

Who owns the word “auditing” ?

- and other important questions regarding the Auditing Profession Bill

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The Auditing Profession Bill, in section 2.1(b), states that the object of the proposed Bill is “...overseeing and regulating the auditing profession”.

A study of the Auditing Profession Bill, however, clearly indicates that the Bill is directed at certain private sector auditors only and more specifically those persons who are currently registered in terms of the current Public Accountants’ and Auditors’ Act (Act 80 of 1980).

But does this elite group of people actually represent the entire *auditing profession*?



Do external company auditors actually represent the “auditing profession”?

The use of the term “auditing profession” as the title of the Auditing Profession Bill can either be construed as an oversight, or it represents a deliberate choice. The nature of the document and its far-reaching effects as a future Act of Parliament of our country, safely eliminates the first option.

Assuming then the deliberate intention of the Bill is to regulate the “auditing profession”, as indeed provided for by our Constitution (refer to the text box for a relevant extract from the Constitution) one must then proceed to examine the Bill to find out how, for example, internal auditors, government auditors, environmental auditors and forensic auditors are to be “regulated” and “overseen”. This exercise soon reveals that these groups are not addressed in the Bill at all, a reality that begs a number of questions:

22. Freedom of trade, occupation and profession Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

Constitution of the Republic of South Africa (Act 108 of 1996)

- Are these auditors not part of the auditing profession?
- Is the Auditing Profession Bill in fact regulating and overseeing the auditing profession or just a select elite within this group?
- Will these “other” auditors in fact be allowed to continue being “auditors”?

- If they are not allowed to use the word *auditor*, should these persons then describe themselves as forensic somethings, internal somethings, government somethings and environmental somethings? and
- To what extent would such diverse and non-descriptive nouns then contribute to enhance public confusion?

The Auditing Profession Act is set to replace the archaic Public Accountants' and Auditors' Act that was first promulgated in 1951, when auditing and the auditing profession were very different from what they are today. But does the Auditing Profession Bill, as a "modern" successor to the old Act, take into account the evolution that the auditing profession has undergone?

Consider the following fundamental changes that have occurred over the last 50 years:

- specialisation and diversification amongst auditors;
- the development and implementation of new scientific investigative methodologies;
- the development of accountability processes and the structures that compliment, support and sometimes lead the traditional audit function;
- the expansion, in scope and numbers of practitioners, that the traditional "auditing profession" has experienced.

The simple exercise of juxtaposing the Bill's broad title against its contents shows that it regulates only a very specific, limited part of the whole group, which suggests that it does not acknowledge the above changes.

The Auditing Profession Bill also does not define the term "auditing profession", but as already mentioned, an examination of the Bill's details shows that it intends to regulate only *external company auditors* (i.e. those currently known as chartered accountants and who are registered with the Public Accountants' and Auditors' Board [PAAB] to perform such specific audits). The Bill is clearly not aimed at government auditors, internal auditors, forensic auditors, environmental auditors, information systems auditors, amongst others, as none of their spheres of influence and responsibility are mentioned or defined in the new Act.

Having established that, it seems inconsistent and non-sensical that the Bill "reserves" the term "auditing profession" and the word "auditor" for the exclusive use of *external company auditors*. The nonsensical part is that, although it excludes the above mentioned groups from its scope of regulation, these groups are, by public understanding and based on internationally accepted academic and practical criteria, also members of "the auditing profession".

If the title "auditing profession" belongs to chartered accountants who are registered to perform audits in terms of the *Companies Act*, where do forensic auditors, internal auditors, government auditors, information systems auditors and the vast array of other auditors fit in? Will they be banished into the wilderness (or the Wilderness)?

The Collins English Dictionary describes "wilderness" as "a wild, uninhabited and uncultivated region, any desolate tract or area. A confused mass or collection.

"Wilderness" is described as "the barren regions to the south and east of Palestine, esp. those in which the Israelites wandered before entering the Promised Land..."

At this point it should be clear that the new Act cannot be called Auditing Profession Act, as the auditing profession is a much wider term than the detail of the Act would have us believe. The profession includes government auditors, internal auditors, forensic auditors, environmental auditors, information systems auditors, and so on.

Before any internationally accepted, generic term such as “auditing profession” and “auditor” is appropriated, the practical developments and evolution that have taken place in auditing should be taken into account. Care must be taken not to discriminate against any “auditor” group and his/her professional right to call him/herself, for example, a “forensic auditor”, “government auditor” or “information systems auditor”, such rights being based on the specialised training and competence that such professionals have received.



The current title of Auditing Profession Bill is therefore certain to not only create major practical implementation problems and long drawn out struggles (between those who have been bestowed and those who have not), but it also seems to discriminate against certain auditing tiers. It is furthermore going to mislead the public who will, based on the title, assume that all auditors are regulated by the Auditing Profession Act – although this is clearly not the case. Alternatively the public may assume that these groups of professionals are not part of the auditing profession – another clear misdemeanor – and fail to engage their vital specialist services.

In fact, no specific subgroup or tier within the auditing profession owns exclusive title and use of the word *auditing* or *auditing profession*. Given the extreme diversity of activities of the current group of external company auditors; given the many corporate scandals that this group has been involved in; given the lack of social responsibility displayed by their institutional bodies, and the public’s loss of faith in their work, it is not an exaggeration to state that this group currently may have least right to such titles.

The audit function in the public sector is regulated by the Public Audit Act. Even the title Private Audit Act is an improvement that carries the notion of fairness and logic further.



The discussion in the first part of this article has focused on the term *auditing* and *auditor* and in order not to confuse the reader with two highly complex issues, I have, for purposes of the first part, assumed the validity of the use of the second element in the title: the term *profession*. Its use is, however, even more audacious given the specific reference to the external company auditor.

The debate as to what constitutes a profession and who qualifies to use this designation dates back many years and a vast array of scholarly papers have analysed it and supported as well as disputed claims by groups to use it. There is no absolute consensus as to the criteria a group has to meet before it can claim “professional” status, and although certain generic criteria tend to be included in almost every researcher’s collection, it remains a highly elusive and intensely debated term.

And it is precisely this debate that has contributed greatly to the ultimate objective of the profession’s having to serve the public interest – but more about that later.

Since the Auditing Profession Bill does not define the term “profession”, we have to enter this global debate and accept the diversity of its deliberations.

Since, as already pointed out in the first part of this article, the external company auditor is the sole focus of the Auditing Profession Bill, we need to recognise right from the outset that this person (the external company auditor) is the only member (tier) of the auditing profession that enjoys highly unusual and exclusive rights. No other “professional” has an Act that provides him/her with work, that compels commerce and industry to buy their services. There is no Act in South Africa that forces us to visit the dentist or doctor once a year. You are not forced by an Act to use an architect to design your house or to use an engineer if you want to build a factory, to use a nurse to care for you when you are sick at home, or to engage an IT (information technology) professional when you set up your network. You do not have to use the work of an internal auditor, a forensic auditor or a information system auditor. The fact is: You may chose to use one.

But not so with an external company auditor: If you have a company, an Act of Parliament compels you to engage a specific auditor – and another Act reserves this privilege to an exclusive group (the external company auditor). You have no choice in either matter. Because society grants the external company auditors these highly exclusive and profitable rights, the external company auditors owe society – and their debt is great. They owe it to society to act in such manner as to serve the public interest. They owe it to society to strive for public recognition with honour, and to recognise altruistic motives before their own narrowly defined commercial interests.

Because in order to be called a *profession* the designated group needs to consists of:

- identifiable members in a service orientated occupation
- a common pool of knowledge, skills and attitudes
- moral and altruistic motives and
- a regulating body carrying out functions such as formulating and enforcing entrance requirements, rules of ethical behavior, standards and monitoring of continued professional development.

But most important of all:

- the group needs to be recognised by society as being a profession.

The final and most important criteria that has to be fulfilled lies beyond the periphery of the group!

It is this criteria that acts as the ultimate touchstone – the measure of authenticity and legitimacy. Since professions tend to operate in self-regulating environments they

either develop or at least strongly influence the development of the very rules by which they “play the game”. But as on the sporting field, the spectators’ and fans’ applause is the ultimate measure of whether or not the team has performed – irrespective of the team’s own judgment.

And so one would think that the group with the most unusual, exclusive and highly profitable rights would have to work hardest to earn this title. Not so, however, as the Auditing Profession Bill has other ideas.

The Auditing Profession Bill instead bestows upon the external company auditor *eternally hallowed status*. It bestows, by legislation, the title “profession” upon this group and thereby introduces a totally inappropriate element into the important scholarly debates referred to above. It seems to forget that these important debates have had the effect of keeping the group of external company auditors accountable and sensitive to the public interest. These scholarly debates and the forces that they exert on the external company auditor and its regulating bodies, have, in the past often been the *only* factor that catalysed change and brought about public interest reforms.

The scholarly and professional literature is packed with evidence that *external company auditors* as a group, has, at various stages of its existence, lost its right to be called a “profession”. We have only recently again witnessed such a crisis in the auditing industry. It was only after reforms were implemented that the elements that justify such a “title” (profession) have been slowly restored. Society acknowledges auditors’ professionalism or scorns it, in sympathy with auditors’ demonstrated ability to act in the public interest and according to ethically acceptable norms. The term “professional” is therefore *earned* and should never be bestowed upon such a group by an Act of Parliament. Through the Auditing Profession Bill, South Africa is preparing itself to set a dangerous global precedent.

The use of the term “profession” in the title of the new Act is therefore most inappropriate. Not even the “old” Public Accountants’ and Auditors’ Act has displayed such preconception and favouritism for a single group. I am also not aware of any irreversible action or change in moral or operational approach on the part of the external company auditors to justify their being granted such complimentary title in perpetuity through an Act of Parliament of the Republic of South Africa. If anything, the implied reason for the review of the old (current) Act is that the external company auditor industry is in a state of crisis. It has failed to deliver on its public interest responsibilities –in fact it has failed to deliver on its very mandate – and it is far from qualifying as a *profession* (by society’s recognition) at this time. That it should be deemed to be a profession by mere Act of Parliament is a supposition that is counter to the fact that the global scholarly debate refers to the external company auditor as an “industry” not “profession”.

Of all the tiers within the auditing profession the external company auditor has blemished the generic name “auditing” and “auditor” most. Yet in spite of that, the Auditing Profession Bill intends rewarding this very group with *eternal halo status*...

