



Consultation Paper CP 1/08

**Invitation to comment on draft Regulations governing the
conduct of Investigations under Section 24 of the
Companies (Auditing and Accounting) Act 2003**

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1. FOREWORD

The Irish Auditing & Accounting Supervisory Authority places a high value on the consultative process. In that context, it is hoped that interested parties will make their views known on the proposals set out in this Consultation Paper, thereby ensuring that the Authority's final decision-making process is well informed, rigorous and accountable. It is further hoped that, in conducting this consultation process, the Authority's attention will be drawn to any issues in respect of which contributors believe amendment of the draft Regulations is merited.

While the final Regulations will be of most relevance to members and member firms of the prescribed accountancy bodies and to the bodies of which those members and member firms are members, other parties may be affected by their provisions – for example, users of services provided by members and member firms of the prescribed accountancy bodies and persons who lodge complaints with the prescribed accountancy bodies and/or the Authority. For that reason, the Authority is seeking the views of any party having an interest in these matters.

While the Authority will be happy, to the extent practicable, to address general queries arising from this Consultation Paper and the accompanying draft Regulations, independent legal advice should be sought in relation to the effects of any legal provision.

**Irish Auditing & Accounting Supervisory Authority
19 September, 2008**

2. INTRODUCTION & OVERVIEW

2.1 The Irish Auditing and Accounting Supervisory Authority ('the Authority') was established on a statutory basis in December, 2005 pursuant to the provisions of the Companies (Auditing and Accounting) Act 2003 ('the Act'). The Authority was subsequently conferred with most of the statutory functions and powers provided for under the Act by the Minister for Trade & Commerce in February 2006¹.

The Authority's principal objectives, as provided for by the Act², are to:

- supervise how the prescribed accountancy bodies regulate and monitor their members³;
- promote adherence to high professional standards in the auditing and accounting profession;
- perform the functions conferred on it by transparency (regulated markets) law (within the meaning of Part 3 of the Investment Funds, Companies and Miscellaneous Provisions Act, 2006) in respect of the matters referred to in Article 24(4)(h) of the Transparency (Regulated Markets) Directive (within the meaning of that Part); and
- act as a specialist source of advice to the Minister on auditing and accounting matters.

2.2 A '*prescribed accountancy body*' is a body of accountants that comes within the Authority's supervisory remit. At present, there are nine prescribed accountancy bodies. They are the:

- I. Association of Chartered Certified Accountants (ACCA);
- II. Association of International Accountants (AIA);
- III. Chartered Institute of Management Accountants (CIMA);
- IV. Chartered Institute of Public Finance & Accountancy (CIPFA);
- V. Institute of Chartered Accountants in England & Wales (ICAEW);
- VI. Institute of Chartered Accountants in Ireland (ICAI);
- VII. Institute of Chartered Accountants of Scotland (ICAS);
- VIII. Institute of Certified Public Accountants in Ireland (ICPAI); and
- IX. Institute of Incorporated Public Accountants (IIPA).

2.3 Further to its statutory supervisory remit, one of the Authority's key policy objectives is, through the exercise of effective oversight of the accountancy profession, to provide the public with independent assurance that:

- the accountancy profession is regulating itself in accordance with approved investigation and disciplinary procedures; and

¹ S.I. 56 of 2006 refers

² Section 8 refers

³ For the purpose of this document, the term 'member' includes member firm.

- in circumstances where this is found not to be the case, appropriate action is taken to address instances of non-compliance with approved investigation and disciplinary procedures and to dissuade further recurrence.

2.4 The methods by which the Authority exercises oversight of the profession include, *inter alia*:

- approving the Rules, Regulations and Standards with which members of the prescribed accountancy bodies are required to comply by virtue of their membership of those bodies, and proposed amendments thereto;
- approving the prescribed accountancy bodies' investigation and disciplinary procedures and proposed amendments thereto; and
- monitoring the prescribed accountancy bodies' compliance with their approved investigation and disciplinary procedures (including the manner in which they deal with complaints received regarding members and member firms).

2.5 The Act provides the Authority with a range of powers for the purposes of, *inter alia*:

- enabling it to carry out its ongoing, general supervisory functions;
- enabling it to carry out enquiries, following a complaint or on its own initiative, for the purpose of determining whether a prescribed accountancy body has complied with its approved investigation and disciplinary procedures⁴;
- enabling it, where considered appropriate or to be in the public interest, to carry out investigations into possible breaches of a prescribed accountancy body's standards by a member⁵;
- empowering the Authority to impose sanctions on a prescribed accountancy body or member, as applicable, where non-compliance with approved investigation and disciplinary procedures or standards, as applicable, has been determined to have occurred⁶.

2.6 This Consultation Paper and the accompanying draft Regulations are concerned with one particular aspect of the foregoing, i.e. the Authority's power under section 24⁷ of the Act to conduct investigations into possible breaches of the standards of a prescribed accountancy body by a member.

2.7 It is important to note in this context that the Authority does not have primary responsibility for regulating members of the prescribed accountancy bodies or for dealing, in the first instance, with complaints against such members. Under the supervisory model provided for by the Act, the prescribed accountancy bodies remain primarily responsible for dealing with complaints against their members and for regulating and monitoring such members generally. Accordingly, in exercising its ongoing supervisory role, the Authority does not seek to supplant the prescribed accountancy bodies' investigation and disciplinary processes. Rather, the Authority's role is to supervise the operation of these processes. However, that having been said:

⁴ Section 23

⁵ Section 24

⁶ Sections 23 and 24

⁷ For ease of reference, the full text of section 24 of the Act is reproduced in the Appendix to this Consultation Paper.

- members of the public are entitled to lodge complaints with the Authority regarding alleged non-compliance on the part of a member with the standards of a prescribed accountancy body; and
- apparent instances of non-compliance with such standards on the part of a member may also come to the Authority's attention through other channels (for example, as a consequence of the Authority's ongoing supervisory activities, reports from other regulatory bodies, press *reportage* etc.).

It is, therefore, important, notwithstanding that the primary onus for investigating matters relating to members of the prescribed accountancy bodies resides with those bodies, that the Authority has the necessary powers to initiate and perform its own investigations into possible breaches of bodies' standards by members of those bodies.

- 2.8 Section 24 provides that the Authority may undertake an investigation into a possible breach of the standards of a prescribed accountancy body by a member if, in the Authority's opinion, it is appropriate or in the public interest to do so.
- 2.9 As alluded to above, in the event that the Authority, having carried out an investigation under section 24, determines that a member of a prescribed accountancy body has failed to comply with the standards of the body concerned, the Authority is empowered by the Act to impose any sanction to which the member is liable under the approved constitution and bye-laws of the prescribed accountancy body (including a monetary sanction). The member is also liable to pay the amount specified by the Authority towards its costs in investigating and determining the case.
- 2.10 Section 28(4) of the Act provides that the Authority shall issue Regulations setting out the procedures to be followed in conducting investigations under section 24. In that context, the Authority has developed a set of draft Regulations which, *inter alia*, include a range of provisions designed to ensure fair procedure. These draft Regulations, which are modelled to the extent applicable on the Authority's extant section 23 Regulations⁸, are the subject of this consultation process.
- 2.11 The powers of investigation and sanction provided to the Authority under section 24 are considerable and, that being the case, the Authority wishes to ensure that any exercise of such powers is executed in a manner that is both fair and effective, thereby achieving an appropriate balance between: (i) protecting and promoting the public interest; (ii) ensuring that the subject of investigations (i.e. members of prescribed accountancy bodies) and other potentially affected parties are fully afforded their rights as regards procedural fairness; and (iii) sanctioning non-compliance where such is found to have occurred.
- 2.12 To that end the draft Regulations seek to set out, and facilitate the implementation of, a fair and robust enforcement procedure which, by taking account of the principles of fair procedure, will result in the issuance of decisions that are just, reasonable and legally defensible.
- 2.13 Pending the completion of this consultation exercise and the subsequent issuance of final Regulations, the Board of the Authority has resolved to adopt the draft Regulations accompanying this Consultation Paper as interim procedures governing the conduct of Investigations under section 24 of the Act. On the issuance of final Regulations, the interim procedures will be superseded by the final Regulations.

⁸ The Companies (Auditing and Accounting) Act, 2003 (Procedures Governing the Conduct of Section 23 Enquiries) Regulations, 2007 refer (available at www.iaasa.ie/legislation/index.htm).

3. THE DRAFT REGULATIONS

3.1 The Statutory Framework

- 3.1.1 Section 24 of the Act provides that the Authority may, following a complaint or on its own initiative, undertake an investigation into a possible breach of a prescribed accountancy body's standards by a member if, in its opinion, it is appropriate or in the public interest to do so.
- 3.1.2 Section 24 further provides that, for the purposes of an investigation, the Authority may require a relevant person to:
- produce to the Authority all books and documents relating to the investigation that are in the relevant person's possession or control;
 - attend before the Authority;
 - give the Authority any other assistance in connection with the investigation that the relevant person is reasonably able to give.
- 3.1.3 Section 24 further provides that, for the purposes of an investigation, the Authority may:
- examine on oath, either by word of mouth or on written interrogatories, a relevant person;
 - administer oaths for the purposes of the examination; and
 - record, in writing, the answers of a person so examined and require that person to sign them.
- 3.1.4 If, having completed an investigation under section 24, the Authority determines that a member has committed a breach the standards of a prescribed accountancy body:
- the Authority may impose on the member any sanction to which the member is liable under the approved constitution and bye-laws of the prescribed accountancy body (including a monetary sanction); and
 - the member is liable to pay the amount specified by the Authority towards the Authority's costs in investigating and determining the case, excluding any costs of or incidental to an enquiry by the Court under section 24(6) of the Act.
- 3.1.5 The Authority may only initiate an investigation under section 24 in respect of suspected or apparent breaches of the '*standards*' of a prescribed accountancy body. The term '*standards*' is defined by the Act as being, in relation to a prescribed accountancy body, '*the rules regulations and standards that body applies to its members and to which, by virtue of their membership, they are obliged to adhere*'.

3.2 Summary of the approach taken in the draft Regulations

Approach - overview

- 3.2.1 The draft Regulations are based on the premise that the exercise of enforcement powers must be performed in a manner that accords with applicable principles of procedural fairness, natural and constitutional justice, the requirements of administrative law and applicable human rights legislation.
- 3.2.2 To that end, the draft regulations provide that, once initiated, investigations under section 24 will be split into two discrete phases, each of which will be conducted by Committees established by the Authority (i.e. Preliminary Investigations and Investigations Committees respectively). The draft Regulations provide that each Committee shall have among its membership at least two directors of the Authority. The draft Regulations further provide that no person may serve on both the Preliminary Investigation and Investigation Committees in any given matter. The draft Regulations further provide that members of the prescribed accountancy body of which the member under investigation is a member are precluded from sitting on applicable Committees.

Investigation

- 3.2.3 The purpose of the first phase, which will be conducted by a Preliminary Investigation Committee, is to determine whether a full Investigation should be initiated by the Authority. It follows, therefore, that the second phase will only take place in circumstances where a Preliminary Investigation Committee determines, having carried out its preliminary investigation, that the Authority should initiate a full Investigation. The purpose of the second phase, which will be conducted by an Investigation Committee, is to determine whether a member has breached the standards of a prescribed accountancy body and, if so, to determine what sanctions, if any, should be imposed.
- 3.2.4 The draft Regulations provide that a Preliminary Investigation Committee may be established if, in the Authority's opinion, it is appropriate or in the public interest to undertake an investigation into a possible breach of a prescribed accountancy body's standards by a member. The Authority may form such an opinion, for example, as a result of information coming to its attention by virtue of the performance of its ongoing supervisory activities, as a result of information received from another regulatory or supervisory body, on foot of a complaint received or as a result of press *reportage*.
- 3.2.5 The draft Regulations provide that, once established, a Preliminary Investigation Committee is required to furnish the member(s) and the body concerned with details of, amongst other things, the basis upon which the preliminary investigation has been initiated.
- 3.2.6 In order that a Preliminary Investigation Committee can arrive at its determination, the draft Regulations provide that a Committee can, *inter alia*, require a 'relevant person' to produce all books or documents relating to the investigation that are in his or her possession or control. A Committee may also consider submissions made to it by other parties.
- 3.2.7 Having completed its investigations, a Preliminary Investigation Committee will inform the Authority as to whether or not it has determined that a full Investigation should be initiated. A full Investigation will be initiated where a Preliminary Investigation Committee advises the Authority that:

- it has determined that it appears on its face that there has been an instance whereby a member of a prescribed accountancy body has failed to comply with the standards of the body; and
- in its opinion, it is appropriate or in the public interest that there should be a full investigation into such possible breach.

In recognition of the fact that a Preliminary Investigation Committee may arrive at a determination that it appears that a breach of the standards of a prescribed accountancy body by a member has occurred but, having regard to the circumstances of the case, forms the view that the matter under investigation would be better dealt with by way of supervisory action rather than through the initiation of a full investigation, the draft Regulations provide that, rather than having to automatically expose the Authority and other affected parties to the costs associated with a formal Investigation, the Preliminary Investigation Committee can, at its discretion, decide not to inform the Authority of the necessity to initiate a full Investigation, but rather to advise the Authority that, in its view, the matter should be dealt with by the Authority as a supervisory matter.

- 3.2.8 Where an Investigation Committee is established to examine a particular issue, the draft Regulations provide that the Committee is required to notify the member(s) of the prescribed accountancy body concerned of its establishment and of the initiation of a full Investigation. The draft Regulations further provide that the Investigation Committee shall also notify the prescribed accountancy body of which the member is a member of the establishment of the Committee and of the initiation of its investigation.

Investigation - overview

- 3.2.9 On receipt of a determination from a Preliminary Investigation Committee to the effect that an Investigation should be initiated, the Authority shall appoint an Investigation Committee.
- 3.2.10 On the establishment of an Investigation Committee, the Investigation Committee shall issue a written Notice to the member of the relevant prescribed accountancy body and to the body in question. The Notice will include, amongst other things, a summary of the scope of the Investigation and will set out all documents and any other material that will be presented to the Investigation Committee by the Preliminary Investigation Committee. The Notice will also invite the prescribed accountancy body and the member(s) concerned to make written submissions to the Committee. The body and member(s) involved will also be informed that they may request the Investigation Committee for leave to make oral submissions to it.
- 3.2.11 In the furtherance of its remit, an Investigation Committee may require any relevant person to produce all books and documents relating to the investigation, to attend before the Investigation Committee and to give the Investigation Committee any other assistance in connection with the Investigation that the relevant person is reasonably able to give. The Investigation Committee may also conduct an oral hearing and examine on oath any relevant person (by word or by written interrogatories).
- 3.2.12 On completion of its Investigation, the Investigation Committee is required to issue its decision to the Authority as soon as is practicable, taking into account the specific circumstances of each case. In communicating its decision to the Authority, the Investigation Committee must provide the reasons underlying its decision and address the arguments put forth by the member of the prescribed accountancy body concerned during its defence.

3.3 Oral Hearings

- 3.3.1 Section 28 of the Act provides that the Authority may conduct an oral hearing for the purposes of exercising its functions under section 24. The approach to oral hearings as adopted in the draft Regulations is that an Investigation Committee may conduct oral hearings at its own behest or at the reasonable request of the member.
- 3.3.2 The draft Regulations provide that an Investigation Committee may permit affected members of the prescribed accountancy body concerned, and/or any other person with an interest in the proceedings, to participate in an oral hearing and to present evidence and submissions.
- 3.3.3 It is further provided that oral hearings will, in general, be held in public. However, an Investigation Committee may, at its sole discretion, exclude the public from all or part of a hearing to the extent that it considers necessary, for example, where the circumstances are such that publicity might risk prejudicing the interests of justice or adversely affecting the rights of third parties.

3.4 Rules of Investigations

- 3.4.1 The draft Regulations provide that, while the strict rules of evidence are not binding on the Authority's investigations, the procedures employed by Preliminary Investigation and Investigation Committees will adhere to the requirements of natural and constitutional justice.
- 3.4.2 The draft Regulations provide that Committees may appoint legal advisers, who may provide assistance to Committees as required.
- 3.4.3 The draft Regulations further provide that the standard of proof that will be applied is the civil standard, i.e. on the balance of probabilities – this is the same standard of proof as required under the Authority's Section 23 Regulations.
- 3.4.4 The draft Regulations provide that, as the Authority proposes to delegate the conduct of Investigations under section 24 to Preliminary Investigation and Investigation Committees, any decisions taken by such Committees will constitute decisions of the Authority.

3.5 Publication

- 3.5.1 The Authority considers that publication of its decisions is critical to an effective and transparent enforcement regime and, that being the case, proposes to publish the results of its Investigations as soon as possible after the issuance of its decisions. Publication in this context would generally include being posted to the Authority's website and being the subject of a press release to the media.

3.6 Sanctions

- 3.6.1 An Investigation Committee will, in all cases where an Investigation has determined that a breach has occurred, determine what sanction(s), if any, shall apply.

- 3.6.2 In determining the sanction(s) to be imposed, an Investigation Committee will have regard to all of the circumstances of the matter, including, among other considerations:
- whether the failure to comply with the standards was deliberate, dishonest or reckless;
 - the duration and frequency of the breach of standard; and
 - the gravity and nature of the breach of standard.

3.7 Appeals

Section 24(8) of the Act provides a right of appeal to the High Court to the member(s) concerned. The draft Regulations provide that such parties will be informed of this right upon the issuance of an adverse finding.

3.8 Settlement

- 3.8.1 The Authority proposes to reserve to itself the right to enter into a settlement agreement with the relevant party (or parties) at any time before the conclusion of an Investigation, with any such settlement being binding on all parties.
- 3.8.2 The draft Regulations further provide that the Authority may publish details of any such settlement, having given three months' notice to the member(s) concerned, unless publication of the decision would, in the Authority's opinion, be contrary to the public interest.

4. INVITATION TO COMMENT

4.1 Matters in respect of which comments are sought

In the context of the foregoing, the Authority now invites interested parties to offer their views on the draft Regulations, including on the approach adopted therein and on their specific content and format.

While contributors are welcome, and encouraged, to address any aspect of the draft Regulations they consider appropriate, the Authority is particularly interested to learn of contributors' views on the following specific questions.

- I. Do you consider that the draft Regulations set out, and facilitate the implementation of, a fair and robust enforcement procedure, which by taking account of, *inter alia*, the principles of fair procedure and natural and constitutional justice, will result in the issuance of decisions that are just, reasonable and legally defensible?
- II. Do you consider that the Regulations as drafted achieve an appropriate balance between (i) protecting and promoting the public interest; (ii) ensuring that the subjects of investigations and other potentially affected parties are fully afforded their rights as regards procedural fairness; and (iii) sanctioning breaches of standards of the prescribed bodies?
- III. If not:
 - i. Which aspect(s) of the draft Regulations do you consider to be inconsistent with the foregoing objectives? Please support your response(s) with the reasoning underpinning your conclusion(s).
 - ii. How would you propose that the issue(s) identified by you at (i) above might be addressed? In order that the Authority might derive maximum benefit from contributors' responses to this question, contributors are requested, to the extent practicable, to provide details of specific deletions, additions or amendments that they consider would serve to address the concerns identified.
- IV. Do you consider the Authority's proposals regarding publication of decisions to be fair and reasonable? If not, please support your conclusions with your reasoning.
- V. Do you consider that the factors currently listed as being among the considerations that an Investigation Committee would have regard to in determining the level of sanction(s) to impose are fair and reasonable? If not, please support your views with your reasoning.
- VI. Do you consider that there are factors, other than those referred to at V above that should be added to the specific list of considerations included in the Regulations? If so, please support your suggestions with your reasoning.

4.2 Format of responses

When addressing any issue dealt with in this Consultation Paper or in the accompanying draft Regulations, contributors are requested to use the corresponding referencing.

Contributors are requested make their submissions in writing and, where possible, by email. With regard to the latter, contributors are requested to ensure that electronic submissions are furnished to the Authority in an unprotected format.

4.3 Confidentiality of responses

Contributors are requested to note that it is the Authority's policy to treat all submissions received as being **in the public domain unless confidentiality is specifically requested**. Respondents are, therefore, requested to **clearly identify material they consider to be confidential** and to place same in a separate annex to their response. Where responses are submitted by email, and those emails include automatically generated notices stating that the content of same should be treated as confidential, contributors should clarify in the body of their emails as to whether their comments are to be treated as confidential. Information in respect of which confidentiality is requested will be treated in accordance with the provisions of section 31 of the Act.

4.4 Publication of responses

In the interests of openness and transparency, the Authority intends to make submissions, other than those in respect of which confidentiality has been requested, publicly available on its website (www.iaasa.ie).

4.5 Consideration of responses

All responses received will be considered in detail by the Authority and will, to the extent practicable, be factored into the final Regulations issued by the Authority.

4.6 Deadline for submissions

Submissions, which should be marked "CP 1/08", should be sent to the Authority at one the following contact points.

**Irish Auditing & Accounting Supervisory Authority
Willow House
Millennium Park
Naas
Co. Kildare
Ireland**

info@iaasa.ie

The deadline for submissions is **Friday 12 December, 2008**.

4.7 Further copies of this Paper and draft Regulations

Further copies of this Consultation Paper and the accompanying draft Regulations can be obtained:

- at the above contact points;
- by contacting the Authority by telephone (+353 45 983 600) or fax (+353 45 983 601); or
- by download from the Authority's website (www.iaasa.ie)

APPENDIX

Section 24 of the Companies (Auditing and Accounting) Act, 2003

24.—(1) In this section—

“client” includes an individual, a body corporate, an unincorporated body of persons and a partnership;

“refusal” includes failure and “refuses” includes fails;

“relevant person”, in relation to an investigation of a member of a prescribed accountancy body, means—

- (a) a member of the prescribed accountancy body,
- (b) a client or former client of such member,
- (c) if the client or former client is a body corporate, a person who is or was an officer, employee or agent of the client or former client,
- (d) the prescribed accountancy body or a person who is or was an officer, employee or agent of that body, or
- (e) any person whom the Supervisory Authority reasonably believes has information or documents relating to the investigation other than information or documents the disclosure of which is prohibited or restricted by law.

(2) If, in the Supervisory Authority’s opinion, it is appropriate or in the public interest to undertake an investigation into a possible breach of a prescribed accountancy body’s standards by a member, the Authority may do so—

- (a) following a complaint, or
- (b) on its own initiative,

but no investigation may be undertaken into a matter that is or has been the subject of an enquiry under *section 23* relating to that member except with the permission of the High Court granted on application under *section 23(4)*.

(3) For the purposes of an investigation under this section, the Supervisory Authority may require a relevant person to do one or more of the following:

- (a) produce to the Supervisory Authority all books or documents relating to the investigation that are in the relevant person's possession or control;
 - (b) attend before the Supervisory Authority;
 - (c) give the Supervisory Authority any other assistance in connection with the investigation that the relevant person is reasonably able to give.
- (4) For the purposes of an investigation under this section, the Supervisory Authority may—
- (a) examine on oath, either by word of mouth or on written interrogatories, a relevant person,
 - (b) administer oaths for the purposes of the examination, and
 - (c) record, in writing, the answers of a person so examined and require that person to sign them.
- (5) The Supervisory Authority may certify the refusal to the High Court if a relevant person refuses to do one or more of the following:
- (a) produce to the Supervisory Authority any book or document that it is the person's duty under this section to produce;
 - (b) attend before the Supervisory Authority when required to do so under this section;
 - (c) answer a question put to the person by the Supervisory Authority with respect to the matter under investigation.
- (6) On receiving a certificate of refusal concerning a relevant person, the Court may enquire into the case and, after hearing any evidence that may be adduced, may do one or more of the following:
- (a) direct that the relevant person attend or re-attend before the Supervisory Authority or produce particular books or documents or answer particular questions put to him or her by the Supervisory Authority;
 - (b) direct that the relevant person need not produce particular books or documents or answer particular questions put to him or her by the Supervisory Authority;
 - (c) make any other ancillary or consequential order or give any other direction that the Court thinks fit.
- (7) If the Supervisory Authority finds that the member committed a breach of the prescribed accountancy body's standards—

- (a) the Supervisory Authority may impose on the member any sanction to which the member is liable under the approved constitution and bye-laws of the prescribed accountancy body (including a monetary sanction), and
- (b) in addition, the member is liable to pay the amount specified by the Supervisory Authority towards its costs in investigating and determining the case, excluding any costs of or incidental to an enquiry by the Court under *subsection (6)*.
- (8) The member who is the subject of a decision made by the Supervisory Authority under *subsection (7)* may appeal to the High Court against the decision.
- (9) An appeal under *subsection (8)* must be brought within 3 months after the member concerned was notified by the Supervisory Authority of its decision.
- (10) The production of any books or documents under this section by a person who claims a lien on them does not prejudice the lien.
- (11) Any information produced or answer given by a member of a prescribed accountancy body in compliance with a requirement under this section may be used in evidence against the member in any proceedings whatsoever, save proceedings for an offence (other than perjury in respect of such an answer).
- (12) A finding or decision of the Supervisory Authority under this section is not a bar to any civil or criminal proceedings against the member who is the subject of the finding or decision.