

# CR 3 – Public Practice Regulations

Issued April 2023



## 3.1 Purpose

- (a) This Regulation sets out requirements for Members in Public Practice.
- (b) The Regulations relating to public practice for Members of CA ANZ who are resident in New Zealand and working in public practice in New Zealand are set out in the NZICA Rules and these Members will be regulated in accordance with the NZICA Rules. Members not resident but practising in New Zealand may be subject to the NZICA Rules for the purposes of NZICA carrying out its regulatory or disciplinary functions.
- (c) This Regulation applies to all Members in Public Practice regardless of whether the entity through which they practise is entitled to use the description "Chartered Accountant(s)".

## 3.2 Definitions

- (a) Unless expressly defined in this Regulation, capitalised terms used in this Regulation are defined in By-Law 2.
- (b) References to Chartered Accountant in this CR 3 are applicable to both Chartered Accountants and Chartered Accountant Fellows.
- (c) The **CA ANZ Professional Standards Scheme** or the **Scheme** is the legal instrument approved by the Professional Standards Council.
- (d) A reference to the **Disclosure Statement** means the statement required by CR 3.5(d).
- (e) A **Member in Public Practice** is a public accountant as defined in Article 2(z) of the Supplemental Charter.
- (f) A **Participant in a Professional Standards Scheme** is any person or Practice Entity Member to whom the CA ANZ Professional Standards Scheme applies.
- (g) References to the term **Practice** has the meaning given to that term in CR 9.

## 3.3 General Principle

Members in Public Practice are responsible and accountable for their professional conduct and work. This principle applies notwithstanding the manner in which a Member in Public Practice chooses to organise the professional work undertaken or the entity by or through which the work is carried out.

## 3.4 Practice Entities

- (a) A Member or Members in Public Practice who conduct all or any part of a practice by or through a Practice Entity shall be responsible for and accountable to CA ANZ for the conduct of that Practice Entity and shall cause it to comply with the Supplemental Charter, By-Laws and Regulations. Accordingly, the Supplemental Charter, By-Laws and Regulations shall apply to a Practice Entity by or through which any Member or Members in Public Practice conduct all or any part of their practice.
- (b) The fact that a Member in Public Practice may be operating in the capacity of a trustee or agent does not change the application of these Regulations to the Member.

## Practice Management

### 3.5 Business stationery and electronic communication

- (a) Where a Member or Practice Entity includes the name of a person who is not a Principal, on their letterhead or website or in practice communications, that person must be clearly distinguished from the Principals of the Practice Entity by the description used.
- (b) Where the letterhead or websites of a Practice Entity having Affiliate Members include the names of Principals of the Practice Entity, the following must be indicated next to their respective names:
  - (i) for all Members, their membership of CA ANZ, viz CA or FCA; and
  - (ii) for all Affiliate Members, their membership of CA ANZ, viz Affiliate CA ANZ.
- (c) A Member in Public Practice must comply with the CA ANZ Members in Public Practice Logo Guidelines (Style Guide) then in force.
- (d) A Participant in a Professional Standards Scheme is required to include the following Disclosure Statement on materials that are or could be given to current or prospective clients:

“Liability limited by a scheme approved under Professional Standards Legislation.”
- (e) The Disclosure Statement must be printed in a size not less than Times New Roman 8-point font. Examples of materials on which the Disclosure Statement must appear include, but are not limited to:
  - (i) letterhead and letters;
  - (ii) fax cover sheets;
  - (iii) emails;
  - (iv) newsletters and other publications;
  - (v) the Practice Entity's website;
  - (vi) written advice;
  - (vii) memorandum of fees and invoices unaccompanied by a separate document with the disclosure statement.
- (f) The CA ANZ Professional Standards Scheme is not a Cover of Excellence® scheme. Consequently, no Participant of the CA ANZ Professional Standards Scheme should use the Cover of Excellence® logo on any documentation.

#### Commentary

*A Member in Public Practice, being the holder of a CA ANZ CPP and a solicitor's current practising certificate, may use the designation "Chartered Accountant and Solicitor".*

*Logotypes - logotypes in the form of designs or emblems (including combinations of the initial letters of a firm name) may be used on the letterheads, other stationery, electronic communications and website of Members in Public Practice.*

*Affiliations - a Member in Public Practice may indicate on his/her letterhead, other stationery, electronic communications and website any affiliations or representations with other firms either in Australia or overseas.*

*The CA ANZ Professional Standards Scheme applies to all CA ANZ Members who:*

- *hold a current Australian Certificate of Public Practice;*
- *are Affiliate Members; or*
- *are incorporated Practice Entity Members.*

*Please also refer to the Scheme documents which can be found on the Professional Standards Council website.*

*The Disclosure Statement does not need to appear on:*

- *social media networks, blogs, etc. that are accessed voluntarily by consumers – rather than being ‘given or caused to be given’ by professionals to their clients or prospective clients.*
- *advertisements in print media, directory listings and similar forms of promotion or advertising*
- *business cards.*

### **3.6 Advertising**

Members in Public Practice must ensure that marketing or advertising communications are terminated when the recipient has so requested either directly to the Member or through CA ANZ. Any continued contact is regarded as harassment which is considered to be unacceptable conduct.

### **3.7 Confidentiality**

A Member in Public Practice must provide an acceptable professional standard of facilities to ensure that communication with, and records of, clients are kept confidential and secure.

### **3.8 Attention to Correspondence and Enquiries**

Members must reply to professional correspondence and enquiries expeditiously.

### **3.9 Books and Records**

Subject to any legal right of lien, a Member in Public Practice must, after a change in appointment has been effected, promptly make available for collection all books, papers, documents and other records belonging to the client.

#### **Commentary**

*Following the appointment of another auditor, the outgoing auditor does not have any obligation to provide such information and advice to the incoming auditor as will enable the incoming auditor to substantiate the existence and value of assets and liabilities as at the end of the previous financial year. However, the outgoing auditor is encouraged to do so as a professional courtesy and with the knowledge and consent of the client. The audit working papers of the outgoing auditor are the property of that auditor and there is no obligation to make available any information contained therein.*

*Members may refer to Guidance Note N1 – Books and Records for guidance on ownership, possession and disclosure.*

### **3.10 Engagement documentation and Professional Fees**

- (a) APES 305 Terms of Engagement applies to all Members in Public Practice. Accordingly, all Members in Public Practice are required to document and communicate the terms of engagement in an engagement document.
- (b) Before undertaking an engagement, a Member in Public Practice must:
  - (i) advise the client of the basis on which fees will be calculated; and
  - (ii) clearly define the billing arrangement.
- (c) The Member must advise the client without delay of any changes to the fee structure or billing arrangements which may become necessary during the course of an engagement or between engagements.
- (d) All communications and agreements with respect to 3.10 (a) to (c) must be documented and retained for the duration of the engagement and until 7 years after its conclusion.

#### **Commentary**

*At the time at which fees are charged, sufficient detail should be provided to clients so that there is certainty about the services supplied.*

*It is not improper for a Member in Public Practice to quote a fee known to be lower than that already charged by another practice, providing the engagement document details the precise range of services and the likely level of future fees for those services.*

### 3.11 Undertaking Legal work

Members must not carry out work which is required by law to be performed by legal practitioners.

#### **Commentary**

*Legislation in various jurisdictions prohibits unqualified persons from preparing legal documents and Members should ensure that they do not contravene these laws. If in doubt, refer the client to their solicitor or, if appropriate, obtain the client's approval to instruct a solicitor.*

*Members are required under APES 110 Code of Ethics for Professional Accountants at all times to ensure that they only undertake engagements where they have the required professional knowledge and skills.*

### 3.12 Client Complaints and Member Responsibility

A Member in Public Practice must establish policies and procedures to deal appropriately with complaints and allegations that the work performed by the Practice Entity has failed to comply with professional standards or regulatory and legal requirements.

#### **Commentary**

*It is the responsibility of Members in Public Practice to ensure that clearly defined channels for handling complaints are established, documented and communicated to clients and other third parties to enable them to raise any concerns about the practice or the standard of work performed.*

- *The Member or their Practice Entity must promptly investigate all complaints and allegations.*
- *Where the results of the investigation indicate that the complaint is wholly or partly justified the Member or their Practice Entity shall take appropriate measures, as may be available, to resolve and settle the complaint. Such measures may include: remedial work, an apology, the reduction or refund of fees, the provision of information or otherwise.*

### 3.13 Professional Standards Scheme Requirements

- (a) Each Participant in the CA ANZ Professional Standards Scheme must comply with the requirements of the CA ANZ Professional Standards Scheme.
- (b) Each Participant in the CA ANZ Professional Standards Scheme must comply with any reasonable requests made by the Board or any committee, council or officer of CA ANZ to assist CA ANZ to meet its obligations to the Professional Standards Council.
- (c) Each Member in a Public Practice must comply with CR 2A.
- (d) If requested by a client or a prospective client, a Member in Public Practice must provide that client or prospective client with a copy of the relevant CA ANZ Professional Standards Scheme.

### 3.14 Continuing Professional Development

Each Member in Public Practice must comply with the continuing professional development requirements set out in CR 7.

### 3.15 Quality Management

- (a) A Member in Public Practice must establish and maintain a system of quality management in accordance with;
  - (i) APES 320 Quality Management for Firms that provide Non-Assurance Services, and
  - (ii) ASQM 1 Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements (**ASQM 1**)

Whichever is applicable for the services offered by their Practice.

- (b) If ASQM 1 applies, then that Member in Public Practice must also establish and maintain systems and procedures for engagement quality reviews in accordance with ASQM 2 Engagement Quality Reviews (**ASQM 2**).
- (c) Each CPP holder and each Affiliate Member will from time to time be required to submit to a quality and practice review conducted by CA ANZ in accordance with CA ANZ's quality and practice review programme.
- (d) In addition to any review conducted in accordance with CR 3.15(c), the CEO may at any time in his or her absolute discretion direct that a quality review be undertaken of all or part of a Practice.
- (e) To enable CA ANZ's quality and practice review programme to be conducted in an effective and timely manner, each Member subject to such review must:
  - (i) co-operate with all reasonable requests made by the Board, any committee or officer of CA ANZ or any person employed by CA ANZ to conduct a quality and practice review; and
  - (ii) produce all such documents or other materials in the Member's possession as may be required to enable a review to be conducted.
- (f) If a Member does not comply with a written request to co-operate or produce documents or other materials pursuant to CR 3.15(e) within 60 days of such request, the Member will be referred to the Professional Conduct Committee.
- (g) Members must meet all costs imposed by CA ANZ for any review of their Practice undertaken by CA ANZ in accordance with CR 3.15(c) or 3.15(d).

### **3.16 Client Monies**

- (a) Where a Member in Public Practice establishes a trust account or where they act as a signatory on a client bank account they must:
  - (i) comply with APES 310 Client Monies (**APES 310**); and,
  - (ii) respond in a timely manner, to all reasonable requests made by the Board, any committee or officer of CA ANZ to produce documents or other materials, as may be required by any such person, in order to verify the Member's compliance with APES 310.
- (b) If a Member does not comply with a written request to produce documents or other materials pursuant to CR 3.16(a)(ii) within 60 days of such request, the Board may, if the Member is a CPP holder, suspend the Member's CPP until they provide such documents, other materials or an explanation satisfactory to CA ANZ.

### **Commentary**

*A Member who continues to practise when their CPP is suspended will be referred to the Professional Conduct Committee.*