

L.N. 9 of 1971

THE INSTITUTE OF CHARTERED ACCOUNTANTS ACT 1965
(1965 No. 15)

**The Chartered Accountants (Disciplinary Tribunal and
Assessors) Rules 1971**

Commencement : 28th January 1971

In exercise of the powers conferred upon me by paragraphs 2 and 4 of Schedule 3 to the Institute of Chartered Accountants Act 1965 and of all other powers enabling me in that behalf, I hereby make the following rules :—

Proceedings before the Tribunal

- 1.—(1) Parties to proceedings before the tribunal shall be— Parties.
- (a) the complainant,
(b) the respondent,
(c) any other person required by the tribunal to be joined, or joined by leave of the tribunal.
- (2) Subject to paragraph (3) of this rule, parties to the proceedings may enter an appearance in person, or by their respective legal practitioners acting as counsel.
- (3) The tribunal may require the attendance of the complainant or respondent in person if of opinion that it is necessary in the interest of justice.
- 2.—(1) When a complaint is referred by the panel to the tribunal, the registrar shall, after consultation with the chairman, appoint a time and place for the hearing ; and forthwith thereafter the registrar shall in the form in the Schedule hereto give notice to all interested parties (including members of the tribunal and the assessor) as directed or required by the chairman. Notice of hearing.
- (2) If directions are for any reason not so given, it shall be sufficient compliance with this rule if the notice is—
- (a) handed to the party concerned or affected personally ; or
(b) sent by registered post to the last known place of residence of the party.
- 3.—(1) Subject to paragraph (2) of this rule, the tribunal may hear and determine a case in the absence of any party. Hearing in absence of party.
- (2) Any party to proceedings before a tribunal who fails to appear or be represented may apply within one month after the date when the pronouncement of the findings and directions of the tribunal were given, for a re-hearing on the ground of want of notice or other good and sufficient reason ; and the tribunal, in appropriate cases may grant the application upon such terms as to costs or otherwise as it thinks fit.
4. The tribunal may in the course of its proceedings hear witnesses and receive documentary evidence necessary in its opinion to assist it in arriving at a conclusion as to the truth or otherwise of the allegation of misconduct in the complaint referred to it by the panel ; and in the application of this rule, the provisions of the Evidence Act or Law in force in the state where the tribunal is sitting shall apply to any such proceedings. Hearing of witnesses etc.

Amendment of complaint.

5. If in the course of the proceedings it appears to the tribunal that the complaint before it requires to be amended in any respect, the tribunal may, on such terms as it thinks fit, allow the amendment to be made and the complaint as so amended shall thereupon be dealt with accordingly.

Proceedings to be in public.

6. Proceedings of the tribunal shall be held, and its finding and directions shall be delivered, in public, unless otherwise directed by the tribunal.

Adjournment.

7. The tribunal may, of its own motion, or upon the application of any party, adjourn the hearing on such terms as to costs or otherwise as the tribunal may think fit.

False evidence.

8. If any person wilfully gives false evidence on oath before the tribunal during the course of any proceedings, or wilfully makes a false statement in any affidavit sworn for the purpose of any such proceedings, the tribunal may refer the matter to the Attorney-General of the Federation for such action as the Attorney-General may think fit.

Findings and costs in certain cases.

9. If after the hearing the tribunal adjudges that the charge of professional misconduct has not been proved, the tribunal—

(a) shall record or finding that the respondent is not guilty of such conduct in respect of which the charge relates ;

(b) may, nevertheless order any party (except the complainant) to pay the costs of the proceedings if, having regard to his conduct and to all the circumstances of the case, the tribunal thinks fit so to order.

Publication of findings.

10. Subject to section 12 (5) of the Act (which relates *inter alia* to appeals) any finding or direction given by the tribunal shall be published in the Federal Gazette as soon as may be after the finding or direction takes effect.

Record of proceedings.

11.—(1) Notes of proceedings may be taken in shorthand by any person appointed by the tribunal and any party appearing at the proceedings shall be entitled to inspect the transcript thereof when made.

(2) The registrar shall supply to any person entitled to be heard upon an appeal against any finding or direction of the tribunal, a copy of the transcript of such notes on payment of such charges as may be fixed by the registrar.

(3) If for any reason provision is not made for taking of notes in shorthand, the chairman shall take notes of the proceedings ; and the provisions of this rule as to inspection and taking of copies shall apply to any such notes made by the chairman.

Miscellaneous powers of tribunal.

12. The tribunal may dispense with any requirements of these rules as to notices, affidavits, documents, service or time for doing or omitting anything, in any case where it appears to the tribunal to be just or expedient so to do ; and the tribunal in any particular case may extend the time for doing anything under these rules.

Power to retain exhibits pending appeal.

13. Books and other exhibits whatsoever produced or used at the hearing shall, unless the tribunal otherwise directs, be retained by the registrar until the expiry of the time for filing an appeal against a finding or direction of the tribunal or, if notice of any such appeal is given, until the hearing and disposal of the appeal.

Assessors

Appointment and duties of assessor.

14.—(1) An assessor, when nominated in accordance with paragraph 4 (1) of Schedule 3 to the Act shall be appointed by the Institute by instrument, and the assessor shall hold and vacate office as provided in the instrument ; and where the appointment is not a general one, it shall have effect only in respect of a particular meeting of the tribunal.

(2) Subject to the terms of his appointment, an assessor shall attend any meeting of the tribunal as and when requested to do so by notice in writing given to him by the registrar not later than three days before the date appointed for the meeting ; and he shall there advise the tribunal on questions of law.

(3) The tribunal shall be sole judge of facts offered in evidence so however that in respect of mixed questions of fact and law, questions of law shall be for the assessor to advise on, in relation to evidence and procedure, and matters specified by these rules ; and the tribunal shall confer with the assessor on the advisability of hearing proceedings in private, unless already so advised in writing by the Attorney-General of the Federation.

(4) If advice is tendered by an assessor to the tribunal otherwise than in the presence of all parties entering an appearance or as may be of their counsel, the assessor shall as soon as may be thereafter, inform all parties to the proceedings entering an appearance, as to the nature of the advice given and the reaction thereto of the tribunal.

General

15.—(1) Except when the context otherwise requires, expressions used in these rules have the same meaning as in the Act.

Interpretation.

(2) Where used in these rules—

“complainant” mean a persons or body alleging before the tribunal, professional misconduct against a member of the institute ;

“respondent” means the person required to answer to any charge of professional misconduct.

16. These rules may be cited as the Chartered Accountants (Disciplinary Tribunal and Assessors) Rules 1971 and shall apply throughout the Federation.

Citation and extent.

SCHEDULE

Rule 2 (1)

NOTICE OF HEARING BY THE ACCOUNTANTS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE INSTITUTE OF CHARTERED ACCOUNTANTS
ACT 1965

AND

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL CONDUCT AGAINST

.....
of.....
a chartered accountant.

TAKE NOTICE that the Accountants Disciplinary Tribunal sitting at

..... at..... on

..... 19..... will commence its hearing of charge(s)

