



Auditor Regulations 2012

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 23rd day of April 2012

Present:

His Excellency the Governor-General in Council

Pursuant to section 84 of the Auditor Regulation Act 2011, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Auditor Regulations 2012.

2 Commencement

These regulations come into force on 1 May 2012.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires, **Act** means the Auditor Regulation Act 2011.
- (2) Any term that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

4 Overseas auditors

The following countries, states, and territories are prescribed for the purposes of the definition of overseas auditor in section 6(1) of the Act:

- (a) Australia:
- (b) any country, state, or territory in the European Union:
- (c) Hong Kong Special Administrative Region of the People's Republic of China:
- (d) Singapore:
- (e) the United States of America.

5 Relevant changes that overseas auditors must notify to FMA

In addition to the relevant changes specified in section 13(2)(a) of the Act, every person who holds a licence under section 12 of the Act must give written notice to the FMA under section 13(1) of the Act of a change in any of the following:

- (a) the full name or business address of the overseas auditor (including email address and Internet site address, if any);
- (b) whether the overseas auditor is a partner or employee of an audit firm;
- (c) if the overseas auditor is a partner or employee of an audit firm, the name of the firm;
- (d) any limitations on the overseas auditor's ability to act in respect of an audit that are imposed by or in relation to any certificate, registration, licence, or other authorisation that entitles the overseas auditor to act as an auditor in the person's home jurisdiction (as defined in section 12(2) of the Act).

6 Reasons for refusing access to, or suspending operation of, register

In addition to the reason given in section 39(3)(a) of the Act, the Registrar may refuse access to the register or otherwise suspend the operation of the register, in whole or in part,—

- (a) to enable the maintenance of the register; or
- (b) in response to technical difficulties in the maintenance or operation of the register; or
- (c) to ensure the security or integrity of the register.

7 Contents of register

(1) In addition to the information specified in section 41(1)(a) to (h) of the Act, the register must contain the following information about each licensed auditor:

- (a) the licensed auditor's business email address and Internet site address, if any;
- (b) the country, state, or territory in which the licensed auditor is ordinarily resident and entitled to act as an auditor:

- (c) whether the licensed auditor is a partner or employee of an audit firm and, if so, the name of that audit firm.
- (2) In addition to the information specified in section 41(2)(a) to (e) of the Act, the register must contain the following information about each registered audit firm:
 - (a) the firm's business email address and Internet site address:
 - (b) the country, state, or territory in which the firm has its head office or principal place of business.

8 Prescribed changes that accredited bodies and FMA must notify to Registrar

Every accredited body and the FMA must notify the Registrar, in accordance with section 42 of the Act, of a change in any of the following:

- (a) in respect of a licensed auditor whose licence was issued by the accredited body or the FMA (as the case may be),—
 - (i) the full name or business address of the licensed auditor (including email address and Internet site address, if any):
 - (ii) whether the licensed auditor is a partner or employee of an audit firm:
 - (iii) if the licensed auditor is a partner or employee of an audit firm, the name of the firm:
 - (iv) the kinds of issuer audits in respect of which the licensed auditor is authorised to act under each licence:
 - (v) the conditions placed on each licence that is currently in force:
 - (vi) any suspension or cancellation of a licence that has been issued to the licensed auditor or any other action that has been taken on a disciplinary matter against the licensed auditor under the Act by an accredited body, a disciplinary body, or the FMA; and
- (b) in respect of a registered audit firm whose registration was authorised by the accredited body or the FMA (as the case may be),—

- (i) the full name or business address of the firm (including email address and Internet site address);
- (ii) the conditions placed on the registration that are currently in force.

9 Prescribed requirements for documents received by Registrar

- (1) This regulation applies if the register is kept as an electronic register on an Internet site maintained by or on behalf of the Registrar.
- (2) In addition to the basis for refusal that is specified in section 45(a) of the Act, the Registrar may refuse to accept a document received by the Registrar under the Act if the document is not submitted electronically via the Internet site on which the register is kept.

10 Conditions of accreditation

In addition to the conditions specified in section 49(2)(a) and (b) of the Act, a person may be accredited as an accredited body subject to—

- (a) conditions relating to the accredited body's ongoing compliance with any minimum standards for accreditation prescribed by the FMA under section 32(1)(e) of the Act;
- (b) conditions relating to the resources, financial position, and financial stability of the accredited body;
- (c) conditions to ensure that the accredited body's governance and organisational structure is adequate and effective.

11 Contents of annual report of accredited bodies

In addition to the information specified in section 51(2)(b)(i) and (ii) of the Act, the annual report of an accredited body must contain—

- (a) the most recent audited financial statements of the accredited body; and
- (b) an assessment by the accredited body of—
 - (i) the extent to which its audit regulatory systems are adequate and effective; and

- (ii) whether it has allocated sufficient resources to ensure that its audit regulatory systems are, and will continue to be, adequate and effective; and
- (c) information relating to any material changes to the accredited body's governance and organisational structure.

12 Fees

The fees set out in the table in Part 1 of the Schedule are payable for the matters to which they relate.

13 Payment of fees

- (1) A fee identified as an assessment fee in column 2 of a row of the table in Part 1 of the Schedule—
 - (a) is payable by the person specified in column 3 of that row; and
 - (b) is payable to the person specified in column 4 of that row; and
 - (c) is payable on an invoice issued by or on behalf of the FMA and within the time frame specified in that invoice.
- (2) Any other fee identified in column 2 of a row of the table in Part 1 of the Schedule—
 - (a) is payable by the person specified in column 3 of that row; and
 - (b) is payable to the person specified in column 4 of that row; and
 - (c) must accompany the application or annual confirmation (as the case may be) specified in column 1 of that row.

14 Fees inclusive of GST

The fees prescribed by these regulations are inclusive of goods and services tax.

15 FMA may recover costs incurred

- (1) This regulation applies to a person identified in column 3 of the table in Part 1 of the Schedule as liable to pay an assessment fee in respect of any of the following matters:

- (a) an application for a licence under section 12 of the Act:
 - (b) an application for the FMA to authorise the Registrar to register an overseas audit firm under section 26 of the Act:
 - (c) an annual confirmation by the FMA to the Registrar under section 43 of the Act:
 - (d) an application for accreditation under section 48 of the Act:
 - (e) a quality review under section 65 of the Act.
- (2) The FMA may recover from the person the costs incurred by the FMA in obtaining external advice or assistance in assessing the matter.
- (3) Costs recovered under subclause (2) are in addition to the assessment fee for the matter.
- (4) In this regulation, **assessment fee** means a fee identified as an assessment fee in column 2 of the table in Part 1 of the Schedule.

Transitional provisions

16 Certain auditors treated as holding licence

- (1) This regulation applies to a person who, under section 85 of the Act, is treated as holding a licence issued by the Institute under section 11 of the Act.
- (2) For the purposes of section 85(3) of the Act, the person must provide to the Registrar the following information:
- (a) the full name and business address of the person (including email and Internet site address, if any):
 - (b) a letter from the New Zealand Institute of Chartered Accountants stating that the person is a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996):
 - (c) information identifying an issuer audit in the 2 years immediately before 1 May 2012 in respect of which the person acted as the auditor:
 - (d) a declaration by the person, made in the manner provided in the Oaths and Declarations Act 1957, that the person meets transitional requirements prescribed by the FMA under section 32(1)(g) of the Act.

17 Certain overseas auditors treated as holding licence

- (1) This regulation applies to a person who, under section 86 of the Act, is treated as holding a licence issued by the FMA under section 12 of the Act.
- (2) For the purposes of section 86(3) of the Act, the person must provide to the Registrar the following information:
 - (a) the full name and business address of the person (including email address and Internet site address, if any):
 - (b) the country, state, or territory outside New Zealand in which the person is ordinarily resident:
 - (c) the country, state, or territory outside New Zealand in which the person is eligible to act as an auditor:
 - (d) if the person is a person referred to in section 199(1)(c) of the Companies Act 1993,—
 - (i) the association of accountants constituted outside New Zealand, and approved by the Registrar under that section, of which the person is a member, fellow, or associate:
 - (ii) a letter from that association of accountants confirming that the person is a member, fellow, or associate of the association and that the person is eligible to act as an auditor in the country, state, or territory in which the association is constituted:
 - (e) a declaration by the person, made in the manner provided in the Oaths and Declarations Act 1957, that the person meets transitional requirements prescribed by the FMA under section 32(1)(g) of the Act:
 - (f) information identifying an issuer audit in the 2 years immediately before 1 May 2012 in respect of which the person acted as the auditor.

18 Certain audit firms treated as registered

- (1) This regulation applies to an audit firm that, under section 87 of the Act, is treated as being a registered audit firm.
- (2) For the purposes of section 87(6) of the Act, the audit firm must provide to the Registrar the following information:
 - (a) the full name and business address of the firm (including email address and Internet site address):

- (b) the names of all the partners and employees of the firm that are licensed auditors:
- (c) information identifying an issuer audit in the 2 years immediately before 1 May 2012 in respect of which the firm was appointed or engaged to act as the auditor:
- (d) a declaration by a partner of the firm who is a licensed auditor, made in the manner provided in the Oaths and Declarations Act 1957, that the firm meets transitional requirements prescribed by the FMA under section 32(1)(g) of the Act.

19 Revocation of transitional provisions

This regulation, regulations 16 to 18, and the cross-heading above regulation 16 are revoked on 1 July 2014.

**Schedule
Fees
Part 1
Schedule of fees**

r 12

Column 1 Matter in respect of which fees payable	Column 2 Fee	Column 3 Person liable for fee	Column 4 Who fee payable to	Column 5 Amount (\$)
Application for licence under section 11 of Act	Registration fee	Applicant	Accredited body	350
Application for licence under section 12 of Act	Fee for application	Applicant	FMA	115
	Registration fee	Applicant	FMA	350
	Assessment fee	Applicant	FMA	On hourly basis specified in Part 2
Application for accredited body to authorise Registrar to register audit firm under section 25 of Act	Registration fee	Applicant	Accredited body	350

Schedule

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Part 1—*continued*

Column 1 Matter in respect of which fees payable	Column 2 Fee	Column 3 Person liable for fee	Column 4 Who fee payable to	Column 5 Amount (\$)
Application for FMA to authorise Registrar to register overseas audit firm under section 26 of Act	Fee for application	Applicant	FMA	115
	Registration fee	Applicant	FMA	350
	Assessment fee	Applicant	FMA	On hourly basis specified in Part 2
Annual confirmation to Registrar under section 43 of Act	Annual confirmation fee	Person making annual confirmation (accredited body or FMA)	Registrar	110 for each licence and registration confirmed
	Assessment fee	Person whose licence or registration information is confirmed by FMA in annual confirmation	FMA	110
Application for accreditation under section 48 of Act	Fee for application	Applicant	FMA	115
	Assessment fee	Applicant	FMA	On hourly basis specified in Part 2
Quality review under section 65 of Act	Assessment fee	Audit firm or licensed auditor subject to quality review	FMA	On hourly basis specified in Part 2

Part 2

Amounts calculated on hourly basis

Where Part 1 specifies an amount on an hourly basis, that amount must be calculated as follows for each hour spent on assessing the matter concerned:

- (a) \$230 for each hour of work on the matter by a member of the FMA; and
- (b) \$166.62 for each hour of work on the matter by an employee of the FMA who is—
 - (i) qualified in accountancy, auditing, business, commerce, economics, or law; or
 - (ii) qualified (in the opinion of the FMA) to work on the matter by reason of skills, training, and experience.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made under the Auditor Regulation Act 2011 (the **Act**) and come into force on 1 May 2012. They prescribe—

- countries, states, and territories that a person must be entitled to act in in order to be an overseas auditor for the purposes of the Act:
- changes to information included on the register of licensed auditors and registered audit firms (the **register**), kept under subpart 4 of Part 2 of the Act, that an overseas auditor must notify to the FMA under section 13 of the Act:
- reasons for refusing access to, or suspending operation of, the register:
- additional information about licensed auditors and registered audit firms that must be contained on the register:
- changes to information included on the register in respect of licensed auditors and registered audit firms that accredited bodies must notify to the FMA under section 42 of the Act:
- additional conditions that the FMA may attach to a person's accreditation as an accredited body under section 49 of the Act:
- additional information that must be included in an accredited body's annual report under section 51 of the Act:
- registration and application fees for various matters under the Act.

In addition, the regulations—

- allow the Registrar to refuse to accept documents under the Act unless they are submitted electronically:
- allow the FMA to charge assessment fees in connection with various matters under the Act:
- allow the FMA to recover costs incurred in relation to assessing various matters under the Act:

- provide for transitional matters.

Issued under the authority of the Acts and Regulations Publication Act 1989.
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These regulations are administered by the Ministry of Economic Development.
