

For purposes of reference, all Proclamations, Government Notices, General Notices and Board Notices published are included in the following table of contents which thus forms a weekly index. Let yourself be guided by the Gazette numbers in the righthand column:

CONTENTS

and weekly Index

No.		Page No.	Gazette No.
GOVERNMENT AND GENERAL NOTICES			
Labour, Department of			
<i>General Notice</i>			
790	Labour Relations Act, 1995: Registration of a trade union: Retail Allied Agricultural and Associated Workers Union (RAAAWU)	9	30004
Minerals and Energy, Department of			
<i>General Notice</i>			
792	Petroleum Products Act (120/1977): Application for a retail licence: Jem Agencies	11	30004
<i>General Notice</i>			
793	Lost: Certificate No. 41617	11	30004
Trade and Industry, Department of			
<i>General Notice</i>			
798	International Trade Administration Commission: Correction notice: Notice 736 of 2007, published in <i>Government Gazette No. 29971 of 15 June 2007</i>	3	30004
Transport, Department of			
<i>General Notice</i>			
791	Air Services Act (115/1990): Grant/Amendment of air services licenses	10	30004
BOARD NOTICE			
69	Auditing Profession Act (26/2005): The Independent Regulatory Board for Auditors (IRBA): New disciplinary rules ..	12	30004

Aile Proklamasies, Goewermentskennisgewings, Aigemene Kennisgewings en Raadskennisgewings gepubliseer, word vir verwysingsdoeleindes in die volgende Inhoudsopgawe ingesluit wat dus 'n weeklikse indeks voorstel. Laat uself deur die Koerantnommers in die regterhandse kolom lei:

INHOUD

en weeklikse Indeks

No.		Bladsy No.	Koerant No.
GOEWERMENTS- EN ALGEMENE KENNISGEWINGS			
Arbeid, Departement van			
<i>Algemene Kennisgewing</i>			
790	Wet op Arbeidsverhoudinge, 1995: Registrasie van 'n vakbond: Retail Allied Agricultural and Associated Workers Union (RAAAWU)	9	30004
Handel en Nywerheid, Departement van			
<i>Algemene Kennisgewing</i>			
798	International Trade Administration Commission: Correction notice: Notice 736 of 2007, published in <i>Government Gazette No. 29971 of 15 June 2007</i>	3	30004
Minerale en Energie, Departement van			
<i>Algemene Kennisgewing</i>			
792	Petroleum Products Act (120/1977): Application for a retail licence: Jem Agencies	11	30004
<i>Algemene Kennisgewing</i>			
793	Verlore: Sertifikaat No. 41617	11	30004
Vervoer, Departement van			
<i>Algemene Kennisgewing</i>			
791	Air Services Act (115/1990): Grant/Amendment of air services licenses	10	30004
RAADSKENNISGEWING			
69	Auditing Profession Act (26/2005): The Independent Regulatory Board for Auditors (IRBA): New disciplinary rules ..	12	30004

GENERAL NOTICES

NOTICE 798 OF 2007**INTERNATIONAL TRADE ADMINISTRATION COMMISSION****CORRECTION NOTICE**

NOTICE NO. 736 OF 2007, PUBLISHED IN THE GOVERNMENT GAZETTE NO. 29971 OF 15 JUNE 2007 IS HEREBY WITHDRAWN, AND REPLACED BY THIS NOTICE.

In accordance with the provisions in Article 53.1 of the Anti-Dumping Regulations, any definitive anti-dumping duty shall be terminated on a date not later than five years from the date of imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

The International Trade Administration Commission (ITAG) hereby notifies all interested parties that, unless a duly substantiated request is made by or on behalf of the SACU industry, indicating that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury, the following anti-dumping duties will expire during 2008:

	PRODUCT	COUNTRY	DATE OF IMPOSITION OF THE DUTY	DATE OF EXPIRY OF DUTY
1	Aluminum hollowware	China, Egypt	31/01/03	31/01/08
2	Automatic circuit breakers	France, Italy	17/10/03	17/10/08
3	Garden picks	India	14/02/03	14/02/08

PROCEDURAL FRAMEWORK

The Commission will conduct its investigation in accordance with the relevant sections of the ITA Act, the World Trade Organisation Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement) and the Anti-Dumping Regulations of the International Trade Administration Commission of South Africa (ADR). Both the ITA Act and the ADR are available from the Commission's website (www.itac.org.za) or from the Trade Remedies section, on request.

Manufacturers in the Southern African Customs Union (SACU) of the subject products listed above, who wish to submit a request for the duty to be reviewed prior to the expiry thereof, are requested to do so within the time limit set out below. In the instances where no replies are received from the SACU manufacturers within these time limits, the Commission will recommend the termination of the duties on the date of expiry.

SACU manufacturers who do submit a request within the time limit set out below, are requested to submit duly substantiated information, indicating that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and material injury, to the Commission, on the dates as specified below:

	PRODUCT	COUNTRY	DATE OF IMPOSITION OF THE DUTY	DATE OF SUBMISSION
1	Aluminum hoflowware	China, Egypt	31/01/03	31/07/07
2	Automatic circuit breakers	France, Italy	17/10/03	17/04/08
3	Garden picks	India	14/02/03	14/09/07

The Commission will consider the information submitted in order to determine whether *prima facie* evidence exist to justify the initiation of a review. Should the Commission decide to initiate a review, notice will be given in the Government Gazette and other parties, being exporters and importers of the subject products, will be requested to

comment and provide information.

CONFIDENTIAL INFORMATION

Please note that if any information is considered to be confidential then a non-confidential version of the information must be submitted for the public file, simultaneously with the confidential version. In submitting a non-confidential version the following rules are strictly applicable and parties must indicate:

- Where confidential information has been omitted and the nature of such information;
- Reasons for such confidentiality;
- A summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- In exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.

This rule applies to all correspondence with and submissions to the Commission, which unless indicated to be confidential and filed together with a non-confidential version, will be placed on the public file and be made available to other interested parties.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the **details** of the deficiency and the reasons why that party's rights are so affected must be submitted to the Commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due). Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.

Subsection 33(1) of the ITA Act provides that any person claiming confidentiality of

information should identify whether such information is *confidential by nature* or is *otherwise confidential* and, any such claims must be supported by a written statement, in each case, setting out how the information satisfies the requirements of the claim to confidentiality. In the alternative, a sworn statement should be made setting out reasons why it is impossible to comply with these requirements.

Section 2.3 of the ADR provides as follows:

"The following list indicates "information that is by nature confidential" as per section 33(1)(a) of the Main Act, read with section 36 of the Promotion of Access to Information Act (Act 2 of 2000):

- (a) management accounts;*
- (b) financial accounts of a private company;*
- (c) actual and individual sales prices;*
- (d) actual costs, including cost of production and importation cost;*
- (e) actual sales volumes;*
- (f) individual sales prices;*
- (g) information, the release of which could have serious consequences for the person that provided such information; and*
- (h) information that would be of significant competitive advantage to a competitor;*

Provided that a party submitting such information indicates it to be confidential."

ADDRESS

The requests by manufacturers in the SACU of the subject products, and the duly substantiated information indicating what the effect of the expiry of the duties will be, must be submitted in writing to the following address:

Physical address	Postal address
The Senior Manager: Trade Remedies 1	The Senior Manager: Trade Remedies1
International Trade Administration	PO BoxX753
Commission	Pretoria
Block E - The DTI Campus	0001
77 Meintjies Street	SOUTH AFRICA
SUNNYSIDE	

PRETORIA

SOUTH AFRICA

PROCEDURES AND TIME LIMITS

Manufacturers in the SACU of the subject products listed above, who wish to submit a request for the duty to be reviewed prior to the expiry thereof, are requested to do so not later than close of business on 15 July 2007.

SACU manufacturers, who do submit a request before 15 July 2007, should submit duly substantiated information, indicating that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and material injury, to the Commission.

It should be noted that the investigation process is complex and the Commission is subject to strict time limits within which to complete the investigation. Late submissions will therefore not be accepted, except with the prior written consent of the Commission.

The Commission will give due consideration to written requests for an extension of not more than 14 days on good cause shown (properly motivated and substantiated), if received prior to the expiry of the original period. Merely citing insufficient time is not an acceptable reason for extension.

The information submitted by any party may need to be verified by the Investigating Officers in order for the Commission to take such information into consideration. The Commission may verify the information at the premises of the party submitting the information, within a short period after the submission of the information to the Commission. Parties should therefore ensure that the information submitted will subsequently be available for verification. It is planned to do the verification of the information submitted by the exporters within three to five weeks subsequent to submission of the information. This period will only be extended if it is not feasible for the Commission to do it within this time period or upon good cause shown, and with the prior written consent of the Commission, which should be requested at the time of the submission. It should be noted that unavailability of, or inconvenience to consultants will not be considered to be good cause.

Parties should also ensure when they engage consultants that they will be available at the requisite times, to ensure compliance with the above time frames. Parties should also ensure that all the information requested in the applicable questionnaire is provided in the specified detail and format. The questionnaires are designed to ensure that the Commission is provided with all the information required to make a determination in accordance with the rules of Anti-Dumping Agreement. The Commission may therefore refuse to verify information that is incomplete or does not comply with the format in the questionnaire, unless the Commission has agreed in writing to a deviation from the required format. A failure to submit an adequate non-confidential version of the response that complies with the rules set out above under the heading *Confidential Information* will be regarded as an incomplete submission.

Parties, who experience difficulty in furnishing the information required, or submitting in the format required, are therefore urged to make written applications to the Commission at an early stage for permission to deviate from the questionnaire or provide the information in an alternative format that can satisfy the Commission's requirements. The Commission will give due consideration to such a request on good cause shown.

Any interested party may request an oral hearing at any stage of the investigation in accordance with Section 5 of the ADR, provided that the party indicates reasons for not relying on written submission only. The Commission may refuse an oral hearing if granting such hearing will unduly delay the finalisation of a determination. Parties requesting an oral hearing shall provide the Commission with a detailed agenda for, and a detailed version, including a non-confidential version, of the information to be discussed at the oral hearing at the time of the request.

If the required information and arguments are not received in a satisfactory form within the time limit specified above, or if verification of the information cannot take place, the Commission may disregard the information submitted and make a finding on the basis of the facts available to it.

Enquiries may be directed to the Senior Manager: Trade Remedies I, Ms Carina van Vuuren, at telephone (012) 394-3594 or at fax (012) 394-0518.

NOTICE 790 OF 2007

DEPARTMENT OF LABOUR

LABOUR RELATIONS ACT, 1995

REGISTRATION OF A TRADE UNION

I, Johannes Theodorus Crouse, Registrar of Labour Relations, hereby notify, in terms of section 109(2) of the Labour Relations Act, 1995, that Retail Allied Agricultural and Associated Workers Union (RAAAWU) has been registered as a trade union with effect from 13 June 2007 .



JTCROUSE

REGISTRAR OF LABOUR RELATIONS

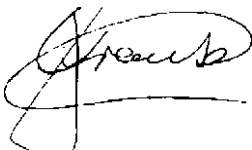
KENNISGEWING 790 VAN 2007

DEPARTEMENT VAN ARBEID

WET OP ARBEIDSVERHOUDINGE, 1995

REGISTRASIE VAN 'N VAKBOND

Ek, Johannes Theodorus Crouse, Registrateur van Arbeidverhoudinge, maak hierby ingevolge artikel 109(2) van die Wet op Arbeidverhoudinge, 1995, bekend dat Retail Allied Agricultural and Associated Workers Union (RAAAWU) met ingang van13 Junie 2007 as 'n vakbond geregistreer is.



JTCROUSE

REGISTRATEUR VAN ARBEIDSVERHOUDINGE

NOTICE 791 OF 2007

AIR SERVICES ACT, (ACT No. 115 OF 1990)

GRANT/AMENDMENT OF AIR SERVICES LICENSES

Pursuant to the provisions of section 15 (1)(b) of Act No. 115 of 1990 and regulations 8 of the Air Services Regulations, 1990 it is hereby notified for general information that the applications, details of which appear in the Schedules hereto, will be considered by the Air Services Council (Council).

The Council will cause notice of the time, date and place of the proceedings to be given in writing to the application and all parties who have made representations as aforesaid and who desire to be present or represented at the hearing.

SCHEDULE 2
AMENDMENT OF LICENCE (S)

(A) Full name, surname and trade name, if any applicant. (B) Full Business or residential address of the applicant (C) Class and number of the license in respect of which the amendment is sought (D) Type of Air service and the amendment thereto which is being applied for. (E) Category of aircraft and the amendment thereto which is being applied for. (F) Amendment referred to in section 14(2)(b) to (e).

(A) Advanced Emoyeni Training (Pty) Ltd. (9) 21 John Rurnbuc St, Somerset West, 7130. (C) Class: M, IIG602D (D) Type: G1, G2, G3, G4, G8, G11, G14 and G16. (E) Categories: A3, A4 and H2. (F) Changes in structure of the Management Plan: A.C de Michael Fagan was appointed as the Chief Executive Officer for the Advanced Emoyeni Training. Conversion of Close Corporation to Company (Pty) Ltd. Extension IIG 16 to include Flipping.

(A) Progress (Pty) Ltd; Progress Air. (B) Main Terminal Building, Lanseria International Airport, Lanseria. (C) Class: II (D) Type: N1 and N2. (E) Categories: A2, A3, A4 and H1 and H2. (F) Changes in structure of the Management Plan: S. O Mostert is appointed as Chief Executive Officer. K. D'Arcy is appointed as Responsible Person; Flight Operation. D.C. Steytler is the new Air Service Safety Officer. P. P. Prinsloo is appointed as Responsible Person; Flight Aircraft.

INTERNATIONAL AIR SERVICES ACT, (ACT No. 60 OF 1993)

GRANT/AMENDMENT OF INTERNATIONAL AIR SERVICES LICENSES

Pursuant to the provisions of section 17 (12) of Act No. 60 of 1993 and regulations IS (1) and IS (2) of the International Air Services Regulations, 1994, it is hereby notified for general information that the applications, details of which appear in the Schedules hereto, will be considered by the International Air Services Council (Council).

SCBEDULE 2
AMENDMENT OF LTCENCE(S)

(A) Full name, surname and trade name, if any licensee. (B) Class and number of the license in respect of which the amendment was made (C) Type of International Air service in respect of which the amendment was made. (D) Category or kind of aircraft in respect of which the license was made. (E) Airport in respect of which the amendment was made. (F) Area to be served. (G) Frequency of flights in respect of which the amendment was made. (H) Conditions under which the amendment was made.

(A) South African Airways (Pty) Ltd. South African Airways. (B) Airways Park, Room 105F, Jones Street, O.R Tambo International Airport. (C) Class I; IIS094. (D) Type: si. (E) Category: A1 & A2. (F) O.R Tambo International Airport Adding the following:

State	Destination	Frequency
	Antananarivo	Seven (7) Flights per week

NOTICE 792 OF 2007

Notice in respect of a licence application in terms of the Petroleum Products Act, 1977 (Act No. 120 of 1977)

This notice serves to inform parties that may be interested or affected that JEM AGENCIES CC200/0/19734/23

hereinafter referred to as "the applicant", has submitted an application for a RETAIL licence, application number H/2007/03/20/0002

01305

MICAWEG No.1

N1A

INDUSTRIA

POSTMASBURG

The purpose of the application is for the applicant to be granted a licence to undertake petroleum retailing activities as detailed in the application. Arrangements for viewing the application documentation can be made by contacting the Controller of Petroleum Products by:

* Telephone: (012) 317-8982;

* Fax: (012) 322-8570; or

* E-mail: petroleum.controller@dme.gov.za

Any objections to the issuing of a licence in respect of this application, which must clearly quote the application number above, must be lodged with the Controller of Petroleum Products within a period of twenty (20) working days from the date of publication of this notice. Such objections must be lodged at the following physical or postal address:

Physical address:

The Controller of Petroleum Products
Department of Minerals and Energy
Mineralia Centre
234 Visagie Street
Pretoria

Postal address:

The Controller of Petroleum Products
Department of Minerals and Energy
Private Bag X59
Pretoria
0001

(29 June 2007)

NOTICE 793 OF 2007**NATIONAL TREASURY**

130/0 2009/10/11 INTERNAL REGISTERED BONDS (R153): CERTIFICATE No. 41617 FOR R1 000 000,
ISSUED IN FAVOUR OF KYLEMORE LIMITED

Application having been made to the National Treasury for a duplicate of the above-mentioned certificate, the original having been lost or mislaid, notice is hereby given that unless the original certificate is produced at the National Treasury, Private Bag X115, Pretoria, within four weeks from the date of publication of this notice, the duplicate as applied for, will be issued.

KENNISGEWING 793 VAN 2007**NASIONALE TESOURIE**

13% 2009/10/11 BINNELANDSE GEREISTREERDE EFFEKTE (R153): SERTIFIKAAT No. 41617 VIR R1 000 000,
UITGEREIK TEN GUNSTE VAN KYLEMORE BEPERK

Aangesien daar by die Nasionale Tesourie aansoek gedoen is om 'n duplikaat van bovermelde sertifikaat wat verloor of verlé is, word hierby bekendgemaak dat tensy die oorspronklike sertifikaat/sertifikaat binne vier weke na die datum van publikasie van hierdie kennisgewing by die Nasionale Tesourie, Privaatsak X115, Pretoria, ingelewer word, die verlangde duplikaat sertifikaat/sertifikaat uitgereik sal word.

(29 June 2007)/(29 Junie 2007)

BOARD NOTICE

BOARD NOTICE 69 OF 2007

**THE INDEPENDENT REGULATORY BOARD FOR AUDITORS (IRBA)****NEW DISCIPLINARY RULES**

Notice is hereby given, for general information, in accordance with the provisions of section 10(1) and section 59 (8)(b) of the Auditing Profession Act 26 of 2005, of the repeal of the Disciplinary Rules made under the Public Accountants) and Auditors' Act 80 of 1991 excluding paragraphs 2.1 to 2.1.21, inclusive, thereof, and the adoption of the New Disciplinary Rules with effect from 7 June 2007, which are published hereunder.

For further assistance enquiries may be directed to:
The Director- Legal
IRBA
POBox 751595
Garden View
2047

Tel: (011) 622-8533
Fax: (011) 622-4029
E-mail: legal@irba.co.za



Mr K Hoosain
Chief Executive Officer
Independent Regulatory Board for Auditors

REPEAL OF THE DISCIPLINARY RULES MADE UNDER THE PUBLIC
ACCOUNTANTS' AND AUDITORS' ACT, 80 OF 1991 AND ADOPTION OF
NEW DISCIPLINARY RULES ON 7 JUNE 2007

Having published its intention to do so for comment in the *Government Gazette* on 26 April 2007, the Board now resolves under section 10(1) of the Auditing Profession Act, 26 of 2005 ("the Act") read with section 4(1)(a)(i), (ii) and (iii) of the Act to (i) the repeal of the Disciplinary Regulations referred to in section 59(8)(b) of the Act and (ii) the prescription by the Board of the following Disciplinary Rules:

1. DEFINITIONS

- 1.1.1 "the Act" means the Auditing Profession Act, 26 of 2005 and any expression used in these Rules which is defined in the Act bears, unless the context indicates the contrary, the meaning assigned to it in the Act;
- 1.1.2 "the Board" means the Independent Regulatory Board for Auditors established by section 3;
- 1.1.3 "the CEO" means the person appointed by the Board as Chief Executive Officer under section 9(a) or any person acting in that capacity;
- 1.1.4 "the chairperson of the Disciplinary Committee" means the retired judge or senior advocate who is appointed by the Board as such and includes a deputy chairperson of the Disciplinary Committee acting as chairperson at a meeting of the Disciplinary Committee where the chairperson is absent or for any reason unable to perform his or her functions; †
- 1.1.5 "the Code" means the *Code of Professional Conduct* prescribed by the Board under section 4(1)(c) and includes the *Code of Professional*

† Section 24(2)(a) read with the resolutions by the Board on 20 June 2006

Conduct referred to in section 59(8)(c), until it has been repealed by the Board;

- 1.1.6 "the Director: Legal" means the person designated as such, who is an employee of the Board, or any person acting in that capacity, or any employee of the Board, notwithstanding his or her designation, who is appointed or charged by the Board to perform the functions performed by the Director: Legal as at the promulgation of these rules;
- 1.1.7 "the Disciplinary Advisory Committee" means a sub-committee of the Board established by the Board on 20 June 2006 under section 20(1);
- 1.1.8 "the Disciplinary Committee" means the committee established by the Board under section 20(2)(f);
- 1.1.9 "firm", in the context of these Rules, means a partnership, company or sole proprietor referred to in section 38;2
- 1.1.10 "the Investigating Committee" means the committee established by the Board under section 20(2)(e);
- 1.1.11 "*pro forma* complainant" means the person appointed under section 50(2)(a) to present the charge to the Disciplinary Committee;
- 1.1.12 "registered auditor", in the context of these Rules, means an individual or firm registered as an auditor with the Board or who was so registered at the time that the alleged improper conduct took place, whether that registered auditor is or was in public practice or not, and includes the duly authorised representative of the registered auditor if the registered auditor concerned is a firm;
- 1.1.13 "the respondent" means a registered auditor whose conduct is the subject of any proceedings (of whatsoever nature, including a complaint or a decision whether or not to refer such conduct to investigation) under

² Section 1 v. "firm"

these Rules as well as the legal representative of such a registered auditor, if any; and

- 1.1.14 "these Rules" means the *Disciplinary Rules* prescribed under section 10(1) and includes these definitions; and
- 1.2 any reference to any section in these Rules is a reference to the corresponding section of the Act;
- 1.3 these Rules shall, wherever possible, be construed in conformity with the Act; and
- 1.4 the headings to and any footnotes in these Rules shall be taken into account in the interpretation of these Rules.

2. COMMENCEMENT OF AN INQUIRY INTO ALLEGED IMPROPER CONDUCT

- 2.1 If an allegation of improper conduct against a registered auditor comes to the attention of the Director: Legal or the CEO, he or she must refer it to the Investigating Committee **if**-
- 2.1.1 the allegations are in the public domain and he or she on reasonable grounds (including a report from a foreign regulator) suspects that a respondent has committed an act which may render such respondent guilty of improper conduct; or
- 2.1.2 the allegations are referred to him or her by the Inspection Committee established under section 20(2)(d); or
- 2.1.3 a court or appropriate regulator sends (or directs to be sent) a record or report under section 48(2); or
- 2.1.4 a member of the public lodges a complaint with him or her and he or she:
- 2.1.4.1 establishes that the person or firm complained about is a registered auditor;

- 2.1.4.2 establishes that the complaint falls within the jurisdiction of the Board; and
- 2.1.4.3 is of the opinion that the complaint of improper conduct appears to be justified.'
- 2.2 Members of the public who wish to lodge a complaint of improper conduct against a registered auditor shall do so on affidavit, unless the Director: Legal or the CEO decides otherwise. A complaint shall set out clearly and concisely the specific acts or failures to act giving rise to the complaint of improper conduct.
- 2.3 In order to establish whether the grounds for referral to the Investigating Committee referred to in 2.1.1 or 2.1.4 are present, the Director: Legal or the CEO may, in his or her discretion:
- 2.3.1 notify the respondent in writing of the nature of the complaint and call upon that respondent to furnish a written explanation in answer to the complaint within 30 days of such notice; and
- 2.3.2 request a complainant to provide further particulars on any aspect of the complaint.

3. INVESTIGATION OF A COMPLAINT OR ALLEGATIONS OF IMPROPER CONDUCT

- 3.1 When a complaint or allegation of improper conduct against a respondent is referred to the Investigating Committee, the Investigating Committee must investigate such complaint or allegation⁴ and may:
- 3.1.1 take any steps which are not prohibited by law to gather information with regard to the complaint or allegation'
- 3.1.2 request a complainant to provide further particulars on any aspect of the complaint;

³ Section 48(1) and (2)

- 3.1.3 request the respondent to appear before the Investigating Committee" in order to assist it to formulate its recommendations to the Board' by notice specifying the time and place of the meeting of the Investigating Committee, provided that the notice shall inform the respondent:
- 3.1.3.1 that the respondent has the right to be assisted or represented by another person."
- 3.1.3.2 that any statement made by the respondent to the Investigating Committee may be used in evidence" and that the proceedings of the Investigating Committee will be recorded; and
- 3.1.3.3 that section 51(4) of the Act provides that a respondent may be ordered to pay the reasonable costs incurred by the Investigating Committee and the Disciplinary Committee in connection with an investigation and hearing, if appropriate, and that a failure to appear before the Investigating Committee may increase the costs likely to be incurred by the Investigating Committee and the Disciplinary Committee;
- 3.1.4 require, by notice in writing, the registered auditor to whom the complaint or allegation of improper conduct relates or any other person to produce to the Investigating Committee at a time and place stipulated in the notice any information including, but not limited to, any working papers, statements, correspondence, books or other documents, which is in the possession or under the control of that registered auditor or other person and which relates to the subject matter of the charge(s), including specifically, but without limitation, any working papers of the registered auditor,¹⁰

⁴ Section 48(3)

⁵ Section 48(3)(b)

⁶ Section 48(4)

⁷ Section 48(7)

⁸ Section 48(4)(a)

⁹ Section 48(4)(b)

¹⁰ Section 48(5)(a)(i)

- 3.1.5 request the CEO to institute legal action¹¹ against any person who fails to produce to the Investigating Committee the information referred to in 3.1.4 at the time and place stipulated in the notice; and
- 3.1.6 inspect and, **if** the Investigating Committee considers it appropriate, retain any information obtained pursuant to 3.1.4 and 3.1.5 and make copies of and take extracts from such Information.¹²
- 3.2 Notwithstanding the provisions in 3.1.3.1 and 3.1.3.2, the Investigating Committee and the respondent may agree to declare any appearance or part of an appearance of the respondent before the Committee to be "without prejudice". In such a case:
- 3.2.1 The evidence presented or the discussions at such appearance or part of the appearance will not be recorded;
- 3.2.2 the discussions between the Investigating Committee and the respondent will not be used in evidence against the respondent; and
- 3.2.3 the respondent and the Investigating Committee may agree that the respondent would not be assisted or represented by any other person.
- 3.3 The Investigating Committee shall not be obliged to disclose the source of a complaint.
- 3.4 **If**, in the course of its investigations, the respondent admits to the Investigating Committee that the respondent is guilty of improper conduct and the Investigating Committee and the respondent agree on a punishment to be imposed for such improper conduct, or if it appears to the Investigating Committee be appropriate, the Investigating Committee may recommend to the Board that a specific sanction is imposed **on**, and the payment of a specific amount in costs is required from, the respondent and that the name of, charge(s) against and finding in respect of the respondent is published by the Board or not.

¹¹ Section 9(n) read with the Board's resolutions on 20 June 2006

¹² Section 48(5)(a)(ii) and (iii)

RECOMMENDATION TO DAC

3.5 After investigating the allegations of improper conduct against the respondent, the Investigating Committee:

3.5.1 shall report and recommend to the Disciplinary Advisory Committee whether or not the respondent should be charged with improper conduct.¹³ If the Investigating Committee recommends to the Disciplinary Advisory Committee that the respondent should not be charged with improper conduct, it should state its finding whether:

3.5.1.1 the respondent is not guilty of improper conduct; or

3.5.1.2 there is a reasonable explanation for the respondent's conduct; or

3.5.1.3 the conduct of which the respondent may be guilty is of negligible nature or consequence; or

3.5.1.4 there are no reasonable prospects of success to succeed with a charge of improper conduct against the respondent; or

3.5.1.5 in all the circumstances it is not appropriate to charge the respondent with improper conduct; and

3.5.2 may make a recommendation under 3.4 to the Disciplinary Advisory Committee.

4. DECISION WHETHER TO CHARGE A REGISTERED AUDITOR WITH IMPROPER CONDUCT

4.1 When the Disciplinary Advisory Committee receives a recommendation under 3.5 from the Investigating Committee, it shall consider this and:

¹³Section 48(7) read with the Board's resolutions on 20 June 2006

- 4.1.1 if the Investigating Committee recommended that the respondent should be charged, shall formally charge the respondent;"
- 4.1.2 if the Investigating Committee recommended that the respondent should not be charged, the Disciplinary Advisory Committee may:
- 4.1.2.1 refer the recommendation to be considered by the Board; or
- 4.1.2.2 decline to prefer any charge(s) against the respondent.
- 4.2 Should the Disciplinary Advisory Committee refer the matter to the Board, the Board may:
- 4.2.1 formally charge the respondent with such charge(s) as it may formulate in its discretion;¹⁵ or
- 4.2.2 decline to prefer any charge(s) against the respondent.
- 4.3 If the Disciplinary Advisory Committee or the Board, as the case may be, decides not to charge a respondent whose conduct was the subject of an investigation with improper conduct, the Director: Legal or the CEO must notify the respondent, and may notify the complainant, in writing of this decision.
- 4.4 If a respondent is formally charged with any charge(s) of improper conduct, the Disciplinary Advisory Committee shall cause a notification (if applicable) and a charge sheet to be furnished to the respondent by hand (whether by service by sheriff or on the respondent's legal representatives or otherwise) or by registered mail to the respondent's address or last known address."

THE NOTIFICATION

- 4.5 When a respondent is formally charged with any charge(s) of improper conduct, such respondent shall receive a notice of the time and place at which a hearing of the charges under Rule 6 and Rule 7 (if applicable) will be

¹⁴ Section 49(1) read with the Board's resolutions on 20 June 2006

¹⁵ Section 49(1) read with section 19(4) and the Board's resolutions on 20 June 2006

¹⁶ Section 49(2)

conducted, unless the Investigating Committee made a recommendation under 3.4.

4.6 Subject to 6.3.11, 6.3.12 and 6.4, a hearing under Rule 6 and / or Rule 7 is conducted at such time and place as is determined by the Director: Legal or the CEO.

4.7 The notice shall state:

4.7.1 that, at the hearing under Rule 6 and Rule 7 (if applicable), the respondent:

4.7.1.1 may be assisted or represented by another person in conducting a defence;

4.7.1.2 has the right to be heard;

4.7.1.3 may call witnesses;

4.7.1.4 may cross-examine any person called as a witness by the *proforma* complainant;

4.7.1.5 may have access to documents produced in evidence; and

4.7.1.6 may admit at any time before the conclusion of the disciplinary hearing under Rule 6 that the respondent is guilty of the charge(s) referred to the Disciplinary Committee despite the fact that the respondent denied such charge(s) or failed to admit or deny such charge(s); and

4.7.1.7 will be regarded as guilty of the charge(s) to which the respondent admitted guilt under 4.7.1.6;

4.7.2 that the respondent must inform the Director: Legal or the CEO at least one (1) month before the date for the hearing under Rule 6 and Rule 7 (if applicable) is determined under 4.6, or on good cause shown, such shorter period as the Director: Legal or CEO may determine, of the names, physical addresses and postal addresses of any witness(es) that the

respondent wishes to give evidence at the hearing under Rule 6 and Rule 7 (if applicable).

SUBPOENAS

4.8 The Director: Legal or the CEO must cause subpoenas in the prescribed form to be served on the witness(es), if any, nominated by the respondent and may cause such subpoenas to be served on such witness(es), if any, whom the *pro forma* complainant and the Disciplinary Committee wish to call.

THE CHARGE SHEET

4.9 A charge sheet may contain more than one charge of improper conduct, whether formulated cumulatively or in the alternative.

4.10 The charge sheet shall:

4.10.1 set out the nature of the charge(s);¹⁷

4.10.2 set out the relevant facts upon which the charge(s) are based with sufficient particularity as to allow the respondent to plead;

4.10.3 inform the respondent that the respondent may, in writing, admit or deny the chargers);"

4.10.4 inform the respondent that the respondent may, together with the admission or denial referred to in 4.10.3, submit a written explanation regarding the chargers);"

4.10.5 inform the respondent of the date by which the respondent must admit or deny the chargers), which date must give the respondent a reasonable time (but not exceeding 60 days) to respondr"

4.10.6 inform the respondent that:

¹⁷ Section 49(3)(a)

¹⁸ Section 49(3)(b)

¹⁹ Section 49(3)(c)

²⁰ Section 49(3)(d)

- 4.10.6.1 should the respondent not admit or deny the charge(s) by the date referred to in 4.10.5, the respondent would be considered to have denied those charge(s) and that those charge(s) would be referred to a disciplinary hearing under Rule 6; or
- 4.10.6.2 should the respondent deny the chargers), but fail to submit a written explanation, together with the denial, the charge(s) would be referred to a disciplinary hearing under Rule 6 without such an explanation;
- 4.10.7 inform the respondent that section 5] (4) of the Act provides that a respondent may be ordered to pay the reasonable costs incurred by the Investigating Committee and the Disciplinary Committee in connection with an investigation and hearing and that a failure to submit a plea under 4.10.3 or a written explanation under 4.10.4 may increase the costs likely to be incurred by the Disciplinary Committee.

AMENDMENT OF CHARGE SHEET PRIOR TO HEARING

- 4.11 The Disciplinary Advisory Committee may at any time after a charge sheet or amended charge sheet was furnished to a respondent under 4.4 and before the commencement of a hearing under Rule 6 further amend such charge sheet or amended charge sheet." Amendments may include, but are not limited to, the addition or deletion of charges.
- 4.12 The amendment shall be effected by furnishing an amended charge sheet which meets the requirements set out in 4.10 to the respondent under 4.4.
- 4.13 The provisions of Rule 5 apply *mutatis mutandis* to a respondent after receipt of an amended charge sheet even if the respondent has pleaded to the original charge sheet.

5. THE PLEA AND CONSEQUENCES OF AN ADMISSION OR DENIAL OF GUILT

²¹ The powers of the Disciplinary Committee to amend a charge sheet is dealt with in 6.3.8

- 5.1 A respondent that is formally charged must in writing plead to all of the charges before or on the date referred to in 4.10.5.
- 5.2 Should the respondent not plead to the charge(s) before or on the date referred to in 4.10.5, the respondent will be considered to have denied the charge(s) and such charge(s) will be referred to a hearing on the merits under Rule 6.
- 5.3 If a respondent pleads guilty to the charge (should there be only one), or all the charges (should there be more than one), contained in the charge sheet, the respondent must notify the Director: Legal or the CEO. In such a case, the respondent is considered to be guilty of that charge(s)²² and:
- 5.3.1 if the Investigating Committee has recommended that a specific sanction is imposed on, the payment of a specific amount in costs is required from, and a specific arrangement regarding publication is made with respect to, a respondent, the Director: Legal or the CEO will automatically impose that sanction on the respondent, order the respondent to pay that amount in costs and implement that arrangement with regard to publication";
- 5.3.2 if the Investigating Committee did not recommend that a specific sanction is imposed on, and the payment of a specific amount in costs is required from, a respondent, the matter will be referred to the Disciplinary Committee to act under Rule 7 at the hearing determined under 4.6.
- 5.4 If a respondent pleads guilty to one or more, but not all, of the charges in the charge sheet (should there have been more), the respondent must notify the Director: Legal or the CEO, clearly indicating in respect of which charge(s) the respondent admits and denies guilt.
- 5.5 If a respondent denies guilt to one or more of the charges in a charge sheet, and the Investigating Committee has made no recommendation under 3.4, that charge(s) to which such respondent has denied guilt will be referred to the Disciplinary Committee for a hearing on the merits under Rule 6, unless the

²² Section 49(4)

²³ See the Board's Resolutions on 20 June 2006 and the resolution of the Disciplinary Committee on 16 September 2006

charge sheet is amended by the DAC under 4.11 to remove the charge(s) to which the respondent denied guilt. The respondent will be considered to be guilty of those charges to which the respondent admitted guilt, which will be referred to the Disciplinary Committee to act under Rule 7.

5.6 If a respondent denies guilt to one or more of the charges in a charge sheet, and the Investigating Committee has made a recommendation under 3.4:

5.6.1 the Disciplinary Advisory Committee may exercise its powers under 4.11, in which case 4.12 and 4.13 will apply *mutatis mutandis*. Should there be no charges in the charge sheet, as amended, to which the respondent pleads not guilty, the charges to which the respondent pleaded guilty are referred to the CEO or the Director: Legal to act in terms of 5.3.1;

5.6.2 if the Disciplinary Advisory Committee does not exercise its powers under 4.11, or if - despite its exercise of its powers under 4.11 - there are charges in the charge sheet as amended to which the respondent pleads not guilty, 4.5 to 4.8 will apply *mutatis mutandis* and all charge(s) in the charge sheet will be referred to the Disciplinary Committee. That charge(s) to which the respondent denied guilt will be referred for a hearing on the merits under Rule 6. The respondent will be considered to be guilty of those charges to which the respondent admitted guilt, which will be referred to the Disciplinary Committee to act under Rule 7.

6. THE HEARING ON THE MERITS

6.1 General matters

6.1.1 The Disciplinary Committee may upon good cause shown and in the interests of justice sanction or condone any departure from these Rules or from the strict rules of evidence which is not prohibited by the Act. Unless any departure from these Rules or from the strict rules of evidence is raised at a hearing, it shall not be necessary for the Disciplinary Committee formally to sanction or condone such departure and such departure shall not in and of itself invalidate any action or decision taken, or purportedly taken, under these Rules.

- 6.1.2 If a respondent who is formally charged with any charge(s) of improper conduct under 4.1.1 or 4.2.1, does not in writing admit or deny the charge(s) before or on the date referred to in 4.10.5 or should that respondent deny the charge (if there is only one or) or one or more of the charges (if there are more than one), the Director: Legal or the CEO shall refer the charge(s) which were denied or to which the respondent did not plead together with the plea and written explanation (if any) to the Disciplinary Committee for a hearing under this Rule, subject to 5.5 and 5.6.
- 6.1.3 Pursuant to a referral under 6.1.2, the Director: Legal or the CEO shall appoint any person ("the *proforma* complainant"), in his or her discretion, to present the charge(s) to the Disciplinary Committee at the hearing under this Rule and under Rule 7 (if any). The *proforma* complainant may be assisted by one or more persons with legal or auditing experience.
- 6.2 Documents to be adduced in evidence
- 6.2.1 The Director: Legal or the CEO shall cause bundles of documents to be adduced in evidence in the hearing under this Rule and under Rule 7 (if any) to be distributed to such members of the Disciplinary Committee who indicated that they would attend the hearing under this Rule, to the respondent and to the *proforma* complainant.
- 6.2.2 The bundles shall comprise:
- 6.2.2.1 the notice and charge sheet(s) sent to the respondent under 4.4;
- 6.2.2.2 any plea(s) and written explanation(s) furnished by the respondent;
- 6.2.2.3 any documents which the *proforma* complainant and the respondent may agree are admissible in evidence;
- 6.2.2.4 at the discretion of the *proforma* complainant, a certified copy of the record of the trial and conviction of the respondent if the respondent is charged with improper conduct which amounts to the offence of

which the respondent was convicted, unless the conviction has been set aside by a superior court.

6.2.3 Nothing in 6.2 shall prevent any evidence not included in any bundle referred to in those sub-rules from being adduced at the hearing under this Rule or Rule 7.

6.3 The conduct of the hearing

6.3.1 Should the respondent not be present at the place and time for the hearing determined under 4.6 and still not be present within thirty (30) minutes from the time set for the start of the hearing, the hearing under this Rule and Rule 7 (if any) may proceed in the respondent's absence if the Disciplinary Committee is satisfied that the notice under 4.4 was served on the respondent by hand (whether by service by sheriff or otherwise) or by registered mail.

6.3.2 This Rule shall apply *mutatis mutandis* to the situation where a hearing proceeds in a respondent's absence.

6.3.3 If a registered auditor is not present at a hearing, a registered auditor may only be represented by another person at the hearing if the registered auditor has authorised such person in writing to do so.

6.3.4 Any application for the hearing under this Rule, or any part of the hearing, to be held *in camera* shall be brought at the outset of the hearing unless the chairperson of the Disciplinary Committee determines otherwise.i"

6.3.5 Any witness at a hearing shall give evidence after the chairperson of the Disciplinary Committee or a person designated by him or her administered an oath or affirmation to such witness.

6.3.6 The order of procedure at a hearing under this Rule shall be as follows:

²⁴ Section 50(4) provides that a hearing before the Disciplinary Committee is open to the public except where, in the opinion of the chairperson of the Disciplinary Committee, any part of the hearing should be held *in camera*.

- 6.3.6.1 The chairperson of the Disciplinary Committee shall read the notice and charge sheet referred to in 4.4 to the respondent, unless the respondent agrees to dispense with the reading of such notice and charge sheet.
- 6.3.6.2 The chairperson of the Disciplinary Committee shall ask the respondent to confirm which of the charges set out in the charge sheet (or in the charge sheet as amended) the respondent admits or denies, provided that the Disciplinary Committee shall not ask such confirmation with respect to any charge(s) that the respondent may have admitted under 5.3.
- 6.3.6.3 The respondent will be considered to be guilty as charged to any charge(s) to which such respondent admits guilt under 6.3.6.2 and such charge(s) will be heard by the Disciplinary Committee under Rule 7.
- 6.3.6.4 Should the respondent not admit or deny the charge(s) when asked to do under 6.3.6.2 or should it appear to the Chairperson that the respondent may admit the facts but may not admit the charge(s) or should the respondent not be present at the hearing under this Rule, the respondent will be considered to have denied the charge(s).
- 6.3.6.5 The *pro forma* complainant shall state his or her case with regard to the charge(s) denied under 6.3.6.2 and 6.3.6.4 and produce evidence in support of it.
- 6.3.6.6 The respondent may cross-examine any witnesses produced by the *pro forma* complainant and may have access to any documents adduced in evidence by the *pro forma* complainant.
- 6.3.6.7 The *pro forma* complainant may re-examine any witnesses cross-examined by the respondent.
- 6.3.6.8 At the conclusion of the case presented by the *pro forma* complainant, the respondent shall state the case with regard to the

- charge(s) denied under 6.3.6.2 and 6.3.6.4 and produce evidence in support of it.
- 6.3.6.9 The *proforma* complainant may cross-examine any witnesses produced on behalf of the respondent (including the respondent registered auditor if that registered auditor has elected to give evidence) and may have access to any documents adduced in evidence by the respondent.
- 6.3.6.10 The respondent may re-examine any witnesses cross-examined by the *proforma* complainant.
- 6.3.6.11 At the conclusion of the case presented by the respondent,
- (i) the *proforma* complainant may address the Disciplinary Committee on the case generally;
 - (ii) the respondent may reply to the *proforma* complainant; and
 - (iii) the *proforma* complainant may reply to any new matter raised by the respondent.
- 6.3.7 The Disciplinary Committee shall not hear any further evidence from the *proforma* complainant or from the respondent after the conclusion of their case unless the interests of justice so dictates, in which case 6.3.6.5 to 6.3.6.11 shall apply *mutatis mutandis*.
- 6.3.8 The Disciplinary Committee may at any time after the *proforma* complainant started to state his or her case and prior to the conclusion of the hearing under this Rule amend the charge sheet in accordance with section 50(3) after which it may regulate its proceedings as it deems fit in the interests of justice."
- 6.3.9 The respondent may at any time after the *proforma* complainant started to state his or her case and prior to the conclusion of the hearing under this Rule admit guilt to any charge(s) which has not previously been admitted, upon which such respondent will be considered to be guilty of

such charge(s). Such charge(s) will be heard by the Disciplinary Committee under Rule 7. The Disciplinary Committee may regulate its proceedings with respect to any remaining charge(s) to which guilt has not been admitted as it deems fit in the interests of justice.

- 6.3.10 The *proforma* complainant may, with the leave of the Disciplinary Committee, at any time after he or she started to state his or her case and prior to the conclusion of the hearing withdraw any charge(s) against the respondent. The Disciplinary Committee may regulate its proceedings with respect to any remaining charge(s) as it deems fit in the interests of justice.
- 6.3.11 If the Disciplinary Committee is not seized of any further charge(s) as a result of an admission under 6.3.9 or a withdrawal under 6.3.10, and if the respondent is guilty of any charge(s) under section 49(4)26 or section 50(8)(b)(ii)27, the Disciplinary Committee shall proceed to hear such charge(s) of which the respondent is guilty under Rule 7, or, in exceptional circumstances, shall determine anew a place and time (not more than 30 days from the date of the announcement) at which the Disciplinary committee will hear such charge(s) under Rule 7.
- 6.3.12 The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing order the postponement of the remainder of the hearing under this Rule to a time and place determined or to be determined in its discretion, provided that only members present at the commencement of the hearing under this Rule may take part in the remainder of the hearing under this Rule.
- 6.3.13 The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing under this Rule call as a witness any person the evidence of whom it considers material and who has not

²⁵ See also 4.11

²⁶ This is the case when a registered auditor admitted guilt to one or more charges in a reply to the charge sheet before a hearing.

²⁷ This is the case when a registered auditor admitted guilt to one or more charges at a hearing on the merits of the matter.

been called by the *pro forma* complainant or the respondent. The Disciplinary Committee may regulate its proceedings with respect to the cross-examination of such witness and the right to address the Disciplinary Committee on the evidence given by such witness as it deems fit in the interests of justice.

- 6.3.14 Any member of the Disciplinary Committee taking part in the hearing under this Rule may, with the permission of the chairperson of the Disciplinary Committee, put a question to any witness, to the respondent registered auditor (if such registered auditor elected to give evidence), to the *pro forma* complainant and to the legal representative of the respondent registered auditor (if any).
- 6.3.15 The Disciplinary Committee may make any decision with regard to any matter arising in connection with, or in the course of a hearing under this Rule, *in camera*.

6.4 Conclusion of hearing under this Rule

At the conclusion of a hearing under this Rule, the chairperson of the Disciplinary Committee shall announce when and in which manner the Disciplinary Committee will inform the respondent of its finding as to the guilt or innocence of the respondent on the charge(s) with which the Disciplinary Committee is still seized at the conclusion of the hearing under this Rule. The Disciplinary Committee may inform the respondent of its finding on the day of the hearing under this Rule or, in exceptional circumstances, later, but in any event not more than 30 days²⁸ after the conclusion of the hearing under this Rule.

7. HEARING ON SENTENCING²⁹

7.1 Application of this rule

²⁸ See section 51(1)

²⁹ It is envisaged that a hearing on the merits and on sentencing would normally take place at the same time. In exceptional circumstances, however, the Disciplinary Committee may determine otherwise: see 6.3.11, 6.3.12 and 6.4

- 7.1.1 This rule does not apply when a respondent admitted guilt to the charge (should there be only one), or all the charges (should there be more than one), contained in the charge sheet, and the Director: Legal or the CEO automatically imposed a sanction on the respondent under 5.3.1³⁰.
- 7.1.2 Subject to 7.1.1, this rule applies when a respondent is found guilty of any charge(s) under section 49(4)³¹, 50(8)(b)(i)³² or 51(1)(a)³³ regardless of whether a hearing under Rule 6 took place.
- 7.2 Hearing under this Rule when a hearing under Rule 6 took place
- If** a respondent is found guilty of a charge(s) under section 49(4)³⁴, 50(8)(b)(ii)³⁵ or 51(1)(a)³⁶ and a hearing under Rule 6 took place, the Disciplinary Committee will hold a hearing under this Rule:
- 7.2.1 at the time and place appointed by the chairperson of the Disciplinary Committee under 6.3.1¹ or 6.4;
- 7.2.2 as a continuation of the hearing under Rule 6; and
- 7.2.3 with only such members of the Disciplinary Committee as took part in the hearing under Rule 6 taking part in the hearing under this Rule.
- 7.3 Hearing under this Rule when a hearing under Rule 6 did not take place³⁷
- The provisions of this sub-Rule 7.3 apply only if a respondent is guilty of a charge(s) and a hearing under Rule 6 did not take place. In such a case,

³⁰ See the Board's Resolutions on 20 June 2006 and the resolution of the Disciplinary Committee on 16 September 2006

³¹ This is the case when a registered auditor admitted guilt to one or more charges in a reply to the charge sheet before a hearing.

³² This is the case when a registered auditor admitted guilt to one or more charges at a hearing on the merits of the matter.

³³ This is the case when the Disciplinary Committee finds a registered auditor guilty after a hearing on the merits of the matter.

³⁴ See fn 31 above.

³⁵ See fn 32 above.

³⁶ See fn 33 above.

³⁷ This is the case when a registered auditor admits guilt to the charge (should there be only one), or all the charges (should there be more than one), contained in the charge sheet and the Investigating Committee did not recommend that a specific sanction is imposed.

7.3.1 the Director: Legal or the CEO may appoint a *proforma* complainant, in his or her discretion, to present any aggravating or mitigating circumstances to the Disciplinary Committee at the hearing under this Rule. The *proforma* complainant may be assisted by one or more persons with legal or auditing experience;

7.3.2 the Disciplinary Committee conducts the hearing under this Rule at such time and place as is determined by the Director: Legal or the CEO under 4.6.

7.4 General power relating to hearing under Rule 7

The Disciplinary Committee may upon good cause shown and in the interests of justice sanction or condone any departure from these Rules or from the strict rules of evidence which is not prohibited by the Act. Unless any departure from these Rules or from the strict rules of evidence is raised at a hearing, it shall not be necessary for the Disciplinary Committee formally to sanction or condone such departure and such departure shall not in and of itself invalidate any action or decision taken, or purportedly taken, under these Rules.

7.5 The conduct of the hearing

7.5.1 Should the respondent not be present at the place and time for the hearing determined under 6.3.11, 6.4 or 7.3.2 and still not be present within thirty (30) minutes from the time set for the start of the hearing, the hearing under this Rule may proceed in the respondent's absence, provided that if the place and time for the hearing was determined under 7.3.2, the hearing under this Rule may only proceed in the respondent's absence if the Disciplinary Committee is satisfied that the notice under 4.4 was served on the respondent by hand (whether by service by sheriff or otherwise) or by registered mail.

7.5.2 This Rule shall apply *mutatis mutandis* to the situation where a hearing proceeds in a respondent's absence.

- 7.5.3 If a registered auditor is not present at a hearing, a registered auditor may only be represented by another person at the hearing, if the registered auditor has authorised such person in writing to do so.
- 7.5.4 Any application for the hearing under this Rule, or any part of the hearing, to be held *in camera* shall be brought at the outset of the hearing unless good cause, in the opinion of the chairperson of the Disciplinary Committee, is shown."
- 7.5.5 Any witness at a hearing shall give evidence after the chairperson of the Disciplinary Committee or a person designated by him or her administered an oath or affirmation to such witness.
- 7.5.6 The order of procedure at a hearing under this Rule shall be as follows:
- 7.5.6.1 The chairperson of the Disciplinary Committee shall read the charge(s) of which the respondent are guilty, unless the respondent agrees to dispense with the reading of the charge(s).
- 7.5.6.2 The *pro forma* complainant shall state his or her case with regard to mitigating or aggravating circumstances in respect of the charge(s) of which the respondent are guilty and produce evidence in support of it (if any).
- 7.5.6.3 The respondent may cross-examine any witnesses produced by the *pro forma* complainant and may have access to any documents adduced in evidence by the *pro forma* complainant
- 7.5.6.4 The *pro forma* complainant may re-examine any witnesses cross-examined by the respondent.
- 7.5.6.5 At the conclusion of the case presented by the *pro forma* complainant, the respondent shall state the case with regard to mitigating or aggravating circumstances in respect of the charge(s) of

³⁸ Section 50(4) provides that a hearing before the Disciplinary Committee is open to the public except where, in the opinion of the chairperson of the Disciplinary Committee, any part of the hearing should be held *in camera*.

which the respondent are guilty and produce evidence in support of it (if any).

- 7.5.6.6 The *pro forma* complainant may cross-examine any witnesses produced on behalf of the respondent (including the respondent registered auditor if that registered auditor has elected to give evidence) and may have access to any documents adduced in evidence by the respondent.
- 7.5.6.7 The respondent may re-examine any witnesses cross-examined by the *pro forma* complainant.
- 7.5.6.8 At the conclusion of the case presented by the respondent,
- (i) the *pro forma* complainant may address the Disciplinary Committee with respect to mitigating or aggravating circumstances;
 - (ii) the respondent may reply to the *pro forma* complainant; and
 - (iii) the *pro forma* complainant may reply to any new matter raised by the respondent.
- 7.5.7 The Disciplinary Committee shall not hear any further evidence from the *pro forma* complainant or from the respondent after the conclusion of their case on mitigating or aggravating circumstances unless the interests of justice so dictate, in which case 7.5.6.2 to 7.5.6.8 shall apply *mutatis mutandis*.
- 7.5.8 The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing under this Rule order the postponement of the remainder of the hearing under this Rule to a time and place determined or to be determined in its discretion, provided that only members present at the commencement of the hearing under this Rule may take part in the remainder of the hearing under this Rule.

7.5.9 The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing under this Rule call as a witness any person the evidence of whom it considers material and who has not been called by the *proforma* complainant or the respondent. The Disciplinary Committee may regulate its proceedings with respect to the cross-examination of such witness and the right to address the Disciplinary Committee on the evidence given by such witness as it deems fit in the interests of justice.

7.5.10 Any member of the Disciplinary Committee taking part in the hearing under this Rule may, with the permission of the chairperson of the Disciplinary Committee, put a question to any witness, to the respondent registered auditor (if such registered auditor elected to give evidence), to the *proforma* complainant and to the representative of the respondent registered auditor (if any).

7.5.11 The Disciplinary Committee may make any decision with regard to any matter arising in connection with, or in the course of a hearing under this Rule, *in camera*.

7.6 Conclusion of hearing under this Rule

At the conclusion of a hearing under this Rule, the chairperson of the Disciplinary Committee shall announce when and in which manner the Disciplinary Committee will inform the respondent of its finding as to the sentence of the respondent. The Disciplinary Committee may inform the respondent of its finding on the day of the hearing under this Rule or, in exceptional circumstances, later, but in any event not more than 30 days after the conclusion of the hearing under Rule 6 (if any) or more than 30 days after the conclusion of the hearing under this Rule, whichever is the earliest."

8. COMPETENT SENTENCES, PUBLICATION, COSTS AND NOTICE TO THE BOARD

³⁹ See section 51(1)

- 8.1 If a respondent is found guilty of a charge of improper conduct, one or more of the following sentences may be imposed under 5.3.1 or 7.6 with respect to each charge of which the respondent is found guilty⁴⁰:
- 8.1.1 a caution or reprimand; and
 - 8.1.2 a fine which shall not exceed either R 100 000 or such higher amount as may be applicable from time to time under section 51 (3)(a)(ii); and
 - 8.1.3 a suspension of the right to practice as a registered auditor for a specific period; and
 - 8.1.4 the cancellation of the registration of the respondent with the Board and the removal of the name of the respondent from the register referred to in section 6.
- 8.2 A sentence under 8.1 may be suspended for a specific period and / or made subject to any lawful conditions set in the sentence.
- 8.3 If a respondent is found guilty of a charge of improper conduct, an order made under 5.3.1 or 7.6 may include:
- 8.3.1 that the name of the respondent; and / or
 - 8.3.2 the name of the respondent's firm (if applicable); and / or
 - 8.3.3 the charge against and finding in respect of the respondent; and / or
 - 8.3.4 any other information that is considered appropriate
- is published by the Board or not, as the case may be.⁴¹
- 8.4 A respondent:
- 8.4.1 upon whom a sanction was imposed under 5.3.1; or;
 - 8.4.2 whose conduct was the subject of a hearing under Rule 6,

⁴⁰ See section 51(3)(a)

⁴¹ Section 51(5)

may be ordered to pay such reasonable costs as have been incurred by the Investigating Committee and the Disciplinary Committee in connection with the investigation and hearing in question, or such part thereof as may be considered just.
