

**SUBMISSION ON THE PAPER:
“ASSURANCE FOR LARGER REGISTERED CHARITIES”**

**TO: Competition, Trade and Investment Branch
Ministry of Economic Development
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Notes re Publication:

1. There is no objection to the publication of this submission on the Internet.
2. There is no objection to the release under the Official Information Act 1982 of any information contained in this submission.

SUBMISSION

1. Basis of Interest:

The submitters are fully qualified accountants, each having considerable experience in public practice accounting. We are each also involved in accounting functions for numerous charities, both small and large, and in the establishing, administration, and operation of several charities. Some of us have previously been engaged as staff in commercial audit assignments, and some of us have as sole practitioners conducted audits of small charities and non-profit organisations.

2. Responses to Specific Matters Discussed in the Paper:

Q1. Do you have any comments on the description of the problem definition?

We agree that public reporting for charities needs to be consistent across all entities within given categories, and in line with properly established standards. This is to facilitate interested parties comparing relative performance, and compiling meaningful overall statistics.

Q2. Do you have any comments on the description of the objective?

We agree with the generalized objective as stated.

The Paper focuses on the objectives being public confidence, clarity of information, and accountability, which can be achieved by setting clear standards and requiring universal compliance. It should not be attempted to emphasise those factors to the exclusion of the obvious Government objective of obtaining accurate statistics from which it can quantify the real cost of concessions to charities and donors, to facilitate policy reviews.

Q3. Do you have any comments on the description of the options?

We agree that the options are an audit or review, either of which is conducted according to appropriate professional standards, or an independent examination as to specific questions listed in the empowering legislation.

Q4. Do you consider that large charities should be required by legislation to have an assurance engagement completed?

We agree that unless there is compulsion, the practice will not be widespread, in which case the objectives will not be met.

Q5. Assuming that mandatory assurance was to be introduced for large registered charities, do you consider that (a) all large registered charities should be required to have an audit completed or (b) that 'less large' charities should be required to have an audit or a review completed and 'more large' charities should be required to have an audit completed?

We agree that there should be compulsory audit for very large charities, the option of audit or review for less large charities, and a complete exemption for small charities provided that they must still comply with appropriate reporting standards.

Q6. Which measure or measures should be used for determining whether assurance is required, and if there are to be tiers, for setting the cut-off point between audit and review?

We agree with the reasoning and conclusion that annual operating expenditure is the preferable option.

It is essential that 'operating expenditure' is clearly defined.

It should include only expenditure incurred in fundraising, administration of the charity, and direct expenditure on the charitable objectives, but should not include distributions of charitable funds as such to another charity. (Inclusion of the latter amounts will overstate total activity in dollar terms by being counted in more than one tally – this expenditure should be deducted from gross receipts.)

Q7. Do you prefer Option A, Option B (see paragraph 49) or another option in relation to assurers' qualifications?

We agree in general terms with the reasoning and conclusion of the report based on the statements in paragraphs 54 and 55; however we have an objection to the resultant exclusion of certain persons on technical grounds. [Although not suggested in the Paper, we also concur that it would be inappropriate to adopt the more stringent qualifications for 'issuer' audits set down in the Auditor Regulation Act 2011.]

The Hon Craig Foss, Minister of Commerce, in his paper 11-12/1103 to the Cabinet Economic Growth and Infrastructure Committee seeking approval to release the Discussion Paper to which this submission applies, states at paragraph 15 that any human rights implications arising out of the proposals in the discussion document will be addressed when policy decisions are sought from Cabinet on changes to the securities law.

We submit that there is a significant human rights issue which needs to be addressed. The issue is that discrimination as to qualification is made on the basis of *membership* of a professional association, instead of academic competence. That an association restricts its membership to competent persons, does not mean that all competent persons are members. A fully qualified and experienced person may choose not to be a member of an association on the basis of Christian conscience.

It is proposed, for the sake of ensuring competence, maintaining consistent standards, and administrative simplicity, to align the auditors' qualifications with the criteria set out in section 199 of the New Zealand Companies Act 1993. The main test imposed by this means is whether the person is a chartered accountant within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996. The definition of 'Chartered Accountant' is a person who is a member of the New Zealand Institute of Chartered Accountants.

There are numerous persons (including ourselves) who are not members of that Institute because of objection on grounds of Christian conscience, *but we are entitled under section 15 of the Act, as being suitably qualified, to use the designations 'accountant' and 'auditor' in offering services to the public.* Thus the New Zealand Institute of Chartered Accountants Act 1996 itself recognizes that not all qualified persons are members.

As being persons who are interested in providing services to charitable and non-profit organisations, and as being both academically qualified and having practical experience, we submit that the criteria for qualification of an assurer under the proposed auditing and assurance regulations for registered charities should be widened to include persons in our position. To fail to do so is a breach of Human Rights.

[It is noted that there is no similar provision as to company audits, and it is acknowledged with regret that this is due to the fact that no submissions or representations have been made, largely because none of us have been involved in company audit work. However, it is now proposed to seek correction of that situation as a matter of principle, both to allow for changes in our own circumstances or to provide for others of similar convictions, and to prevent the existing Companies Act provision being used as a precedent in other applications.]

It is suggested that when incorporating a clause in the proposed legislation similar to section 199 of the New Zealand Companies Act 1993, the equivalent to Sec 199 (1) (a) be extended to read: **“..... the person is a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); or is entitled to publicly practice as an accountant or auditor under section 15 of that Act; or”**

A full statement and explanation of our conscientious convictions, and the history of provision made, is set out in the schedule attached to this submission.

We appeal to the Government to act consistently with many existing provisions for conscience, and include appropriate allowance in the proposed legislation.

Q8. What are your views on the tentative proposal for all charities with annual operating expenditure of \$300,000 or more to have an audit completed and annual operating expenditure of \$200,000 - \$300,000 to have a review or an audit completed?

It is clear that the general relatively small scale of most charities in New Zealand does not allow for aligning the operating expenditure parameters in dollar terms with those for the tiers of reporting requirements. (The latter would suggest perhaps full audits for those with operating expenditure over \$5 million, and the option of audit or review for those in the range \$2 - \$5 million, with those under \$2m exempt.)

We do support increasing the parameters above the suggested \$200,000 and \$300,000 levels, and submit that this would not significantly compromise the objectives of the exercise.

Our suggestion is to bring the costs down to under 1% of operating expenditure, which means that charities with expenditure over \$500,000 would be obliged to have a full audit, those in the \$500,000 to \$300,000 range have the option of audit or review, while those under \$300,000 are exempt.

Q9. Do you consider that there should be a mechanism to increase the dollar amounts from time-to-time to counter the effects of inflation?

An automatic mechanism is probably impractical, but we support the inclusion of a requirement for review periodically – say every 5 years.

Q10. Do you have any views on the Ministry's estimates of costs and benefits?

We have no comment on the cost estimates.

Large donors will be influenced, and high-performing charities may experience some advantage in that connection, but the myriads of small donors will not be influenced at all.

The main beneficiary will be the Government in terms of reliable information on which policy can be based.

Q11. Do you consider that introducing a review requirement into law could encourage some charities that are currently having an audit carried out to switch to a review?

Taking into account that those whose constitutions require an audit are unable to change, it is doubtful that there would be any significant switch. Some funding agencies may relax their requirements to review level, and this may allow for more change.

Q12. Do you have any other comments?

No.

DATED: 20 JULY, 2012.



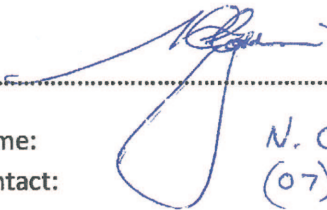
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**STATEMENT AS TO PROVISION IN THE LAW
FOR RELIGIOUS CONSCIENCE
IN CONNECTION WITH THE PRACTICE OF ACCOUNTANCY
AND THE CONDUCT OF AUDITS.**

20 July, 2012.

1. The Government of New Zealand has a commendable record over many years of recognising Christian conscience and making specific legislative allowances for those citizens who have convictions or beliefs which conflict with some aspect of Government policy.

There are currently, or have been, proper provisions made for persons who decline to carry arms but are willing to serve in non-combatant military units; those who object to jury service; exemption from compulsory trade union membership; exemption from the obligation to join student unions; excusing children from religious instruction in schools; exemption from the right of union access to workplaces of employers with a conscience against it; and allowance for conduct of professions and businesses without membership of governing trade or professional associations.

Persons have demonstrated to the authorities the genuineness of their convictions, respect for Government as being 'of God', and the willingness to accept some acceptable alternative form of regulation.

The Government has rightly recognized these Human Rights issues, respected individual conscience, and legislated accordingly. Those affected are very grateful for the provisions made. We consider that God will prosper a nation that respects Christianity.

2. We accept that not all Christians subscribe to our views, but our belief in the Lord Jesus Christ and acceptance of the teaching of the Holy Bible compels us to make our stand without compromise.

In respect of membership of the New Zealand Institute of Chartered Accountants, there is no issue with that Institute in itself, but the principles we live by include that we do not formally join in any common body of persons with any with whom we do not partake of the Lord's Supper (Holy Communion).

3. In June 1996 when the Institute of Chartered Accountants of New Zealand Act was being promoted in a major restructuring of the profession, several like-minded persons lobbied the Minister and numerous MPs, and appeared before a Select Committee to appeal for provision to practice publicly as accountants without membership of the then Society. The right to follow our chosen career was recognized by the inclusion of sections 15 (1) and (2) in the Act.

Since then, we have been able to conduct public practices under the proper designation of 'accountant' and use the word 'auditor'. Previously it was our lot to suffer the disadvantage of having to practice under some inferior title such as 'business services', 'taxation consultant', or similar, despite having the same academic qualifications and experience as Chartered Accountants.

4. Section 199 (1) (a) of the Companies Act 1993 as it now stands, was introduced by the New Zealand Institute of Chartered Accountants Amendment Act 2010. Although by that time section 15 of the New Zealand Institute of Chartered Accountants Act 1996 read as it now does (i.e. allowing us to practice as 'accountants' and use the word 'auditor' without membership of the Institute), we regret that no submission was made seeking an alternative wording to allow us to conduct audits of companies. The main reason for this omission is that none of us was at that time actually engaged in such work.

5. It is now proposed to make representations to the Minister of Commerce seeking an amendment to the Companies Act to make a similar provision in section 199 as is sought for inclusion in the Act governing the assurance requirements for charities, and also in the proposed new rules relating to issuer audits.

Inclusion of such provisions in the Companies Act 1993 is as much an issue of Human Rights as is inclusion in the Act governing audit of charities, even if none of those affected are currently undertaking such work – it is a provision allowing for us to expand the scope of our work in future, and allowing for others who are like-minded to take up such work in future practices.

In this respect there should be a consistency of provision on principle.

6. No-one properly qualified and experienced should be denied the opportunity to earn a living by the pursuit of his calling, simply because of declining to join a professional or trade association.
7. It should be noted that holding such views does not imply any inferior professional capacity. Amongst our like-minded colleagues are persons who:
 - a. are qualified accountants but have pursued commercial careers on their own account and now operate substantial and successful businesses as well as engaging in mentoring others;
 - b. are successful sole practitioners, including a ranking of second place in a national survey on practice performance.
 - c. as students achieved top ranking in advanced papers.

8. We understand that the regulations in Australia and in UK allow qualified persons to undertake audits of charities without their being members of any professional body.