

# Bye-law 8: Liability to Disciplinary Action

- 8 a** A member, relevant firm or registered student shall, subject to bye-law 11, be liable to disciplinary action if:
- i** he or it, whether in the course of carrying out his or its professional duties or otherwise, has been guilty of misconduct;
  - ii** in connection with his or its professional duties, he or it has performed his or its work, or conducted himself or itself, or conducted his or its practice, erroneously, inadequately, inefficiently or incompetently;
  - iii** he or it has committed any breach of these bye-laws or of any regulations made under them in respect of which he or it is bound;
  - iv** in the case of a relevant firm, any person has in the course of the business of that firm committed any breach of these bye-laws or of any regulations made under them in respect of which that person is bound;
  - v** he is a specified person in relation to a relevant firm against which a disciplinary order has been made and which has become effective or which has been disciplined by another professional body;
  - vi** he or it has been disciplined by another professional body;
  - vii** he or it has made an assignment for the benefit of creditors, or has made an arrangement for the payment of a composition to creditors, or has had an interim order made by the court in respect of him, or is a specified person in relation to a relevant firm which has made such an assignment or composition or been wound up as an unregistered company, or entered into a voluntary arrangement, administration or liquidation, in each case where applicable under the Insolvency Act 1986, or other similar or analogous event has occurred in relation to him or it under applicable legislation;
  - viii** he or it has failed to satisfy a judgment debt without reasonable excuse for a period of two months (the burden resting on him or it to prove such a reasonable excuse on the balance of probabilities) whether or not the debt remains outstanding at the time of the bringing of the disciplinary proceedings hereunder;
  - ix** before a court of competent jurisdiction in the United Kingdom or elsewhere, he or it has pleaded guilty to, been found guilty of, or has accepted a caution in relation to, any offence discreditable to the Association or to the accountancy profession; or
  - x** before a court of competent jurisdiction in the United Kingdom or elsewhere, in any civil proceedings in which he or it has been a party or witness, he or it has been found to have acted fraudulently or dishonestly.
- b** Each of the paragraphs in bye-law 8(a) shall be without prejudice to the generality of any of the other paragraphs therein.
- c** For the purposes of bye-law 8(a), misconduct includes (but is not confined to) any act or omission which brings, or is likely to bring, discredit to the individual or relevant firm or to the Association or to the accountancy profession.
- d** For the purposes of bye-law 8(a), in considering the conduct alleged (which may consist of one or more acts or omissions), regard may be had to the following:
- i** whether an act or omission, which of itself may not amount to misconduct, has taken place on more than one occasion, such that together the acts or omissions may amount to misconduct;
  - ii** whether the acts or omissions have amounted to or involved dishonesty on the part of the individual or relevant firm in question;
  - iii** the nature, extent or degree of a breach of any code of practice, ethical or technical, adopted by the Council, and to any regulation affecting members, relevant firms or registered students laid down or approved by Council.
- e** For the purposes of bye-law 8(a)(ix), a copy of the certificate or memorandum of conviction or caution, and of any final judgment, ruling or determination given in the criminal proceedings, shall be conclusive proof of the conviction or caution, and of any facts and matters found, as the case may be.
- f** For the purposes of bye-law 8(a)(x):
- i** where the person in question was a party to the proceedings, a copy of a certified judgment of the civil proceedings shall be conclusive proof of the facts and matters found;
  - ii** where the person in question was a witness in the proceedings, a copy of a certified judgment of the civil proceedings shall be prima facie evidence of the facts and matters found.
- g** Subject to bye-law 8(f) above, any other finding of fact in any civil proceedings before a court of competent jurisdiction in the United Kingdom or elsewhere shall be admissible as prima facie evidence in any disciplinary proceedings.