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GOVERNMENT NOTICE.

DEPARTMENT OF FINANCE.

No. R. 879.]

[20 October 1961.]

PUBLIC ACCOUNTANTS' AND AUDITORS' BOARD.

It is hereby notified that the Minister of Finance has, in terms of sub-section (3) of section *twenty-one* of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), approved of the undermentioned rules made by the Public Accountants' and Auditors' Board by virtue of the powers vested in it by paragraphs (g) and (j) of sub-section (1) of that section and sub-section (1) of section *twenty-seven* of the said Act as amended respectively by paragraph (b) of section *seven* and section *twelve* of the Public Accountants' and Auditors' Amendment Act, 1956 (Act No. 47 of 1956), prescribing what conduct on the part of an accountant and auditor registered under the said Act shall constitute improper conduct; and determining the method of enquiry into allegations of improper conduct and the punishments which may be imposed in respect thereof.

Government Notice No. 2, dated 4th January, 1957, is hereby repealed.

DISCIPLINARY RULES.

DEFINITIONS.

1. In these rules the expression "the Act" means the Public Accountants' and Auditors' Act, 1951, as amended, and any expression to which a meaning has been assigned in the Act bears, when used in these rules, the meaning so assigned.

WHAT CONSTITUTES IMPROPER CONDUCT AND PUNISHMENTS THEREFOR.

2. (1) On the understanding that the board is empowered by section *twenty-seven* of the Act to enquire into and deal with any complaint, charge or allegation which may be laid before it, and to impose any of the punishments hereinafter set forth in respect of any improper conduct, and on the understanding further that the acts or omissions specified in paragraphs (a) to (l) of this sub-rule are not intended to be a complete list of offences which may constitute improper conduct on the part of an accountant and auditor registered under the Act and which are punishable in accordance with the provisions of this rule, any accountant and auditor registered under the Act who—

(a) contravenes or fails to comply with any provision of the Act with which it is his duty to comply; or

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GOEWERMENSKENNISGEWING.

DEPARTEMENT VAN FINANSIES.

No. R. 879.]

[20 Oktober 1961.]

OPENBARE REKENMEESTERS- EN OUDITEURSRAAD.

Hierby word bekendgemaak dat die Minister van Finansies kragtens subartikel (3) van artikel *een-en-twintig* van die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), onderstaande reëls goedgekeur het wat deur die Openbare Rekenmeesters- en Ouditeursraad kragtens die bevoegdheid hom verleën by paragrawe (g) en (j) van subartikel (1) van genoemde artikel, en subartikel (1) van artikel *sewe-en-twintig* van dié Wet soos onderskeidelik gewysig by paragraaf (b) van artikel *sewe* en artikel *twalf* van die Wysigingswet op Openbare Rekenmeesters en Ouditeurs, 1956 (Wet No. 47 van 1956), gemaak is om voor te skryf hoedanige gedrag in die geval van 'n rekenmeester en ouditeur wat kragtens genoemde Wet geregistreer is, onbehoorlike gedrag uitmaak; en om die metode waarvolgens beweerde onbehoorlike gedrag ondersoek moet word, en die strawwe wat ten opsigte daarvan opgelê mag word, te bepaal.

Goewermentskennisgewing No. 2 van 4 Januarie 1957 word hierby ingetrek.

DISSIPLINÊRE REËLS.

WOORDOMSKRYWING.

1. In hierdie reëls beteken die uitdrukking „die Wet” die Wet op Openbare Rekenmeesters en Ouditeurs, 1951, soos gewysig, en 'n uitdrukking waaraan 'n betekenis in die Wet geheg is, dra die betekenis aldus daaraan geheg wanneer dit in hierdie reëls gebruik word.

WAT ONBEHOORLIKE GEDRAG UITMAAK EN STRAWWE DAARVOOR.

2. (1) Met dien verstande dat die raad kragtens artikel *sewe-en-twintig* van die Wet bevoeg is om ondersoek in te stel na enige klagte, aanklag of bewering wat aan hom voorgelê word, en dit te behandel, en om enigeen van die strawwe hieronder ten opsigte van onbehoorlike gedrag uiteengesit, op te lê, en met dien verstande, voorts, dat die handeling of versuim in paragrawe (a) tot (l) van hierdie subreël vermeld nie bedoel is as 'n volledige lys van oortredings wat onbehoorlike gedrag kan uitmaak van die kant van 'n rekenmeester en ouditeur kragtens die Wet geregistreer en wat strafbaar is ingevolge die bepalinge van hierdie reël nie, is enige rekenmeester en ouditeur wat kragtens die Wet geregistreer is, en wat—

(a) enige bepaling van die Wet oortree of versuim om daaraan te voldoen, as dit sy plig is om daaraan te voldoen; of

- (b) commits any offence involving dishonesty, and in particular (but without prejudice to the generality of the foregoing) theft, fraud, forgery or uttering a forged document, perjury, bribery or corruption; or
- (c) is dishonest in the performance of any duties devolving upon him in relation to—
- any professional work; or
 - any other work of a type commonly performed by a registered accountant and auditor; or
 - any office of trust which he has undertaken or accepted,
- or, without reasonable cause or excuse, and subject to the proviso to sub-section (4) of section *twenty-six* of the Act, fails to perform any such professional or other work or such duties with such degree of care and skill as in the opinion of the board may reasonably be expected; or
- (d) with intent to evade or to assist any other person to evade any tax, duty, levy, or rate whatsoever (whether the same be payable to the Government or to a Provincial Administration or to a local authority or to any other body or authority in the Republic)—
- knowingly or recklessly prepares or makes, or assists any other person to prepare or make, any false statement (whether such statement be oral or in writing); or
 - signs any false statement in relation thereto recklessly or knowing it to be false; or
 - knowingly or recklessly prepares or maintains any false books of account or other records; or
- (e) fails to maintain in a bank account, separate from his own account and appropriately designated, all moneys for which he is liable to account to a client; or
- (f) divulges to any third party, whether orally, in writing or otherwise, any confidential information which he may have obtained in the course of his professional relations with any client or employer (including any information obtained by him as to the business affairs, the trade secrets or the technical methods or processes of such client or employer), unless such client or employer (or, in the case where such client or employer is deceased, the executor of his estate) has expressly consented to such information being so divulged, or unless the accountant and auditor is obliged by law so to divulge it, or unless the accountant and auditor in good faith divulges it to the board in order that the board may consider whether it should exercise any of the powers, duties or functions vested in it by the Act or these rules; or
- (g) makes or fixes, or attempts to make, fix or recover, or enters into an agreement or associates himself in any way with any other person for the purpose of making, fixing or recovering, any fee, charge or other consideration for professional services or services of a type commonly performed by a registered accountant and auditor which have been or are to be rendered by him, which, whether wholly or in part, is in any way contingent upon the results of such services: Provided that this rule shall not apply to the following:—
- Fees fixed or taxed by the proper authority in respect of the compulsory liquidation or the judicial management of any company or the administration of the estate of a deceased or insolvent person or person under other legal
- (b) enige oortreding begaan waarby oneerlikheid betrokke is, en in die besonder (maar sonder dat afbreuk gedoen word aan die algemene toepassing van die voorgaande), diefstal, bedrog, vervalsing of die uitgifte van 'n vervalste dokument, meened, omkoperij of korrupsie; of
- (c) oneerlik is by die uitvoer van enige pligte wat op hom rus in verband met—
- enige professionele werk; of
 - enige ander werk van 'n aard wat gewoonlik deur 'n geregistreerde rekenmeester en ouditeur gedoen word; of
 - enige vertrouensamp wat hy onderneem of aangeneem het,
- of sonder redelike oorsaak of verskoning en behoudens die voorbehoudsbepaling in subartikel (4) van artikel *ses-en-twintig* van die Wet, versuim om enige sodanige professionele of ander werk of sodanige pligte met so 'n mate van versigtigheid en bedrewenheid uit te voer as wat volgens die raad se oordeel redelikerwys verwag kan word; of
- (d) met die doel om enige belasting, reg, heffing of plaaslike belasting hoegenaamd (of dit aan die Regering, of aan 'n Provinsiale Administrasie of aan 'n plaaslike owerheid of aan enige ander liggaam of owerheid in die Republiek betaalbaar is) te ontduik, of om 'n ander persoon by die ontduiking daarvan behulpsaam te wees—
- wetend of roekeloos, enige valse verklaring (hetsy sodanige verklaring mondeling of skriftelik geskied) opstel of doen, of 'n ander persoon by die opstel of doen daarvan behulpsaam is; of
 - enige valse verklaring in verband daarmee roekeloos, of wetend dat dit vals is, onderteken; of
 - wetend of roekeloos enige valse rekeningboeke of ander rekords opstel of hou; of
- (e) versuim om alle gelde waarvan hy aan 'n kliënt rekenskap verskuldig is, in 'n bankrekening te hou afsonderlik van sy eie rekening en onder 'n gepaste naam; of
- (f) aan 'n derde party vertroulike inligting wat hy miskien in die loop van sy professionele betrekkinge met 'n kliënt of werkgewer ingewin het (met inbegrip van inligting wat hy ingewin het aangaande die besigheidsake, handelsgeheime of tegniese metodes of prosesse van die kliënt of werkgewer) meedeel, hetsy mondeling, skriftelik of andersins, tensy dié kliënt of werkgewer (of, in 'n geval waar die kliënt of werkgewer oorlede is, die eksekuteur van sy boedel) uitdruklik toegestem het dat sulke inligting aldus meegedeel word, of tensy die rekenmeester en ouditeur by wet verplig word om dit aldus mee te deel, of tensy die rekenmeester en ouditeur dit te goeder trou aan die raad meedeel ten einde die raad in staat te stel om te oorweeg of hy enigeen van die bevoegdhede, pligte of werksaamhede wat ingevolge die Wet of hierdie reëls aan hom verleen of opgedra is, moet uitvoer; of
- (g) gelde, vorderings of ander vergoeding vra of vasstel of probeer om te vra, vas te stel of te verhaal of 'n ooreenkoms aangaan, of hom op enige manier assosieer met 'n ander persoon met die doel om gelde, vorderings of ander vergoeding te vra, vas te stel of te verhaal vir professionele dienste of dienste van 'n aard wat gewoonlik deur 'n geregistreerde rekenmeester en ouditeur verrig word, wat hy gelewer het of moet lewer, waarvoor die betaling, of geheel of gedeeltelik, enigins afhang van die resultate van sodanige dienste: Met dien verstande dat hierdie reël nie van toepassing is op die volgende nie:—
- Gelde vasgestel of getakseer deur die gepaste owerheid ten opsigte van die verpligte likwidasië of geregtelike bestuur van enige maatskappy of die administrasie van die boedel van 'n afgestorwe of insolvente persoon of 'n persoon

disability and fees fixed by a registered accountant and auditor in respect of the voluntary liquidation of any company on the basis of the fees which would have been recoverable had the liquidation been a compulsory liquidation;

- (ii) commission paid to an executor, trustee, administrator or agent the amount of which is based on the income collected by him;
- (iii) fees paid to a director of a company, the amount of which is based on the dividends declared or the profits earned by such company;
- (iv) remuneration paid to a manager of a business, the amount of which is based on a percentage of the earnings or profits of such business;
- (v) commission paid in respect of any type of insurance business or in respect of the sale of movable or immovable property or in respect of the collection of debts or in respect of the raising of loans;
- (vi) such other fee, charge or other consideration as the board may in its absolute discretion from time to time decide; or

(h) except with the consent of his client, directly or indirectly stipulates for or receives from any third party any reward for anything done by such accountant and auditor in the course of or in connection with the services rendered by him to such client; or

(i) permits his name to be used in connection with any estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the estimate; or

(j) solicits by personal canvass, by advertising, by correspondence, by circulars or by any other means, professional work or any other work of a type commonly performed by a registered accountant and auditor; or

(k) seeks either before or during the period of articles of clerkship to impose any restraint whatever on the clerk concerned applying after the date of termination of the articles or enforces, or threatens or attempts to enforce, any such restraint after such date; or

(l) conducts himself in a manner which is discreditable on the part of a registered accountant and auditor or which tends to bring the profession of accounting into disrepute,

shall be guilty of improper conduct and liable on conviction to—

- (i) a caution or reprimand; or
- (ii) a fine not exceeding one thousand rand; or
- (iii) suspension from practice for a period specified by the board; or
- (iv) have his name removed from the register.

(2) Any accountant and auditor sentenced to the punishment provided for in paragraph (iii) or (iv) of sub-rule (1) shall in addition be liable to a fine not exceeding one thousand rand.

ESTABLISHMENT OF INVESTIGATION AND DISCIPLINARY COMMITTEES.

3. The board shall, in accordance with the provisions of sub-section (1) of section *ten* of the Act, from time to time establish—

- (a) an Investigation Committee; and
- (b) a Disciplinary Committee.

4. (1) The Investigation Committee shall consist of three persons.

(2) The Disciplinary Committee shall consist of five persons of whom one shall be a member of the board who was appointed by the Minister in terms of paragraph (a) of sub-section (1) of section *three* of the Act.

met 'n ander regsonbevoegdheid en gelde vasgestel deur 'n geregisteerde rekenmeester en ouditeur ten opsigte van die vrywillige likwidasië van enige maatskappy op die basis van die gelde wat verhaalbaar sou gewees het indien die likwidasië 'n verpligte likwidasië was;

(ii) kommissie betaal aan 'n eksekuteur, kurator, administrateur of agent waarvan die bedrag op die inkomste deur hom ingevorder, gebaseer is;

(iii) gelde betaal aan 'n direkteur van 'n maatskappy waarvan die bedrag op die dividende verklaar of die winste verdien deur sodanige maatskappy, gebaseer is;

(iv) besoldiging betaal aan die bestuurder van 'n saak waarvan die bedrag op 'n persentasie van die verdienste of winste van sodanige saak, gebaseer is;

(v) kommissie betaal ten opsigte van enige tipe versekeringsbesigheid of ten opsigte van die verkoop van roerende of onroerende goed of ten opsigte van die invordering van skulde of ten opsigte van die aangaan van lenings;

(vi) die ander gelde, vorderings of ander vergoeding wat die raad van tyd tot tyd uitsluitend na sy goëddunke mag besluit; of

(h) sonder die toestemming van sy kliënt regstreeks of onregstreeks enige beloning beding of dit van enige derde party ontvang vir enigiets wat deur sodanige rekenmeester en ouditeur gedoen is in die loop van of in verband met die dienste deur hom aan sodanige kliënt gelewer; of

(i) toelaat dat sy naam gebruik word in verband met 'n raming van verdienstes wat van toekomstige transaksies afhang, op 'n wyse wat die mening kan laat ontstaan dat hy vir die juistheid van die raming instaan; of

(j) professionele werk of enige ander werk van 'n aard wat gewoonlik deur 'n geregisteerde rekenmeester en ouditeur gedoen word, werf, hetsy persoonlik, deur te adverteer, deur briefwisseling, deur middel van omsendbriewe of op enige ander manier; of

(k) probeer om of voor of gedurende die leerkontraktydperk die betrokke klerk enige beperking hoegenaamd op te lê wat na die datum van die verstryking van die leerkontrak van toepassing is, of sodanige beperking na sodanige datum afdwing of dreig of probeer om dit af te dwing; of

(l) hom op 'n manier gedra wat tot oneer strek van 'n geregisteerde rekenmeester en ouditeur of wat daartoe strek om aan die rekenmeestersberoep 'n slegte naam te gee,

skuldig aan onbehoorlike gedrag en by skuldigebevinding strafbaar met—

- (i) 'n waarskuwing of 'n berisping; of
- (ii) 'n boete van hoogstens duisend rand; of
- (iii) skorsing in sy praktyk vir 'n tydperk deur die raad gespesifiseer; of
- (iv) skrapping van sy naam van die register.

(2) 'n Rekenmeester en ouditeur wat gevonnissen is tot die straf in paragraaf (iii) of (iv) van subreël (1) bepaal, is boonop strafbaar met 'n boete van hoogstens duisend rand.

INSTELLING VAN ONDERSOEK- EN DISCIPLINÊRE KOMITEES.

3. Kragtens die bepalings van subartikel (1) van artikel *tien* van die Wet, stel die raad van tyd tot tyd in—

- (a) 'n ondersoekkomitee; en
- (b) 'n dissiplinêre komitee.

4. (1) Die Onderzoekkomitee bestaan uit drie lede.

(2) Die Dissiplinêre Komitee bestaan uit vyf lede waarvan een 'n lid van die raad wat deur die Minister ingevolge paragraaf (a) van subartikel (1) van artikel *drie* van die Wet aangestel is, moet wees.

5. For every member of the Investigation and Disciplinary Committees the board shall appoint an alternate member and any alternate member so appointed may attend and take part in the proceedings at any meeting, hearing or enquiry, as the case may be, whenever the member to whom he has been appointed as alternate member is absent from such meeting, hearing or enquiry.

6. The quorum at any meeting of or hearing by the Investigation Committee shall be 2 (two) and the quorum at any meeting of or enquiry conducted by the Disciplinary Committee shall be 3 (three).

7. The secretary of the board (hereinafter referred to as the secretary) shall be the secretary respectively of the Investigation and Disciplinary Committees.

8. The board may assign to one or other or both of the committees established in terms of Rule 3 all or any of its powers under sub-section (4) of section *twenty-six*, under section *twenty-seven* or under sub-sections (1) and (2) of section *twenty-eight* of the Act, or any other powers, functions or duties which the board may at any time consider appropriate for such assignment.

9. No member of the Investigation Committee which has, in terms of these rules, investigated any facts or circumstances relating to the question whether any person registered as an accountant and auditor under the Act has been guilty of improper conduct, shall be a member of the Disciplinary Committee to which a formal charge relating to such facts or circumstances is preferred.

DUTIES OF THE SECRETARY.

10. It shall be the duty of the secretary to lay before the Investigation Committee any facts or circumstances which may come to his notice indicating that any person registered as an accountant and auditor under the Act (hereinafter referred to as the accused) has been guilty of improper conduct: Provided that in any case where the secretary has in his possession *prima facie* evidence that such person has contravened any of the provisions of Rule 2 (1) he may, in his discretion, advise the accused in writing of the nature of the conduct imputed to him and afford him an opportunity of giving an explanation or answer in writing within 30 (thirty) days after the date of such notice, and at the same time warn him that such explanation or answer may be used in evidence against him.

DUTIES AND POWERS OF INVESTIGATION COMMITTEE.

11. The Investigation Committee shall consider any facts or circumstances laid before it by the secretary in terms of Rule 10 and may make such enquiries and obtain such legal or other advice, assistance or information in connection therewith as it may consider necessary.

12. If the Investigation Committee is of the opinion that the conduct imputed to the accused, even if fully proved, would not constitute improper conduct, it shall report its opinion and any recommendation it wishes to make to the board.

13. (1) If the Investigation Committee considers that there is reason to believe that the accused has been guilty of improper conduct, it shall, except in cases where this action has already been taken by the secretary in terms of the proviso to Rule 10, advise him by notice in writing of the nature of the conduct imputed to him and afford him an opportunity of giving an explanation or answer in writing within 30 (thirty) days after the date of such notice, and at the same time warn him that such explanation or answer may be used in evidence against him.

(2) If the Investigation Committee, on receipt of such explanation or answer or in the absence of an explanation or answer and after making such further enquiries as it may deem necessary, considers that the matter or complaint is one which, if the accused were found guilty, would not merit a punishment more severe than those

5. Vir elke lid van die Ondersoek- en die Dissiplinêre Komitee stel die raad 'n plaasvervangende lid aan en 'n plaasvervangende lid aldus aangestel kan 'n vergadering, verhoor of ondersoek, na gelang van die geval, bywoon en aan die verrigtings aldaar deelneem wanneer die lid vir wie hy as plaasvervangende lid aangestel is, van die vergadering, verhoor of ondersoek afwesig is.

6. Die kworum vir enige vergadering van of verhoor deur die Ondersoekkomitee is 2 (twee) en die kworum vir enige vergadering van of ondersoek ingestel deur die Dissiplinêre Komitee is 3 (drie).

7. Die sekretaris van die raad (hieronder die sekretaris genoem) is die sekretaris van onderskeidelik die Ondersoek- en die Dissiplinêre Komitee.

8. Die raad kan al of enigeen van sy bevoegdhede, kragtens subartikel (4) van artikel *ses-en-twintig*, artikel *sewe-en-twintig*, of subartikels (1) en (2) van artikel *agti-en-twintig* van die Wet, of enige ander bevoegdhede, werksaamhede of pligte wat die raad te eniger tyd vir oordrag paslik mag ag, aan die een of die ander komitee of albei komitees wat kragtens reël 3 ingestel is, oordra.

9. Geen lid van die Ondersoekkomitee wat ingevolge hierdie reëls enige feite of omstandighede ondersoek het met betrekking tot die vraag of 'n persoon wat kragtens die Wet as 'n rekenmeester en ouditeur geregistreer is, aan onbehoorlike gedrag skuldig is, mag 'n lid van die Dissiplinêre Komitee by wie 'n formele aanklag met betrekking tot sodanige feite of omstandighede ingebring is, wees nie.

PLIGTE VAN DIE SEKRETARIS.

10. Dit is die plig van die sekretaris om aan die Ondersoekkomitee enige feite of omstandighede voor te lê wat onder sy aandag mag kom en wat daarop dui dat 'n persoon wat kragtens die wet as 'n rekenmeester en ouditeur geregistreer is (hieronder die beskuldigde genoem), aan onbehoorlike gedrag skuldig is: Met dien verstande dat in enige geval waar die sekretaris *prima facie*-bewys in sy besit het dat so 'n persoon enigeen van die bepalings van reël 2 (1) oortree het, hy na goëddunke die beskuldigde skriftelik in kennis kan stel van die aard van die gedrag aan hom toegeskryf en aan hom die geleentheid gee om 'n skriftelike verduideliking of antwoord te verstrek binne 30 (dertig) dae na die datum van die kennisgewing en hom terselfdertyd waarsku dat so 'n verduideliking of antwoord as getuienis teen hom gebruik kan word.

PLIGTE EN BEVOEGDHEDE VAN ONDERSOEKKOMITEE.

11. Die Ondersoekkomitee moet enige feite of omstandighede wat ingevolge reël 10 deur die sekretaris aan hom voorgelê is, oorweeg en kan in verband daarmee die navraag doen en die regs- of ander advies, hulp of inligting inwin wat hy nodig ag.

12. Indien die Ondersoekkomitee van mening is dat die gedrag aan die beskuldigde toegeskryf, selfs indien dit ten volle bewys word, nie onbehoorlike gedrag sou uitmaak nie, moet hy sy mening en enige aanbeveling wat hy wil doen, aan die raad meedeel.

13. (1) Indien die Ondersoekkomitee van mening is dat daar redes bestaan om te vermoed dat die beskuldigde aan onbehoorlike gedrag skuldig was, moet hy die beskuldigde deur skriftelike kennisgewing verwittig van die aard van die gedrag aan hom toegeskryf, behalwe in gevalle waar die sekretaris alreeds ingevolge die voorbehoudsbepaling in reël 10 aldus opgetree het, en aan hom die geleentheid gee om 'n skriftelike verduideliking of antwoord te gee binne 30 (dertig) dae na die datum van die kennisgewing en hom terselfdertyd waarsku dat so 'n verduideliking of antwoord as getuienis teen hom gebruik kan word.

(2) Indien die Ondersoekkomitee, na ontvangs van die verduideliking of antwoord, of by ontstentenis van 'n verduideliking of antwoord, en nadat hy die verdere navraag wat hy nodig ag, gedoen het, van mening is dat die saak of klagte sodanig is dat, indien die beskuldigde skuldig bevind word, dit nie 'n swaarder straf as dié in

mentioned in Rule 17, it may provide the accused with a copy of these rules and afford him an opportunity of agreeing to the matter or complaint being dealt with by the Investigation Committee and, if such opportunity is afforded, it shall inform the accused that in any hearing before the Investigation Committee which may follow his decision, neither he nor such Committee will be legally represented and that the decision of the Investigation Committee shall be binding upon him.

(3) If the Investigation Committee has afforded to the accused an opportunity of agreeing to the matter or complaint being dealt with by the Investigation Committee, as set out in sub-rule (2) of this rule and—

- (a) if the accused has agreed thereto, he shall be bound by the finding of such Committee and shall have no right of appeal against such finding to any Court of Law or any other committee;
- (b) if the accused shall refuse to agree to the matter or complaint being dealt with by the Investigation Committee, the Investigation Committee shall refer the matter or complaint to the Disciplinary Committee in terms of sub-rule (2) of Rule 14 hereof;
- (c) if the accused shall fail, within any period stipulated by the Investigation Committee, to notify the Investigation Committee whether he agrees to the matter being dealt with by the Investigation Committee or not, the Investigation Committee may nevertheless deal with the matter or complaint itself, or refer it to the Disciplinary Committee as it may in its sole discretion decide. If the Investigation Committee shall decide to deal with the matter or complaint itself, the accused shall be bound by the finding of the Investigation Committee, and shall have no right to appeal against such finding to any Court of Law or any other committee.

(4) If the Investigation Committee, on receipt of an explanation or answer from the accused, is satisfied that the conduct imputed to the accused, even if fully proved, would not constitute improper conduct, it may decide not to proceed further in the matter and shall report its action to the board.

14. (1) If the accused admits that he has been guilty of the improper conduct imputed to him, the Investigation Committee shall invite the accused to make representations or submissions in regard to the punishment to be imposed, and shall afford him a reasonable time within which to make such representations or submissions. Thereafter, having considered any such representations or submissions, the Investigation Committee may impose upon him one of the punishments referred to in Rule 17 and if it does not impose any of such punishments it shall prefer a formal charge against him to the Disciplinary Committee and shall report its action to the board.

(2) If the Investigation Committee, on receipt of an explanation or answer from the accused in response to a notice sent to him in terms of sub-rule (1) of Rule 13 or in the absence of an explanation or answer and after making such further enquiries as it may deem necessary, considers that the matter or complaint is one which, if the accused were found guilty, would merit a punishment more severe than those mentioned in Rule 17, the Investigation Committee shall prefer a formal charge against the accused to the Disciplinary Committee.

(3) Notwithstanding anything to the contrary appearing in any of these rules or in any communication to the accused in terms of sub-rule (2) of Rule 13, the Investigation Committee shall have the right at any time before sentence is passed to direct that the proceedings before the Investigation Committee be discontinued and upon such direction being given the Investigation Committee shall prefer a formal charge against the accused to the Disciplinary Committee.

PROCEDURE AT HEARINGS BY THE INVESTIGATION COMMITTEE.

15. (1) Where a hearing is being conducted by the Investigation Committee whether the accused be present in person or not, the Investigation Committee may adopt such procedure as it may, in its entire discretion, deem fit

reël 17 vermeld sou regverdig nie, kan hy die beskuldigde van 'n afskrif van hierdie reëls voorsien en hom die geleentheid gee om toe te stem dat die saak of klagte deur die Ondersoekkomitee behandel word en indien so 'n geleentheid gegee is, moet hy die beskuldigde meedeel dat by enige verhoor voor die Ondersoekkomitee wat op sy beslissing kan volg, nóg hy nóg die komitee regsverteenvoording sal hê, en dat die beslissing van die Ondersoekkomitee bindend vir hom sal wees.

(3) Indien die Ondersoekkomitee die beskuldigde die geleentheid gegee het om toe te stem dat die saak of klagte deur die Ondersoekkomitee behandel word, soos in subreël (2) van hierdie reël uiteengesit en—

- (a) indien die beskuldigde daarin toegestem het, is hy gebind deur die bevinding van die komitee en het hy geen reg van appel teen die bevinding by enige geregshof of enige ander komitee nie;
- (b) indien die beskuldigde weier om toe te stem dat die saak of klagte deur die Ondersoekkomitee behandel word, verwys die Ondersoekkomitee die saak of klagte ingevolge subreël (2) van reël 14, hiervan na die Dissiplinêre Komitee;
- (c) indien die beskuldigde versuim om die Ondersoekkomitee binne die tydperk deur die komitee vasgestel in kennis te stel of hy daarin toestem dat die saak deur die Ondersoekkomitee behandel word al dan nie, kan die Ondersoekkomitee, uitsluitend na eie goeddunke, nietemin die saak of klagte self behandel of dit na die Dissiplinêre Komitee verwys. Indien die Ondersoekkomitee besluit om die saak of klagte self te behandel, is die beskuldigde gebind deur die bevinding van die Ondersoekkomitee en het hy geen reg van appel teen sodanige bevinding by enige geregshof of enige ander komitee nie.

(4) Indien die Ondersoekkomitee na ontvangs van 'n verduideliking of antwoord van die beskuldigde daarvan oortuig is dat die gedrag aan die beskuldigde toegeskryf, selfs indien dit ten volle bewys word, nie onbehoorlike gedrag sou uitmaak nie, kan hy besluit om nie verder in die saak op te tree nie en moet hy sy optrede aan die raad-rapporteur.

14. (1) Indien die beskuldigde erken dat hy skuldig was aan die onbehoorlike gedrag aan hom toegeskryf, moet die Ondersoekkomitee die beskuldigde vra om vertoë te rig of voorleggings te doen met betrekking tot die straf wat opgelê moet word en hom 'n redelike tyd toestaan om sulke vertoë te rig of voorleggings te doen. Daarna, nadat die Ondersoekkomitee sodanige vertoë of voorleggings oorweeg het, kan hy een van die strawwe in reël 17 genoem op lê en indien hy nie een van dié strawwe op lê nie, moet hy 'n formele klag teen die beskuldigde by die Dissiplinêre Komitee inbring en sy optrede aan die raad-rapporteur.

(2) Indien die Ondersoekkomitee, na ontvangs van 'n verduideliking of antwoord van die beskuldigde na aanleiding van 'n kennisgewing ingevolge subreël (1) van reël 13 aan hom gestuur, of by ontstentenis van 'n verduideliking of antwoord, en nadat hy die verdere navraag wat hy nodig ag, gedoen het, van mening is dat die saak of klagte sodanig is dat, indien die beskuldigde skuldig bevind word, dit 'n swaarder straf as dié in reël 17 vermeld sou regverdig, moet die Ondersoekkomitee 'n formele klag teen die beskuldigde by die Dissiplinêre Komitee inbring.

(3) Ondanks strydige bepalings in hierdie reëls of in enige mededeling aan die beskuldigde ingevolge subreël (2) van reël 13, het die Ondersoekkomitee die reg om te eniger tyd voordat die vonnis uitgespreek is te beveel dat die verrigtinge voor die Ondersoekkomitee gestaak word, en wanneer so 'n bevel gegee word, moet die Ondersoekkomitee 'n formele klag teen die beskuldigde by die Dissiplinêre Komitee inbring.

PROSEDURE BY VERHOOR DEUR DIE ONDERSOEKKOMITEE.

15. (1) Waar 'n verhoor deur die Ondersoekkomitee afgeneem word, of die beskuldigde teenwoordig is of nie, kan die Ondersoekkomitee uitsluitend na eie goeddunke die prosedure toepas wat hy goed ag en kan die Onder-

and the Investigation Committee may consider and take cognisance of any statement, evidence or information, whether written or verbal, which may be placed before it.

(2) In all cases where a complainant or accused expresses a desire to have witnesses subpoenaed to give evidence or where the Investigation Committee itself so desires to subpoena any witnesses, including the complainant, the Investigation Committee under the hand of its chairman or secretary shall issue the necessary subpoenas, which shall be as nearly as possible in the form of Annexe B hereto.

(3) All verbal evidence shall be taken on oath which shall be administered by the chairman of the Investigation Committee.

16. Upon the conclusion of the hearing the Investigation Committee may deliberate thereon *in camera* and if the accused be found not guilty he shall forthwith be advised accordingly. If he be found guilty he shall be advised of the finding and punishment forthwith or at such later date as the Investigation Committee may direct and the Investigation Committee shall report its action to the board.

17. Any punishment imposed by the Investigation Committee shall be limited to—

- a caution; or
- a reprimand; or
- a fine not exceeding five hundred rand.

PROCEDURE AT AND IN CONNECTION WITH ENQUIRIES BEFORE THE DISCIPLINARY COMMITTEE.

18. (1) Whenever a formal charge against the accused is preferred to the Disciplinary Committee the secretary shall notify the accused as nearly as possible in the form of Annexe A to these rules of the nature of such charge. At the same time the accused shall be furnished with a copy of these rules and be warned that any written answer which he may make to the charge may be used in evidence against him.

(2) The notice referred to in sub-rule (1) shall be served on the accused at his registered address or, in the absence thereof, at his last known address in manner prescribed by sub-section (2) of section *twenty-eight* of the Act.

19. In all cases where a complainant or accused expresses a desire to have witnesses subpoenaed to give evidence or where the Disciplinary Committee itself so desires to subpoena any witnesses, including the complainant, the Disciplinary Committee under the hand of its chairman or secretary shall issue the necessary subpoenas, which shall be as nearly as possible in the form of Annexe B hereto.

20. In respect of any matter or complaint which has to be referred to the Disciplinary Committee, the Investigation Committee—

- (1) shall appoint either an attorney or advocate (hereinafter styled, "the *pro forma* complainant") and all evidence in support of the charge preferred against the accused before the Disciplinary Committee shall be led and produced by the *pro forma* complainant;
- (2) may appoint one or more of its members to assist the *pro forma* complainant.

21. Where an enquiry is being conducted by the Disciplinary Committee and the accused is present in person the order of procedure shall be as follows:—

- (1) The chairman of the Disciplinary Committee or the secretary shall read the notice of the enquiry addressed to the accused.
- (2) The *pro forma* complainant shall state his case and then produce his evidence in support of it. The accused or his representative duly authorised in writing shall be entitled to cross-examine the witnesses produced by the *pro forma* complainant.
- (3) At the conclusion of the case presented by the *pro forma* complainant the accused shall be afforded the opportunity of stating his case or defence either by himself or by his representative duly authorised in writing, and thereafter of leading his evidence in support thereof. If he states his defence in

soekkomitee enige verklaring, getuienis of inligting, ditsy skriftelik of mondeling, wat aan hom voorgelê word, ooreweeg en daarvan kennis neem.

(2) In alle gevalle waar 'n klaer of beskuldigde die verlange uitspreek dat getuies gedagvaar moet word om getuienis af te lê of waar die Ondersoekkomitee self aldus verlang om enige getuie, insluitende die klaer, te dagvaar, reik die Ondersoekkomitee onder die handtekening van die voorsitter of die sekretaris die nodige dagvaardings uit wat so na moontlik in die vorm van Aanhangsel B hiervan moet wees.

(3) Alle mondelinge getuienis word afgelê onder eed wat afgeneem word deur die voorsitter van die Ondersoekkomitee.

16. Na afsluiting van die verhoor kan die Ondersoekkomitee *in camera* daaroor beraadslaag en indien die beskuldigde onskuldig bevind word, moet hy onverwyld dienoreenkomsig in kennis gestel word. Indien hy skuldig bevind word, moet die bevinding en straf onverwyld of op 'n later datum wat die Ondersoekkomitee bepaal, aan hom meegeedeel word en moet die Ondersoekkomitee die raad van sy optrede verwittig.

17. Enige straf deur die Ondersoekkomitee opgelê word beperk tot—

- 'n waarskuwing; of
- 'n berisping; of
- 'n boete van hoogstens vyfhonderd rand.

PROSEDURE BY EN IN VERBAND MET ONDERSOEKE VOOR DIE DISSIPLINÊRE KOMITEE.

18. (1) Wanneer ook al 'n formele klag teen die beskuldigde by die Dissiplinêre Komitee ingebring word, stel die sekretaris die beskuldigde so na moontlik in die vorm van Aanhangsel A van hierdie reëls in kennis van die aard van die klag. Terselfdertyd moet die beskuldigde van 'n afskrif van hierdie reëls voorsien word en moet hy gewaarsku word dat enige skriftelike antwoord wat hy op die klag mag indien as getuienis teen hom gebruik kan word.

(2) Die kennisgewing in subreël (1) genoem, word aan die beskuldigde beteken by sy geregistreerde adres of, by ontstentenis daarvan, by sy jongste bekende adres op die wyse wat by subartikel (2) van artikel *agt-en-twintig* van die Wet voorgeskryf is.

19. In alle gevalle waar 'n klaer of beskuldigde die verlange uitspreek dat getuies gedagvaar moet word om getuienis af te lê of waar die Dissiplinêre Komitee self aldus verlang om enige getuie, insluitende die klaer, te dagvaar, reik die Dissiplinêre Komitee onder die handtekening van sy voorsitter of sekretaris die nodige dagvaardings uit wat so na moontlik in die vorm van Aanhangsel B hiervan moet wees.

20. Ten opsigte van enige saak of klagte wat na die Dissiplinêre Komitee verwys moet word—

- (1) stel die Ondersoekkomitee 'n prokureur of 'n advokaat (hieronder die „*pro forma*-klaer” genoem) aan en alle getuienis ter stawing van die aanklag teen die beskuldigde by die Dissiplinêre Komitee ingebring word deur die *pro forma*-klaer gelei en aangevoer;
- (2) kan die Ondersoekkomitee een of meer van sy lede aanstel om die *pro forma*-klaer by te staan.

21. Waar 'n ondersoek deur die Dissiplinêre Komitee ingestel word en die beskuldigde persoonlik teenwoordig is, is die prosedure soos volg:—

- (1) Die voorsitter van die Dissiplinêre Komitee of die sekretaris lees die kennisgewing van die ondersoek voor wat aan die beskuldigde gerig is.
- (2) Die *pro forma*-klaer stel sy saak en voer dan die getuienis ter stawing daarvan aan. Die beskuldigde of sy verteenwoordiger wat behoorlik skriftelik daartoe gemagtig is, is geregtig om die getuies wat deur die *pro forma*-klaer gebring is, onder kruisverhoor te neem.
- (3) Na afsluiting van die saak wat deur die *pro forma*-klaer voorgelê is, word aan die beskuldigde die geleentheid gegee om of self of deur sy verteenwoordiger wat behoorlik skriftelik daartoe gemagtig is, sy saak of verdediging te stel en daarna sy getuienis ter stawing daarvan te lei. Indien hy sy

writing his statement shall be read. The *pro forma* complainant shall be entitled to cross-examine the accused (if he has elected to give evidence) and all his witnesses.

- (4) At the conclusion of the case for the accused the Disciplinary Committee shall, whether the accused has produced evidence or not, hear the *pro forma* complainant on the case generally, but shall hear no further evidence unless in a special case the Disciplinary Committee may think it just to receive such further evidence. At the conclusion of the address of the *pro forma* complainant the accused or his representative duly authorised in writing, shall be entitled to address the Disciplinary Committee on the case in defence of the accused. The *pro forma* complainant shall not be entitled to reply to such address unless—

- (a) the accused or his said representative has produced further evidence after the address of the *pro forma* complainant, in which event such reply shall be confined to matters arising out of such evidence; or
- (b) the accused or his said representative has in his address raised any matter of law, in which event such reply shall be confined to the matter of law so raised.

- (5) Where a witness is produced by any party such witness shall be first examined by the party producing him, and then cross-examined by the adverse party, and then re-examined by the party producing him.

22. Where an enquiry is being conducted by the Disciplinary Committee and the accused is not present or represented the order of procedure shall be as follows:—

- (1) The chairman of the Disciplinary Committee or the secretary shall read the notice of the enquiry addressed to the accused and produce proof of service on the accused.
- (2) The *pro forma* complainant shall state his case and then produce his evidence in support of it.
- (3) For the purposes of paragraph (2) hereof it shall not be necessary for formal evidence to be given on oath and the Disciplinary Committee may consider and take cognisance of any written statement or evidence produced as evidence by the *pro forma* complainant.

23. When an enquiry is being conducted by the Disciplinary Committee and the accused or his representative duly authorised in writing notifies the Disciplinary Committee that the accused pleads guilty to one or more or all of the charges, the Disciplinary Committee may in its discretion find the accused guilty on such charge or charges without hearing any evidence, or after hearing such evidence as it may think fit. In that event the following procedure shall be followed:—

- (1) The accused or his said representative shall be entitled to lead evidence in mitigation. The *pro forma* complainant shall be entitled to cross-examine the accused (if he has elected to give evidence) and all his witnesses, and to lead evidence in rebuttal. The accused or his said representative shall be entitled to cross-examine any witnesses called by the *pro forma* complainant. Any witness (including the accused) may be re-examined by the party producing him.
- (2) At the conclusion of such evidence or in the absence thereof the *pro forma* complainant shall be entitled to address the Disciplinary Committee on the question of the punishment to be imposed on the accused. At the conclusion of such address the accused or his said representative shall be entitled to address the Disciplinary Committee on the said question. The *pro forma* complainant shall not be entitled to reply to such address unless the accused or his said representative has in his address raised any matter of law, in which event such reply shall be confined to the matter of law so raised.

verdediging skriftelik stel, word sy verklaring voorgelees. Die *pro forma*-klaer is geregtig om die beskuldigde (as hy verkies het om getuienis af te lê) en al sy getuies onder kruisverhoor te neem.

- (4) Na afsluiting van die saak vir die beskuldigde, ongeag of die beskuldigde getuienis aangevoer het al dan nie, hoor die Dissiplinêre Komitee die *pro forma*-klaer oor die saak in die algemeen maar hoor hy geen verdere getuienis nie tensy die Dissiplinêre Komitee in 'n spesiale geval dit regverdig ag om verdere getuienis te ontvang. Na afsluiting van die *pro forma*-klaer se betoog, is die beskuldigde, of sy verteenwoordiger wat behoorlik skriftelik daartoe gemagtig is, geregtig om die Dissiplinêre Komitee toe te spreek oor die saak ter verdediging van die beskuldigde. Die *pro forma*-klaer is nie geregtig om op so 'n toespraak te antwoord nie, tensy—

- (a) die beskuldigde of sy genoemde verteenwoordiger verdere getuienis ná die betoog van die *pro forma*-klaer aangevoer het, en in dié geval moet die repliek beperk word tot sake wat uit dié getuienis voortspruit; of
- (b) die beskuldigde of sy genoemde verteenwoordiger in sy betoog 'n regs-kwessie geopper het, en in dié geval moet die repliek tot die regs-kwessie wat aldus geopper is, beperk word.

- (5) Waar 'n getuie deur een van die partye gebring word, word dié getuie eers ondervra deur die party wat hom gebring het en dan onder kruisverhoor geneem deur die teenparty en dan weer ondervra deur die party wat hom gebring het.

22. Waar 'n ondersoek deur die Dissiplinêre Komitee ingestel word en die beskuldigde nie teenwoordig is of verteenwoordig word nie, is die prosedure soos volg:—

- (1) Die voorsitter van die Dissiplinêre Komitee of die sekretaris lees die kennisgewing van die ondersoek voor wat aan die beskuldigde gerig is, en lewer bewys dat dit aan die beskuldigde beteken is.
- (2) Die *pro forma*-klaer stel sy saak en voer dan sy getuienis aan ter staving daarvan.
- (3) Vir die toepassing van paragraaf (2) hiervan is dit nie nodig om formele getuienis onder eed af te lê nie, en die Dissiplinêre Komitee kan enige skriftelike verklaring of getuienis wat deur die *pro forma*-klaer as getuienis aangevoer is, oorweeg en daarvan kennis neem.

23. Waar 'n ondersoek deur die Dissiplinêre Komitee ingestel word en die beskuldigde of sy verteenwoordiger, wat behoorlik skriftelik daartoe gemagtig is, die Dissiplinêre Komitee in kennis stel dat die beskuldigde aan een of meer van of al die aanklagte skuldig pleit, kan die Dissiplinêre Komitee na sy goedgefinke die beskuldigde aan die aanklag of aanklagte skuldig bevind sonder om enige getuienis te hoor of nadat hy die getuienis wat hy goed ag, gehoor het. In daardie geval is die prosedure soos volg:—

- (1) Dié beskuldigde of sy genoemde verteenwoordiger is geregtig om getuienis ter strafversagting aan te voer. Die *pro forma*-klaer is geregtig om die beskuldigde (as hy verkies het om getuienis af te lê) en al sy getuies onder kruisverhoor te neem en om weerlêende getuienis te lei. Die beskuldigde of sy genoemde verteenwoordiger is geregtig om enige getuies wat deur die *pro forma*-klaer gebring is, onder kruisverhoor te neem. Enige getuie (insluitende die beskuldigde) kan weer ondervra word deur die party wat hom gebring het.
- (2) Na afsluiting van dié getuienis of by ontstentenis daarvan is die *pro forma*-klaer geregtig om die Dissiplinêre Komitee toe te spreek oor die vraag van die straf wat die beskuldigde opgelê moet word. Na afsluiting van die betoog is die beskuldigde of sy genoemde verteenwoordiger geregtig om die Dissiplinêre Komitee toe te spreek oor genoemde vraag. Die *pro forma*-klaer is nie geregtig om op die betoog te antwoord nie tensy die beskuldigde of sy genoemde verteenwoordiger in sy betoog 'n regs-kwessie geopper het en in dié geval moet die repliek beperk word tot die regs-kwessie wat aldus geopper is.

24. Members of the Disciplinary Committee and any legal assessor appointed under the provisions of Rule 30 may, through or with the permission of the chairman, put such questions to the complainant, the accused (if he has elected to give evidence) or the witnesses as they think desirable.

25. All verbal evidence shall be taken on oath which shall be administered by the chairman of the Disciplinary Committee.

26. Where an enquiry is being conducted by the Disciplinary Committee and any person whose evidence may be material has not been called as a witness either by the *pro forma* complainant or by the accused, the Disciplinary Committee may call such person as a witness.

27. The *pro forma* complainant may, with the consent of the Disciplinary Committee, withdraw any charge at any time before a finding has been made thereon.

28. (1) Upon the conclusion of the case the Disciplinary Committee shall deliberate thereon *in camera*.

(2) If the accused be found not guilty of the charge preferred against him, the parties shall forthwith be advised accordingly, and the Disciplinary Committee shall report its action to the board.

(3) If the accused be found guilty and the Disciplinary Committee—

(a) imposes a punishment of a caution, reprimand or fine and no one member of the Disciplinary Committee is in favour of imposing a punishment involving the suspension from practice of the accused or the removal of his name from the register; or

(b) is unanimous in regard to the punishment, of whatever nature to be imposed on the accused,

the finding and the penalty imposed upon the accused shall be communicated to the parties forthwith or at such later date as the Disciplinary Committee may direct, and the Disciplinary Committee shall report its action to the board.

(4) If the accused be found guilty and—

(a) a majority of the Disciplinary Committee is in favour of imposing a punishment of a caution, reprimand or fine, but a minority of the Disciplinary Committee is in favour of imposing upon the accused a punishment involving his suspension from practice or the removal of his name from the register; or

(b) a majority of the Disciplinary Committee is in favour of imposing on the accused a punishment involving his suspension from practice, or the removal of his name from the register, but a minority of the Disciplinary Committee is in favour of imposing a punishment of a caution, reprimand or fine; or

(c) a majority of the Disciplinary Committee is in favour of imposing on the accused a punishment involving the removal of his name from the register, but a minority of the Disciplinary Committee is in favour of imposing a punishment of his suspension from practice, or the majority and minority are respectively in favour of the imposition of the converse punishment,

the Disciplinary Committee shall forthwith or at such later date as it may decide advise the accused of its finding and that the punishment to be imposed upon him will be advised to him at a later date and shall forward to the board all the papers, together with a record of the evidence and its finding and the penalties which the majority and the minority respectively are in favour of imposing. The board may impose such penalty as it thinks fit and shall communicate its decision to the parties forthwith or at such later date as the board may direct.

29. Any decision of the Disciplinary Committee with regard to any point arising in connection with, or in the course of, an enquiry may be arrived at *in camera*.

24. Lede van die Dissiplinêre Komitee en enige regs-assessor aangestel kragtens die bepalings van reël 30, kan deur bemiddeling of met die toestemming van die voorsitter die vrae wat hulle wenslik ag aan die klaer, die beskuldigde (as hy verkies het om getuie af te lê) of die getuies stel.

25. Alle mondelinge getuie is word afgelê onder eed wat deur die voorsitter van die Dissiplinêre Komitee afge- neem word.

26. Waar 'n ondersoek deur die Dissiplinêre Komitee ingestel word en enige persoon wie se getuie is van wesenlike belang mag wees, nie as getuie of deur die *pro forma*-klaer of deur die beskuldigde gebring is nie, kan die Dissiplinêre Komitee dié persoon as getuie bring.

27. Die *pro forma*-klaer kan met toestemming van die Dissiplinêre Komitee enige aanklag terug trek te eniger tyd voordat 'n bevinding daarvoor uitgespreek is.

28. (1) Na afsluiting van die saak beraadslaag die Dissiplinêre Komitee daarvoor *in camera*.

(2) Indien die beskuldigde onskuldig bevind word aan die aanklag wat teen hom ingebring is, moet die partye onverwyld daarvan in kennis gestel word, en moet die Dissiplinêre Komitee die raad van sy optrede verwittig.

(3) Indien die beskuldigde skuldig bevind word en die Dissiplinêre Komitee—

(a) 'n straf van 'n waarskuwing, 'n berisping of 'n boete oplê, en geen lid van die Dissiplinêre Komitee ten gunste daarvan is dat 'n straf opgelê word wat die skorsing van die beskuldigde uit sy praktyk of die skrapping van sy naam van die register meebring nie; of

(b) tot eenparige besluit geraak betreffende die straf, van watter aard ook al, wat die beskuldigde opgelê moet word;

moet die bevinding en die straf wat die beskuldigde opgelê is onverwyld of op 'n later datum wat die Dissiplinêre Komitee bepaal, aan die partye meegedeel word, en moet die Dissiplinêre Komitee die raad van sy optrede verwittig.

(4) Indien die beskuldigde skuldig bevind word en—

(a) die meerderheid van die Dissiplinêre Komitee ten gunste daarvan is dat 'n straf van 'n waarskuwing, 'n berisping of 'n boete opgelê word, maar die minderheid van die Dissiplinêre Komitee ten gunste daarvan is dat 'n straf opgelê word wat die skorsing van die beskuldigde uit sy praktyk of die skrapping van sy naam van die register meebring; of

(b) die meerderheid van die Dissiplinêre Komitee ten gunste daarvan is dat 'n straf opgelê word wat die skorsing van die beskuldigde uit sy praktyk of die skrapping van sy naam van die register meebring, maar die minderheid van die Dissiplinêre Komitee ten gunste daarvan is dat 'n straf van 'n waarskuwing, 'n berisping of 'n boete opgelê word; of

(c) die meerderheid van die Dissiplinêre Komitee ten gunste daarvan is dat die beskuldigde 'n straf opgelê word wat die skrapping van sy naam van die register meebring, maar die minderheid van die Dissiplinêre Komitee ten gunste daarvan is dat hy gestraf word deur hom uit sy praktyk te skors, of die meerderheid en die minderheid onderskeidelik ten gunste daarvan is dat die omgekeerde straf opgelê word;

moet die Dissiplinêre Komitee onverwyld of op 'n later datum deur hom bepaal aan die beskuldigde sy bevinding meedeel en hom in kennis stel dat die straf wat hom opgelê sal word, op 'n later datum aan hom meegedeel sal word, en moet hy al die stukke tesame met 'n verslag van die getuie is en sy bevinding en die strawwe wat onderskeidelik die meerderheid en die minderheid wil oplê, aan die raad stuur. Die raad kan die straf oplê wat hy goed ag, en moet sy beslissing onverwyld of op 'n later datum wat die raad bepaal, aan die partye meedeel.

29. Enige beslissing van die Dissiplinêre Komitee met betrekking tot enige punt wat in verband met of in die loop van 'n ondersoek ontstaan, kan *in camera* geneem word.

Disciplinary Committee of the Public Accountants' and Auditors' Board.
Secretary.

Given under the hand of the secretary of the Disciplinary Committee this 19 day of 19

A copy of the relative rules is enclosed.

Should you fail to appear the Disciplinary Committee may consider and deal with the charge in your absence in accordance with the relative rules.

Should you desire that your letter, dated or any further written communication which you may make should constitute your explanation or defence, please notify me to that effect as soon as possible and by not later than but you are hereby warned that any such communication may be used in evidence at such enquiry.

You are hereby notified that you are entitled to appear at such enquiry by yourself or to be represented thereat by some other person duly authorised, in writing, on your behalf and that you may produce evidence, call and examine witnesses on your behalf and cross-examine other witnesses.

You are hereby notified that an enquiry in terms of section twenty-seven of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951, as amended), will be held at upon the day of 19 at o'clock m., by the Disciplinary Committee of the Public Accountants' and Auditors' Board when the following charge which has been preferred against you will be considered:—

FORM OF NOTIFICATION.

ANNEXE A.

30. The Disciplinary Committee may appoint either an attorney or an advocate as legal assessor, to be present at any enquiry to advise on matters of law procedure and evidence.
31. A record shall be kept of the proceedings of all enquiries conducted by the Disciplinary Committee.
32. (1) The Disciplinary Committee may depart from the procedure laid down in these rules when in its opinion it is expedient and reasonable to do so.
- (2) Where any matter of procedure arises for which no provision is made in these rules, the chairman of the Disciplinary Committee shall in his discretion determine what procedure shall be followed.
- (3) Any departure from the provisions of these rules shall not invalidate the proceedings at an enquiry, unless such departure caused or was calculated to cause substantial prejudice or injustice to the accused.

VORM VAN KENNISGEWING.

AANHANSEL A.

30. Die Disiplinêre Komitee kan of 'n prokureur of 'n advokaat as regsassessor aanstel om by enige ondersoek teenwoordig te wees om advies te gee oor sake van regs-prosedure en bewyslewering.
31. Notule word gehou van die verrigtinge by alle ondersoeke wat deur die Disiplinêre Komitee ingestel word.
32. (1) Die Disiplinêre Komitee kan van die prosedure in hierdie reëls voorgeskryf afwyk wanneer dit na sy mening dienstig en redelik is om dit te doen.
- (2) Waar enige kwessie van prosedure waarvoor geen voorsiening in hierdie reëls gemaak is nie, ontstaan, bepaal die voorsitter van die Disiplinêre Komitee die prosedure wat gevolg moet word.
- (3) 'n Afwyking van die bepalinge van hierdie reëls maak nie die verrigtinge by 'n ondersoek ongeldig nie tensy die afwyking wesenlike vooroordeel of onreg aan die beskuldigde veroorsaak het of daarop bereken was om dit te veroorsaak.

U word hierby in kennis gestel dat u geregtig is om self by gemeende ondersoek te verskyn of om verteenwoordig te wees deur 'n ander persoon, behoorlik skriftelik daar-toe gemagtig, namens u en dat u getuïens kan aanvoer, getuïens kan oproep en ondervera in u belang en ander getuïens onder kruisverhoor kan neem.

Indien u verlang dat u brief gedateer of enige verdere skriftelike mededeling wat u mag doen, u verduideliking of verdediging moet uitmaak, moet u my asseblief so gou moontlik, en nie later as dat enige sodanige mededeling by sodanige ondersoek as getuïens gebruik kan word.

Indien u versuim om te verskyn, kan die Disiplinêre Komitee in u afwesigheid die aanklag oorweeg en behandel ooreenkomstig die betrokke reëls.

'n Afskrif van die betrokke reëls word ingesluit.

Gegee onder die handtekening van die sekretaris van die Disiplinêre Komitee, op hede die 19 dag van 19

Sekretaris.

Disiplinêre Komitee van die Openbare Rekenmeesters- en Ouditeurstaad.

ANNEXE B.

FORM OF SUBPOENA.

To.....

You are hereby required to appear in person at..... upon the..... day of..... 19..... at..... o'clock..... m., before the Investigation/Disciplinary Committee of the Public Accountants' and Auditors' Board in the matter of an enquiry in terms of section *twenty-seven* of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951, as amended), in relation to the conduct of certain..... Esquire, and to bring with you and then produce at the time and place as aforesaid the several documents specified in the list hereunder, and then and there to testify all and singular those things you know in relation to the said enquiry.

LIST OF DOCUMENTS TO BE PRODUCED.

Given under the hand of the..... of the Investigation/Disciplinary Committee this..... day of..... 19.....

Chairman/Secretary,
Investigation/Disciplinary Committee
of the Public Accountants' and
Auditors' Board.

AANHANGSEL B.

VORM VAN DAGVAARDING.

Aan.....

Hierby word u aangesê om persoonlik te..... op die..... dag van..... 19..... om..... -uur..... m., voor die Ondersoekkomitee/Dissiplinêre Komitee van die Openbare Rekenmeesters- en Ouditeursraad te verskyn in verband met 'n ondersoek kragtens artikel *sewe-en-twintig* van die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951, soos gewysig) met betrekking tot die gedrag van sekere mnr..... en om die onderskeie dokumente in die lys hieronder gespesifiseer saam met u te bring en dan oor te lê op voormelde tyd en plek en om dan en daar te getuig oor enigiets en alles waarvan u weet met betrekking tot die ondersoek.

LYS VAN DOKUMENTE WAT OORGELE
MOET WORD.

Gegee onder die handtekening van die..... van die Ondersoekkomitee/Dissiplinêre Komitee, op hede die..... dag van..... 19.....

Voorsitter/Sekretaris,
Ondersoekkomitee/Dissiplinêre Komitee
van die Openbare Rekenmeesters- en
Ouditeursraad.

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