

# **Audit Legislation Amendment Bill 2005**

## **Explanatory Notes**

### **General Outline**

### **Policy Objectives**

The objectives of the proposed amendments are to amend the qualifications required in Queensland legislation for a person to conduct a financial audit in order to make these qualifications consistent and equitable. (The proposed amendments do not relate to any audits required to be conducted by the Auditor-General.)

### **Reasons for the Bill**

A review of relevant legislation reveals inconsistencies regarding the qualifications required for persons to undertake a financial audit. Also, the current legislative requirements for this purpose do not always treat members of the National Institute of Accountants (NIA) consistently with members of the other major professional accounting bodies, namely CPA Australia and the Institute of Chartered Accountants in Australia.

It is proposed that qualifications for an approved auditor, that are consistent and treat members of all three major professional accounting bodies in the same manner, should be used throughout Queensland legislation.

### **Achievement of the Objectives**

The proposed amendments will specify the required minimum level of membership for the three major professional accounting bodies, where the legislation currently requires that a person be merely a member of the professional body. Also, the proposed amendments will have the effect that members of all three major professional accounting bodies will be equally eligible for appointment as an auditor.

**Alternatives to the Bill**

It is considered that the policy objectives can only be achieved by amending the various Acts which stipulate the qualifications required for a person to conduct a financial audit.

**Estimated Cost for Government Implementation**

It is considered that implementing the proposed Bill will not result in any cost to Government.

**Consistency with Fundamental Legislative Principles**

There are no fundamental legislative principles issues with the proposed amendments.

**Consultation**

All Ministers have been consulted. All parties whose legislation is being amended agree with the proposed amendments.

The Attorney-General, who is responsible for two relevant Acts that stipulate qualifications for auditors, has advised that the Department of Justice intends to conduct its own review later this year and prefers not to be included in this round of amendments.

**Notes on Provisions****Part 1**

This part provides for the short title of the Bill.

## **Part 2**

This part amends the *Associations Incorporation Act 1981*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

## **Part 3**

This part amends the *Building Units and Group Titles Act 1980*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

Also, this Part removes a redundant reference to the Public Accountants Registration Act 1946, which has been repealed.

## **Part 4**

This part amends the *Charitable and Non-Profit Gaming Act 1999*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit.

## **Part 5**

This part amends the *Charitable Funds Act 1958*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

## **Part 6**

This part amends the *Collections Act 1966*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

## **Part 7**

This part amends the *Currumbin Bird Sanctuary Act 1976*. That Act erroneously refers to the annual report prepared under section 28 of 'the Act'. 'The Act' is defined to mean the National Trust of Queensland Act 1963. However, section 28 of the National Trust of Queensland Act 1963 does not require the preparation of an annual report. As a statutory body, the National Trust of Queensland must prepare an annual report under the Financial Administration and Audit Act 1977. The amendment corrects this error.

The *Currumbin Bird Sanctuary Act 1976* also refers to the appointment of a public accountant as an auditor under the National Trust of Queensland Act 1963. However, the National Trust of Queensland Act 1963 does not

provide for the appointment of a public accountant as an auditor. Moreover, this reference has become redundant since the repeal of the Public Accountants Registration Act 1946. As a statutory body, the National Trust of Queensland must be audited by the Auditor-General. The amendment corrects this error.

## **Part 8**

This part amends the *Electricity Act 1994*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit.

## **Part 9**

This part amends the *Funeral Benefit Business Act 1982*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

## **Part 10**

This part amends the *Gaming Machine Act 1991*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit.

## **Part 11**

This part amends the *Gas Supply Act 2003*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit.

## **Part 12**

This part amends the *Land Act 1994*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

## **Part 13**

This part amends the *Metropolitan Water Supply and Sewerage Act 1909*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

## **Part 14**

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an

audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

## **Part 15**

This part amends the *Property Agents and Motor Dealers Act 2000*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

## **Part 16**

This part amends the *Queensland Police Welfare Club Act 1970*. The Act currently provides for the appointment of an auditor who is registered as a public accountant or otherwise sufficiently qualified to conduct an audit. This reference has become redundant since the repeal of the Public Accountants Registration Act 1946. Also, the existing provision provides no guidance as to what is meant by the term 'sufficiently qualified to conduct an audit'.

In lieu of this, the amendment provides for members of the three professional accounting bodies as persons who may conduct an audit. It also prescribes the level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit.

## **Part 17**

This part amends the *Retirement Villages Act 1999*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit.

## **Part 18**

This part amends the *Security Providers Act 1993*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

## **Part 19**

This part amends the *South Bank Corporation Act 1989*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

Also, this Part removes a redundant reference to the Public Accountants Registration Act 1946, which has been repealed.

## **Part 20**

This part amends the *Wagering Act 1998*. It includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit.

## **Part 21**

This part provides for a schedule which amends the regulations mentioned in it.

### **Schedule 1      Amendment of Other Audit Legislation**

#### *Aboriginal Land Act 1991*

A transitional provision is included to clarify that the amendment of the *Aboriginal Land Regulation 1991* does not affect the power of the Governor in Council to further amend that regulation or to repeal it.

#### *Aboriginal Land Regulation 1991*

The amendment includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

#### *Body Corporate and Community Management Act 1997*

*A transitional provision is included to clarify that the amendment of the following regulations:*

- (a) *Body Corporate and Community Management (Accommodation Module) Regulation 1997;*
- (b) *Body Corporate and Community Management (Commercial Module) Regulation 1997;*
- (c) *Body Corporate and Community Management (Small Schemes Module) Regulation 1997; and*

(d) *Body Corporate and Community Management (Standard Module) Regulation 1997*

*does not affect the power of the Governor in Council to further amend the regulations or to repeal them.*

*Body Corporate and Community Management (Accommodation Module) Regulation 1997*

The amendment includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

*Body Corporate and Community Management (Commercial Module) Regulation 1997*

The amendment includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

*Body Corporate and Community Management (Small Schemes Module) Regulation 1997*

Currently, this provision gives the body corporate total discretion as to who it can appoint as an auditor. The amendment places limitations on that discretion and provides for members of the three professional accounting bodies as persons who may conduct an audit. It also prescribes the level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. Also, the existing provision contains an incorrect reference to the definition of an auditor in schedule 4 of the Act. This definition is in fact in schedule 6 of the Act and the amendment corrects this error.

*Body Corporate and Community Management (Standard Module) Regulation 1997*

The amendment includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.

*Financial Administration and Audit Act 1977*

A transitional provision is included to clarify that the amendment of the *Financial Administration and Audit Regulation 1995* does not affect the power of the Governor in Council to further amend that regulation or to repeal it.

*Financial Administration and Audit Regulation 1995*

The current provision merely specifies, inter alia, a ‘qualified accountant’ as a person who may be appointed as an auditor. The amendment replaces this term with members of the three professional accounting bodies as persons who may conduct an audit. It also prescribes the level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit.

*Torres Strait Islander Land Act 1991*

A transitional provision is included to clarify that the amendment of the *Torres Strait Islander Land Regulation 1991* does not affect the power of the Governor in Council to further amend that regulation or to repeal it.

*Torres Strait Islander Land Regulation 1991*

The amendment includes the prescribed categories of NIA members on the same basis as members of other professional accounting bodies who may conduct an audit. It also prescribes the level of membership required. Currently, the legislation does not specify any minimum level of membership required.

A transitional provision is included so that an auditor who was appointed before these amendments commenced and who does not satisfy the new qualifications, can complete the audit. However, this scenario is considered extremely unlikely as the amendments expand the categories of persons eligible for appointment as an auditor.