INDEX

Council, in terms of Rule 11.11.5 and 12.3 of the ICAS Rules, hereby makes the following Regulations.

Arrangement of Regulations:

1. General
2. Independent Examiner Panel
3. Review
4. Annual Report
1. GENERAL

Citation and commencement
1.1 These Regulations may be cited as the ICAS Independent Examiner Regulations and shall come into force on 20 March 2017.

Definitions
1.2 In these Regulations words and phrases have the same meaning as in the ICAS Rules and, unless the context requires otherwise:

Applicant – a person informed that a Complaint referred to the Investigation Committee for further investigation in accordance with the Investigation Regulations has been dismissed in whole or part, other than on the basis of compassionate or other exceptional circumstances.

Chairman – the chairman of the Independent Examiner Panel appointed in accordance with Regulation 2.3.

Complaint – a communication (including a referral from any Regulatory Committee of ICAS) which raises concerns about, or otherwise expresses dissatisfaction with, the standards of conduct, ethical behaviour or technical competency of a Member, CA Student Member, Affiliate or Firm, and which has been referred to the Investigation Committee for further investigation in accordance with the Investigation Regulations.

Disciplinary Appointments Committee – means the committee established by Council under the General Regulations to appoint the members of the Independent Examiner Panel.

Discipline Board – the Discipline Board of ICAS, as appointed in accordance with the ICAS Rules.

Independent Examiner – a member of the Independent Examiner Panel.

Independent Examiner Panel – the Independent Examiner Panel appointed by the Disciplinary Appointments Committee under Regulation 2.1.

Investigation Committee – the Regulatory Committee appointed by the Regulation Board to exercise the powers set out in the ICAS Rules.

Investigation Regulations – the Regulations governing the constitution, composition, conduct of business, powers and functions of the Investigation Committee, as made by Council in accordance with the ICAS Rules.

Notices
1.3 Any notice or other document to be sent under these Regulations shall be delivered electronically, by hand or by post. It must be sent to the address that the Member, CA Student Member, Affiliate, Firm, or Rule 9 Student has given to ICAS for this purpose. Delivery shall be deemed to have occurred:

1.3.2 for emails, facsimile, and other electronic means, when sent;
1.3.2 by hand, when delivered;
1.3.3 by post, 48 hours after posting.
2. INDEPENDENT EXAMINER PANEL

Appointments
2.1 The Disciplinary Appointments Committee shall appoint an Independent Examiner Panel comprised of three or more individuals who shall be neither accountants nor officials of ICAS.

2.2 Each appointment to the Independent Examiner Panel shall be for a period of three years and shall be renewable for a further period of three years at the discretion of the Disciplinary Appointments Committee. Thereafter that person may not seek reappointment for a further three years. The length and number of terms referred to may be extended or varied in exceptional circumstances, at the sole discretion of the Disciplinary Appointments Committee.

2.3 The Independent Examiner Panel shall elect one of its members to act as Chairman.

Declaration of Interest
2.4 Each Independent Examiner must declare any interest in any matter which is submitted for review under these Regulations, and such Independent Examiner shall be precluded from further involvement with the subject matter of the review. In such instances an alternative Independent Examiner shall be appointed from the members of the Independent Examiner Panel.

Remuneration
2.5 ICAS may pay the reasonable remuneration and expenses of each Independent Examiner.

Powers and Functions
2.6 The Independent Examiner Panel shall be responsible for the review of decisions of the Investigation Committee in accordance with these Regulations.

3. INVESTIGATION

Application
3.1 Where a Complaint is dismissed in whole or in part under the Investigation Regulations, other than on the basis of compassionate or other exceptional circumstances, an Applicant may apply in writing for the decision to be reviewed by an Independent Examiner on any one or more of the following grounds:

3.1.1 there is reason to suspect a lack of independence on the part of any member of the Investigation Committee who took part in the decision complained of;

3.1.2 the decision of the Investigation Committee was not one which could reasonably have been arrived at upon due consideration of the material.

3.2 An application under these Regulations shall not be considered unless it is made within 28 days of the date on which notice of the Investigation Committee’s decision was given to the Applicant.

3.3 Upon receiving an application the Chairman shall nominate an Independent Examiner to review the application in accordance with these Regulations. Such appointments shall be made on a rotational basis from among the members of the Independent Examiner Panel, other than in exceptional circumstances or where the skill or expertise of a particular member of the Independent Examiner Panel is deemed necessary.

3.4 Intimation of the application and appointment of an Independent Examiner shall be made to the Convener of the Investigation Committee, with a request that all relevant files be delivered for review.

Review Procedure
3.5 The Independent Examiner nominated under Regulation 3.3 shall undertake a review of the Investigation Committee’s files, with a view to determining whether the grounds set out in Regulation 3.1 have been met.
3.6 The Independent Examiner may require the Investigation Committee to make or cause to be made such reasonable enquiries concerning the application as he considers necessary for the purpose of his review. The Independent Examiner may also request that ICAS provide him with such technical assistance as he believes necessary to discharge his responsibilities, and such assistance shall not be unreasonably withheld.

3.7 The Independent Examiner shall prepare a report, which shall include the following information:
   3.7.1 details of the grounds of the application;
   3.7.2 a summary of the Complaint and the basis for the Investigation Committee’s decision that it be dismissed; and
   3.7.3 a decision with reasons as to whether or not the application should be upheld.

3.8 If the Independent Examiner is of the opinion that the application should be upheld he shall notify the Applicant and cause his report to be sent to the Investigation Committee with a recommendation that it undertake a review of its original decision. The Investigation Committee shall determine the process by which such review is to be undertaken, having regard to the terms of the Independent Examiner’s report. The decision of the Investigation Committee shall be final, save that the Applicant and Independent Examiner shall be informed and provided with reasons in writing.

3.9 If the Independent Examiner concludes that the application should be rejected, the Applicant shall be provided with reasons in writing.

4. **ANNUAL REPORT**

4.1 The Chairman, in consultation with the panel members, shall make an annual report to the Discipline Board in relation to the discharge of its duties and responsibilities under these Regulations during the preceding twelve-month period. If applicable, such report shall also specify any aspects of the investigation procedures of ICAS which the Independent Examiner Panel considers could be improved.