and if not so determined the quorum shall be fixed by the committee.

d) Council will provide any committee with specific terms of reference as to the desired outcome, resources available from time to time and any other powers it is willing to delegate to such committee, as well as the basis of remuneration for committee members (if any).
e) Any Committee so formed shall comply with any instructions given by the Council and shall keep minutes of its meetings.

f) Council may assign to a committee so established such of its powers which it may deem fit but it shall not be divested of any power which it may have assigned to a committee and it may amend or rescind any decision of such committee.

g) Any committee to whom the foregoing powers have been assigned shall continue to act and retain the powers so assigned until its power is amended or its appointment is revoked by the Council.

h) An affiliate member will serve on each of the subcommittees as prescribed by Council, except Edcom, Investigation and Disciplinary Committees.

18) FEES

a) All fees are annually laid down by Council, for all classes of membership.

b) Each member or affiliate member of the Institute shall pay an annual membership fee within two months from the beginning of the financial year of the Institute, as may from time to time be determined by the Council. The due date for purposes of this clause shall be the last day of February. Members and affiliate members that seek a relief in the payment of annual fees must apply in writing before or on 31 January for such relief. Council may decide on merits to permit the payment of such fees as follows:

   (1) one third of the total fees payable on or before the last day of February

   (2) 2 additional payments of 1/3 each at the end of the following 2 months (March and April)

   (3) Interest, as prescribed in par (n,) will be charged on arrear amounts as and when it is due.

   (4) Members that apply after 31 January will not qualify for relief.

c) Any member or affiliate member admitted during the course of any year shall pay a pro-rata fee of the annual membership fee. This fee is payable within two months of the admittance date.

d) Fees for evaluation of an applicant will be charged as approved by Council, and are payable at least 14 days ahead of the evaluation taking place, failing which Council will not arrange for the evaluation procedure for the candidate.

e) Application fees for membership are payable together with the application, failing which the application will not be considered.

f) Each ATC shall pay an annual fee within two months from commencement of the Institute’s financial year. Members that seek a relief in the payment of annual fees must apply in writing before or on 31 January for such relief. Council may decide on merits to permit the payment of such fees as follows:
(1) one third of the total fees payable on or before the last day of February

(2) 2 additional payments of 1/3 each at the end of the following 2 months (March and April)

(3) Interest, as prescribed in par (n,) will be charged on arrear amounts as and when it is due.

(4) Members that apply after 31 January will not qualify for relief.

g) If the ATC is admitted during the year, the pro-rata fee applicable shall become payable within two months of being so admitted.

h) Each prospective ATC shall on application for registration with the Institute pay an evaluation fee of such amount as may from time to time be determined by the Council.

i) Practices operating through a legal entity or a collective partnership name must register as member firms and pay an annual registration fee, within two months from the commencement of the Institute’s financial year. Members or affiliate members that seek a relief in the payment of annual fees must apply in writing before or on 31 January for such relief. Council may decide on merits to permit the payment of such fees as follows:

(1) one third of the total fees payable on or before the last day of February

(2) 2 additional payments of 1/3 each at the end of the following 2 months (March and April)

(3) Interest, as prescribed in par (n,) will be charged on arrear amounts as and when it is due.

(4) Members that apply after 31 January will not qualify for relief.

j) If such practice is registered during the year, a pro-rata fee shall become payable within two months of being so registered.

k) Council may from time to time decide on a fair amount for the monitoring of trainee accountants. Three months before such monitoring is due, an estimate will be prepared and the Principal will be notified of such estimate and the expected date of the monitoring. One third of such estimate is payable in advance, before the monitoring may proceed. Upon finalization of the monitoring, the Secretariat will finalize the amount due and notify the Principal of such amount. The outstanding amount is payable in two instalments when such amount was finalized. Interest, as prescribed in par (n,) will be charged on arrear amounts as and when it is due.

l) Council may from time to time decide on a fair amount for the monitoring of the practices of members and affiliate members. Three months before such monitoring is due, an estimate will be prepared and the Principal will be notified of such estimate and the expected date of the monitoring. One third of such estimate is payable in advance, before the monitoring may proceed. Upon finalization of the monitoring, the Secretariat will finalize the amount due and notify the Principal of such amount. The outstanding amount is payable in two instalments when such amount was finalized. Interest, as prescribed in par (n,) will be charged on arrear amounts as and when it is due.
m) The Council may in its discretion remit in whole or in part the subscription and/or entrance fee of a member under special circumstances that in its opinion warrant such remission.

n) The Council may from time to time call upon members or affiliate members for payment of an additional contribution or contributions for the purpose of meeting expenses which it may incur in the interests and/or furtherance of the objectives of the Institute, stating reasons, provided that such contribution or contributions shall in the aggregate not exceed, in any one financial year, one half of the subscription payable in such financial year.

o) Any member or affiliate member who is in arrears with his annual subscription or any contribution or charge for a period of one month from the date when the same amount became due under these By-laws shall be sent a reminder that he is in arrears. Should the member fail to effect payment before the expiration of three months from the date when the amount became due under these By-laws, he shall, *ipso facto*, cease to be a member but shall, nevertheless, be liable to pay the amount of such year’s subscription and any other arrears of subscriptions or other contributions or charges due by him to the Institute and shall be liable otherwise as a member: Provided that the Council shall have power to suspend the operation of this clause in respect of any member and to stipulate the conditions on which it will be suspended.

p) The Council may in its discretion reinstate any member whose membership has ceased in terms of By-law 7 j) and may in such event dispense with a new admission for membership and/or payment of an admission fee but may impose a reinstatement fee equivalent to half of the admission fee, and other procedures specified from time to time.

q) Any outstanding amounts due to the Institute, of whatsoever nature, may be recovered from a member or past member or affiliate member in civil proceedings in any competent court together with any collection and legal costs, on an attorney / own client basis.

n) Interest at prime overdraft rate plus one percent is payable after 3 months on arrears of any outstanding amounts. Interest is calculated monthly on the outstanding amount in arrears.

19) **AMENDMENT OF BY-LAWS**

The Council may, from time to time, amend these By-laws as provided in the Constitution. Any change to the By-Laws shall only be effective 30 days after they have by general circular been sent to all members of the Institute, or such later date as may be specified in the said general circular.
20) **WINDING UP OF THE INSTITUTE**

Upon a resolution to wind up the Institute having been passed in terms of the Constitution, the Council shall by simple majority vote, appoint a liquidator and may give such directions as to the method of winding up as they deem fit: Provided that any funds and/or assets 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 similar or related associations, bodies or institutions with objectives similar to those of the Institute, including educational institutions (but excluding individual members or firms or companies controlled by members), as the Council shall decide.