

Disciplinary Regulations

2014

This document contains the Disciplinary
Regulations of the Association of Accounting
Technicians of Sri Lanka

Association of
Accounting
Technicians of
Sri Lanka

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Disciplinary Regulations

Commencement

1. These Regulations made by the Governing Council under the Association's Articles of Association are effective from 06th October 2014. The Regulations shall be read together with Articles **24 A, B, C and D; 58A and B; and 66A** in particular and with any amendments to articles made from time to time.

Extracts of Articles 24A, B, C and D; 58A and B and 66A are given in Schedule "A" for reference.

Committees

2. The Council shall appoint the following committees:
 - 2.1 For a period of two years:
 - a) Conduct and Compliance Committee comprising three Council Members for a period of two (2) years. (one (1) member to be appointed as Chairman of that Committee)
 - 2.2 As and when required under these Regulations:
 - b) An Investigation Committee comprising three (3) members, competent in conducting disciplinary inquiries, and one (1) member to be appointed as Chairman of that Committee.
 - c) A Disciplinary Committee comprising three (3) members, from Accountancy or Legal Profession including one (1) Council Member to investigate each complaint where necessary and one (1) member to be appointed as Chairman of that Committee.

The Council Members appointed to Committees under (b) and (c) shall disclose any conflict of interest which they consider would override the objectivity.

Complaints

3. Any person may make a complaint in writing to the Association concerning conduct of a member.
4. The Council of the Association shall consider and, where appropriate, investigate any complaint under paragraph 3 above provided it is made within six (6) months from the time when it arose.
5. Where a complaint is received that falls outside the six (6) month time period articulated in paragraph 4 above, it shall be at the discretion of the Governing Council to determine whether the complaint should be considered in light of any exceptional circumstances expressed by the complainant.
6. The Council of the Association can itself initiate a complaint where it becomes aware of any fact or matter concerning the conduct of a member which in its opinion warrants inquiry under these Regulations.

Grounds for disciplinary action

7. It shall be a ground for disciplinary action if a member is guilty of misconduct. This is defined as a member having:
 - i) conducted him/herself in such a manner as would in the opinion of the Governing Council, prejudice his/her status as a member of the Association or reflect adversely on the reputation of the Association;
 - ii) acted in serious or repeated breach of the Articles or of any Rules, Regulations or Bylaws including Code of Professional Conduct and Ethics adopted by the Council.

Professional Misconduct

8. The “professional misconduct” means any act or omission which is for the time being specified in the 1st schedule to these regulations.
9. The Council may amend, alter or add to any or all the provisions of the 1st schedule.

Informal procedure

10. By order of the Council, where the complaint (or fact or matter) relates to an apparently minor or isolated breach of the Association’s *Code on Professional Ethics*, which does not amount to Professional Misconduct under paragraph 8 the Association may, if the Conduct and Compliance Committee considers it appropriate, adopt the ‘informal procedure’.
11. In such cases the member concerned shall be contacted and informed of the apparent breach of the Association’s *Code on Professional Ethics*, being advised in writing where appropriate of any steps he/she should take to remedy the breach identified.
12. The informal procedure is not part of the Association’s formal disciplinary procedure. Copies of all communications between the Association and the member under the informal procedure shall, however, be kept and may be taken into account in future cases either in determining whether there are grounds for disciplinary action against a member or as part of his/her past history in determining the appropriate sanction for misconduct.

Conciliation

13. By order of the Council, the Conduct and Compliance Committee may also, where it considers appropriate, explore the possibility of resolving by conciliation any grievance which is the subject of a complaint. If any such action undertaken is ineffective, the Association may proceed in accordance with these Regulations.

Stage I - Disciplinary investigation

Formal procedure

14. When the Association receives or initiates a complaint under paragraphs 3 to 6 above which is not disposed of under the provisions set out above under paragraphs 10 & 13, a ‘formal procedure’ shall apply as follows.

Initial Inquiries

15. By order of the Council, the Conduct and Compliance Committee shall commence an investigation to establish the facts and circumstances by whatever means it considers appropriate, including, at its discretion, raising questions at this stage directly with the member concerned. .

Member's Response

16. If, having undertaken appropriate initial inquiries, Conduct and Compliance Committee decides that there appears to be a case which should be pursued against the member, it shall write to the member setting out the conduct complained of and identifying the possible ground(s) for disciplinary action. The member shall provide a written response within 21 days from the date of receipt of such complaint.

Appointment of Investigations Committee

17. Upon receipt of the member's response under paragraph 16 above, or where no response is received within the period permitted, Conduct and Compliance Committee shall recommend to the Council to initiate further inquiries.
18. On the recommendation of the Conduct and Compliance Committee that there is a reasonable cause to believe, whether on complaint made to it or otherwise, that any person who is a member of the Association has been found of professional misconduct, the Council may appoint an Investigation Committee to inquire in to and report to the council, whether a ***prima facie*** case of professional misconduct, has been made against such member.

Appointment of Disciplinary Committee

19. Where an Investigation Committee appointed under paragraph 18 reports to the Council that a ***prima facie*** case of professional misconduct has been made out against a member, the Council shall appoint a Disciplinary Committee for the purpose of inquiring in to the conduct of such member.
20. The Disciplinary Committee shall contain three (3) senior members from Accountancy or Legal profession including at least one Council member, of which one (1) member shall be appointed as the Chairman of the Committee. The Chief Executive Officer of the Association shall serve as the Secretary to the Disciplinary Committee. In the event of disclosure of any conflict of interest by the Chief Executive Officer the Council shall appoint a suitable senior employee of the Association as the Secretary.

The Legal Advisor

21. The Secretary to the Disciplinary Committee subject to approval of the Council may instruct an Attorney-at-Law to act as Legal Advisor to the Disciplinary Committee, to advise and assist it as it shall require and to be present at any hearing of the matter (but to have no vote in determining the case).

The Prosecutor

22. Conduct and Compliance Committee shall, on behalf of the Association, present the case before the Disciplinary Committee and for this purpose may instruct a legally qualified representative to make submissions on its behalf.

Disciplinary Proceedings

23. The Council shall cause a statement setting out the charges to be investigated by the Disciplinary Committee, and the Secretary of the Association shall transmit a copy of the statement to each member of the Committee and to the person whose conduct is the subject of the investigation.
24. Where the inquiry is to be held in consequence of a petition or complaint alleging misconduct by any person, the Secretary of the Association shall in addition transmit a copy of that petition or complaint to that person and to each of the members of the Disciplinary Committee.
25. The hearing of the complaint shall be conducted in accordance with the following Regulations except where to do so would be unjust or inconvenient, when the Chairman of the Disciplinary Committee may, after consultation with the Legal Advisor, modify the procedure to the extent that the Chairman deems necessary, provided that the result is fair to the member under complaint and the rules of natural justice are followed. The Chairman shall also inform the Council of any modification to the procedure of the hearing
26. Any person whose conduct is a subject of investigation at an inquiry or who is in any way concerned or implicated in such inquiry shall be given the opportunity of stating his defense or any matters in mitigation either in writing or by personal attendance at the hearing. Legal representation or representation by any other Member of the Association shall be permitted, but at least seven (7) days notice that the Member proposes to be so represented must be given by such Member to the Council in writing delivered at the Office.
27. Every inquiry held by a disciplinary committee shall, unless the Council otherwise determines in any complaint be held in camera.

28. The Secretary of the Association shall, as soon as is practicable, serve upon the member at least twenty one (21) days written notice of the date, time and place of the hearing and the names of the members of the Disciplinary Committee who will consider the matter.

Adjournment

29. At the request of either party or at his/her own volition the Chairman of the Disciplinary Committee may, after consultation with the Legal Advisor, at any time adjourn the hearing if satisfied that it is in the interests of justice so to do. An application for the adjournment of a hearing that has not begun may be agreed between the parties at commencement.
30. In the event that any member of the Disciplinary Committee is unwilling or unable to hear an entire case and the matter cannot be dealt with by adjournment of the hearing, then the Council shall appoint a member in place of such member and the case shall be re-heard.

The absence of the member

31. If, at the hearing, the member is not present or represented by an advocate or by another member, the Disciplinary Committee may proceed to hear the matter in the member's absence if it is satisfied that notice has been served upon him/her in accordance with paragraph 28 above.

Burden and standard of proof

32. The burden of proving the alleged misconduct shall lie upon Conduct and Compliance Committee on the evidence brought forward by the complainant and investigations carried out thereon.
33. The standard of proof shall be the balance of probabilities.

Evidence

34. The Disciplinary Committee shall not be bound by strict rules of evidence.
35. The Disciplinary Committee may receive oral, documentary or other evidence of any fact or matter which appears to be relevant to the consideration of the case. Such evidence must be recorded by the Committee.
36. The findings of fact and certification of conviction of any Sri Lankan Criminal Court or the findings of a Judge in any Sri Lankan Civil Court shall be conclusive proof of the facts or convictions so found and shall be placed on record of the Disciplinary Committee.

37. The Disciplinary Committee may admit evidence adduced by a party notwithstanding that such evidence has not been disclosed to the other side in advance of the hearing if:
- a) the parties consent.
 - b) after consultation with the Legal Advisor, it is satisfied that:
 - i) the admission of such evidence is necessary to ensure fairness of the proceedings and outweighs any prejudice to the party which has not previously seen such evidence;
 - ii) there is a good reason why such evidence was not previously disclosed.
38. In determining whether the alleged misconduct is proven the Disciplinary Committee shall have regard to any relevant guidance whether ethical or technical, made or approved by the Association at the time the matter arose, and may place such weight as it sees fit on the findings of a Tribunal of another professional or regulatory body.

Order of proceedings

39. The order of proceedings for the hearing before the Disciplinary Committee, unless the Chairman otherwise directs, shall be as follows.
- a) Submissions by or on behalf of Conduct and Compliance Committee
 - b) Hearing of any witnesses called by Conduct and Compliance followed by cross examination of such witnesses by or on behalf of the member.
 - c) Submissions by or on behalf of the member.
 - d) Hearing of any witnesses called by the member followed by cross-examination of such witnesses by or on behalf of Conduct and Compliance Committee
 - e) Closing submissions by or on behalf of Conduct and Compliance Committee
 - f) Closing submissions by or on behalf of the member.
40. Members of the Disciplinary Committee may themselves at any stage question witnesses, parties or representatives as they think fit.

Finding of facts

41. The Disciplinary Committee shall then consider in private whether the facts in the Notice of Allegation have been proved on the balance of probabilities.
42. The Disciplinary Committee shall announce its findings of facts and may where it deems necessary give reasons for its findings.
43. If no facts have been proved, the formal action shall be dismissed and all parties concerned shall be informed in writing that there were no facts in support or proof of the complaint.

Finding of misconduct

44. The parties may make representations to the Disciplinary Committee and may adduce evidence on the question of misconduct.
45. In deciding upon the issue of Misconduct, the Disciplinary Committee shall have regard to the Code on Professional Conduct and Ethics, and Rules and Regulations adopted by the Council of the Association from time to time..

Order of proceedings following a finding of misconduct

46. In the event that the Disciplinary Committee has found the member to be guilty of misconduct it shall inform the Council of any further circumstances known to it, whether favourable or adverse to the member that might be relevant to any order.
47. The member shall then be entitled to address the Disciplinary Committee in mitigation of penalty imposed and for this purpose he may call witnesses and produce documents. Where the member has chosen not to attend the hearing, the member may provide details of mitigation in writing, in advance, to the Secretary to the Committee. The Secretary to the Committee shall provide such mitigation documents to the Disciplinary Committee at this stage.
48. Conduct and Compliance Committee shall only be entitled to respond:
 - a) at the request of the Disciplinary Committee
 - b) in order to challenge any contested matters of fact
 - c) on the subject of the Disciplinary Committee's powers.

Decision

49. Any question before Disciplinary Committee shall be determined by the decision of the majority of the members of that Committee.

Notification of decision

50. Upon the conclusion of an inquiry, the Disciplinary Committee shall prepare and transmit to the Council a report embodying the findings on the matters in respect of which the inquiry was held, and shall cause a copy of such report to be sent to the person whose conduct was the subject of the inquiry.

Recording

51. The proceedings before the Disciplinary Committee shall be recorded and a transcript shall be provided upon written request by the member and on payment by him/her of the costs involved.

Publication of decision

52. The Council of the Association shall publish the decision of the Disciplinary Committee, as soon as is practicable (and subject to paragraph 55 below).
53. Unless the Disciplinary Committee otherwise directs, the publication shall state the name of the member, the nature of the misconduct and the decision of the Disciplinary Committee.

Service of notices/documents

54. Any notice or other documents required by these Regulations to be sent to or be served on a member may be delivered either personally or by registered post.
55. Where any such notice or any document is served by post or special delivery, it shall be sent to the last address of the member concerned which is recorded by him with the Association and it shall be deemed, wherever that address may be, to have been served on the second day following that on which it was posted unless at the place of receipt that latter day is a Sunday or a public holiday, in which case service shall be deemed to have occurred on the first day thereafter which is not one of such exceptional days.
56. Where the Council of the Association has reason to believe that a document has not been served by post and/or special delivery, it may serve the document by any or all other means available to it including electronic mail and fax.

Disciplinary action

57. The Council of the Association may, following a finding of misconduct, order any one or more courses of disciplinary action in accordance with a relevant policy issued by Council.
- a) In the case of a member that he/she:
 - i) be expelled from the Association
 - ii) have his/her membership of the Association suspended
 - iv) have his/her fellow member status removed (if applicable)
 - v) be severely reprimanded
 - vi) be reprimanded
 - vii) be fined a sum not exceeding a maximum figure as the Council may set from time to time
 - viii) give a written undertaking to ensure that steps are taken to avoid future occurrences of the misconduct in question.
 - b) In the case of all members that no action be taken despite the fact that there are grounds for disciplinary action or disciplinary action is taken:
 - i) He/She should seek advice as to his/her future conduct from such a source as may be recommended or prescribed.
58. In the case of all members that have disciplinary action taken against them, the recommended order of Council shall determine the time period for which the sanction shall remain in force against the member in accordance with the relevant policy issued from time to time by the Council of the Association.
59. The Council may also, wherever it considers appropriate and whether or not it decides to recommend/order any disciplinary action, communicate to the member its advice as to his/her future conduct. If the matter arose out of a complaint, the complainant shall be informed accordingly.
60. A member shall comply with an order made under these regulations.

Right to Appeal

61. A member against whom an order under Paragraph 57 has been made by the Council of the Association on findings of the Disciplinary Committee has the right to appeal to the Council stating his defense or in matters of mitigation within 21 days on receipt of the Order.
62. The decision of the Council of the Association on an appeal made by a member shall be conclusive.

First Schedule

- A. A professional misconduct shall include,
- a) A member has, before a court of competent jurisdiction, pleaded guilty to or has been found guilty of an indictable offence (or in such a court outside Sri Lanka has pleaded guilty to or been found guilty of a comparable offence).
 - b) A member has not complied with the Association's policy on continuing professional development (CPD).
 - c) A member has unreasonably refused to cooperate with an investigation carried out in accordance with these Regulations.
 - d) A member in practice (not suffering any relevant incapacity) has failed to renew his/her practicing license before the date of expiry.
 - e) A member (not suffering any relevant incapacity) has repeatedly failed to reply to correspondence from the Association.
 - f) Using information acquired in the course of his practice or employment for the advantage of himself or another person without the consent of his prospective client or employer, or client or employer, or former client or employer.
 - g) Directly or indirectly being a party to any act which will bring the Association or the profession in to discredit or disrepute.
 - h) Giving false evidence to Disciplinary Committee.
 - i) Including in any statement, return, form or correspondence to be submitted to the Council any information knowing it to be false.
 - j) A member has not complied with the Money Laundering Regulations from time to time in force.
- B. In the case of A (a) and A (b) above, it shall be a duty of every member to inform the Association without delay of such an event occurring in respect of him/herself. Such failure to inform shall also be construed as conclusive proof of misconduct.

Second schedule

Definitions

1. In these Regulations, the following words, phrases and abbreviations shall, except where the contrary intention appears, have the following meaning:

Articles	The Association's Articles of Association
Association	The Association of Accounting Technicians of Sri Lanka
Council	The Governing Council for the time being of the Association
Conduct and Compliance	The Conduct and Compliance Committee of the Association
Disciplinary Committee	The Committee appointed under paragraph 2 (c)
Investigations Committee	The Committee appointed under paragraph 2 (b)
Legal Advisor	An Attorney-at-Law appointed under paragraph 21
Member	A student, Member (MAAT), Senior Member (SAT) or Fellow Member (FMAAT) of the Association

Order of the Association	A formal record of disciplinary action taken against a member
	An officer of Conduct and Compliance (and may include any legally qualified representative instructed by Conduct and Compliance in

SCHEDULE "A"

EXTRACT OF THE ASSOCIATION'S ARTICLES OF ASSOCIATION

DISCIPLINARY POWERS

Article 24 A. Without prejudice to the powers of the Council under the preceding Article if, in the opinion of the Council (or of any Committee of the Council to which the Council shall have delegated its powers under this Article) any Member shall have conducted himself in such a manner as would in the opinion of the Council prejudice his status as a Member of the Association or reflect adversely on the reputation of the Association or shall have acted in breach of these presents of rules, regulations or by-laws from time to time made hereunder, the Council or any such Committee shall have power:-

- (I) to require the Member to give a written undertaking to refrain from continuing or repeating the conduct which constitutes a contravention, or
- (II) to reprimand the Member, or
- (III) to suspend the Member for such period and on such terms and conditions as the Council or any such Committee may determine, or
- (IV) to expel the Member from the Association.

B. A Member who has been suspended shall not be entitled to exercise any of the rights of Membership during the period of suspension, but any suspension shall be without prejudice to the rights and powers of the Council or any such Committee to take disciplinary action against the Member during the period of the suspension as if the suspended Member remained a Member and was subject to the provisions of these presents.

C. Before any disciplinary action against a Member is taken under this Article, the Member shall be notified in writing by recorded delivery at his last registered address of the grounds of complaint against him at least twenty one days before the meeting which is to deal with the matter, and shall be given the opportunity of stating his defense or any matters in mitigation either in writing or by personal attendance at the meeting. Legal representation or representation by any other Member of the Association shall be permitted, but at least seven days notice that the Member proposes to be so represented must be given by such Member to the Association in writing delivered at the Office.

D. Any Member against whom disciplinary action has been taken under this Article by any Committee of the Council to which the Council may have delegated its powers under this Article shall have a right of appeal to the Council, before which on the hearing of any appeal, the Member shall have the same rights of stating his defense or matters in mitigation and the same rights of representations as are respectively conferred by paragraph (C) of this Article. The decision of the Council shall be conclusive.

Article 58 A The business of the Association shall be managed by the Council which may exercise all such powers of the Association, and do on behalf of the Association all such acts as may be exercised and done by the Association and as are not by Statute or by these presents required to be exercised or done by the Association in General Meeting, subject nevertheless to any regulations of these presents, to the provisions of the Statutes and to such regulations, being no inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Association in General Meeting but no regulation made by the Association in General Meeting shall invalidate any prior act of the Council which would have been valid if such regulations had not been made.

B Without prejudice to the generality of the foregoing the Council may make and from time to time alter, revoke or add to rules, regulations and bye-laws (not being inconsistent with any provisions of these presents) relating to the Association and its affairs as from time to time the Council may decide.

Article 66A The Council may delegate any of their powers to Committees consisting of such members of the Council as they think fit, and any Committee so formed shall, in the execution of the powers so delegated, conform to any regulations imposed on it by the Council. The meetings and proceedings of any such Committee shall be governed by the provisions of these presents for regulating the meetings and proceedings of the Council so far as applicable and so far as the same shall not be superseded by any regulations made by the Council as aforesaid. Any such Committee may by resolution co-opt as a member of the Committee any person who is considered suitable for such period as the Committee may decide.