

CAYMAN ISLANDS



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**A BILL FOR A LAW TO PROVIDE A MODERNIZED SYSTEM FOR  
THE REGULATION OF ACCOUNTANTS; AND FOR INCIDENTAL  
AND CONNECTED PURPOSES**



**THE ACCOUNTANTS BILL, 2016**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill seeks to make further provision for the regulation of Public Accountants in the Islands.

Part 1 of the Bill contains clauses 1 and 2 which provide for preliminary matters.

Clause 1 provides the short title.

Clause 2 provides the definitions for terms used in the legislation.

Part 2 of the Bill contains clauses 3 to 6 which make provision for the establishment of the Cayman Islands Institute of Professional Accountants.

Clause 3 makes provision for the continuation of the Institute, which has already been established, as a body corporate and provides for membership in the Institute.

Clause 4 makes provision for the continuation of the Council of the Institute, which has already been established, which will continue to be responsible for the management of the affairs of the Institute.

Clause 5 provides for the funds of the Institute to consist of such moneys as may be lawfully paid to and received by the Institute.

Clause 6 makes provision for the accounts of the Institute to be audited annually by a sole practitioner public accountant and for the copy of the audited accounts to be kept at the office of the Institute and open to inspection by any member or student or pursuant to any authority under any other Law.

Part 3 of the Bill contains clauses 7 to 15 and contains provisions relating to registration and licensing.

Clause 7 provides for the appointment of the Registrar of the Institute who will be charged with the function of keeping and maintaining the register containing information relating to membership.

Clause 8 provides for the registration of members and sets out the qualification criteria for membership.

Clause 9 provides for the registration of members and the renewal of membership and sets out the qualification criteria for associate membership

Clause 10 makes provision for a person who is Caymanian or a permanent resident to apply to the Council to be registered as a student to pursue prescribed courses of instruction and systems of training in accounting.

Clause 11 provides for Caymanians or permanent residents who are members of the Institute to be licensed to engage in public practise from within the Islands.

Clause 12 provides for the licensing of persons who are not Caymanian or permanent residents but who are permitted to engage in gainful employment under the Immigration Law (2015 Revision).

Clause 13 creates an offence that would penalise a person who practises as a public accountant without a licence.

Clause 14 provides for the validity and renewal of a licence and for the issue of a replacement copy of a licence that has been lost, destroyed or mutilated.

Clause 15 provides for the Council to give written notice of a decision to refuse an application and the reasons for the refusal.

Clause 16 provides for the list of holders of licences to be published yearly and for the name of a licensee to be published as soon practicable after the grant of a licence.

Part 4 of the Bill contains clauses 17 -27 and provides for disciplinary matters.

Clause 17 makes provision for the continuation of the Investigation Committee which has already been established.

Clause 18 provides for to the manner in which the Council will deal with allegations of misconduct.

Clause 19 provides for complaints to be made to the Council and for the Council to refer the complaint to the Investigation Committee or the Disciplinary Tribunal unless it is of the opinion that the complaint is frivolous.

Clause 20 provides for investigations to be carried out by the Investigation Committee and for matters to be referred to the Disciplinary Tribunal.

Clause 21 makes provision for the continuation of the Disciplinary Tribunal, which has already been established, to deal with disciplinary matters of the Institute. The members of the Disciplinary Tribunal are to be appointed by the Council on an ad hoc basis.

Clause 22 provides for the registration of orders and for enforceability in the same manner as an order of a court of summary jurisdiction.

Clause 23 provides for the suspension of licences and the conditions upon which a suspension may be lifted.

Clause 24 provides for the removal of names from the Register and the manner in which they may be removed.

Clause 25 provides for the return of a certificate or licence.

Clause 26 provides for the restoration of a person's name on the register, restoration of a licence or ceasing of suspension.

Clause 27 provides for the filing of an appeal and the conditions upon which the application may be based.

Part 5 of the Bill contains clauses 28 to 34 which provide for miscellaneous matters.

Clause 28 provides for Part 3 of the Bill to be applied in keeping with the Trade and Business Law (2014 Revision).

Clause 29 provides for the compliance by sole practitioner public accountants and firms of public accountants with the Proceeds of Crime law, (2014 Revision).

Clause 30 empowers the Cabinet to make Regulations.

Clause 31 provides for offences in relation to licenses and registration.

Clause 32 provides for immunity of members of the Council, Disciplinary Tribunal, Investigation Committee and any other committee of the Council from liability in damages.

Clause 33 provides for cooperation by the Institute with regard to requests for information.

Clause 34 provides for the repeal of the Public Accountants Law (2009 Revision).

Clause 35 contains savings, transitional and consequential provisions.

Clause 36 permits the Institute to issue or amend rules or guidelines relating to the powers conferred on the Institute by this Law.

Clause 37 permits the Institute to waive or defer payment of fees imposed by this law or to reduce those fees.

Clause 38 details the oversight procedures to be imposed under this Law.

**THE ACCOUNTANTS BILL, 2016**

**ARRANGEMENT OF CLAUSES**

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CAYMAN ISLANDS

**A BILL FOR A LAW TO PROVIDE A MODERNIZED SYSTEM FOR  
THE REGULATION OF ACCOUNTANTS; AND FOR INCIDENTAL AND  
CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

PART 1

PRELIMINARY

1. (1) This Law may be cited as the Accountants Law, 2016.

Short title and  
commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet.

2. In this Law -

Interpretation

“accountant” includes a public accountant;

“approved institute” means an institute, society, association or other body approved by the Council;

“associate member” means a person who is registered as an associate member pursuant to section 9;

(Law 23 of 2011)	“Auditors Oversight Authority” means the Auditors Oversight Authority established under section 3 of the Auditors Oversight Law (Law 23 of 2011);
(2013 Revision)	“Authority” means the Cayman Islands Monetary Authority established under section 5 of the Monetary Authority Law (2013 Revision);
(2015 Revision)	“Caymanian” has the meaning assigned to that expression under the Immigration Law (2015 Revision);
	“Council” means the Council of the Institute continued under section 4;
	“Disciplinary Tribunal” means the disciplinary tribunal continued under section 21;
	“firm of public accountants” means a firm or company of public accountants;
(2014 Revision)	“Financial Reporting Authority” has the meaning assigned to that expression under the Proceeds of Crime Law, 2014;
	“Immigration Board” means one of the three Boards appointed under section 4 of the Immigration Law (2015 Revision);
	“Investigation Committee” means the Investigation Committee continued under section 17;
	“licence” means a licence to engage in public practice issued under section 11 or 12;
	“licensee” means the holder of a licence issued under section 11 or 12;
	“member” means a member of the Institute;
	“membership certificate” means a certificate issued by the Council under section 8(2);
	“overseas professional accounting institute” means an institute, society, association or other body, other than the Institute, and whether or not an approved institute, to which a member belongs and which retains primary responsibility for the member’s professional career and conduct as an accountant;
(2013 Revision)	“overseas regulatory authority” has the meaning assigned to that expression under the Monetary Authority Law (2013 Revision);

“permanent resident” has the same meaning as that provided for that expression in the Immigration Law (2015 Revision);

“public accountant” means a person engaged in public practice;

“public accounting services” means signing, affixing or associating one’s name or the name of the firm of public accountants of which one is a partner, director or the holder of an equivalent public position to any report or certificate expressing or disclosing an opinion on a financial statement based on an audit or examination of that financial statement or expressing assurance on a financial statement but does not include -

- (a) bookkeeping or cost accounting;
- (b) installing bookkeeping, accounting, business or cost systems;
- (c) preparing trial balances, financial statements or reports provided that the person so preparing does not indicate or in any way imply that the trial balances, financial statements or reports have been examined by a sole practitioner public accountant or a firm of public accountants or that they represent the opinion or certificate of a sole practitioner public accountant or firm of public accountants;
- (d) providing compilation and agreed upon procedure services;
- (e) reviewing accounts and accounting methods for the purposes of determining the efficiency of these methods provided that the person so reviewing does not indicate or in any way imply that the methods have been reviewed by a sole practitioner public accountant or a firm of public accountants; or
- (f) acting as an insolvency practitioner in relation to a company, an individual or a partnership and for this purpose a person acts as an insolvency practitioner by acting -
  - (i) in relation to a company, as its liquidator, including, an official liquidator and a liquidator in a voluntary winding up, provisional liquidator, receiver, controller or in any capacity similar to any of the foregoing in circumstances where the company is or may become insolvent or unable to pay its debts as they fall due in the ordinary course of business or action is being or has been taken by the Authority in respect of the company; or
  - (ii) in relation to an individual or a partnership, as the person or their trustee in bankruptcy, receiver of that person’s or their property, controller, trustee in the sequestration of that person’s or their estate, trustee under a deed of arrangement made for the benefit of that person or their creditors, in the

case of a deceased individual where the estate is insolvent, administrator of the estate or in any capacity similar to any of the foregoing in circumstances where the individual or partnership is or may become insolvent or unable to pay that person's or their debts as they fall due in the ordinary course of business or action is being or has been taken by the Authority in respect of the individual or partnership;

"public practice" means the performance of public accounting services for profit or reward;

"register" means the register kept and maintained under section 7;

"Registrar" means the Registrar of the Institute continued under section 7(1);

"Institute" means the Cayman Islands Institute of Professional Accountants continued under section 3;

"Institute's professional standards" means the professional standards that the Institute shall require members and licensees to comply with;

"student" means a student of the Institute pursuant to section 10;

(Law 21 of 2014)

"Trade and Business Licensing Board" means the Trade and Business Licensing Board established under section 4 of the Trade and Business Licensing Law (Law 21 of 2014 Revision); and

"work permit" has the same meaning as that provided for that expression in the Immigration Law (2015 Revision).

## PART 2

### CONTINUATION OF THE CAYMAN ISLANDS INSTITUTE OF PROFESSIONAL ACCOUNTANTS

Continuation of the  
Cayman Islands Society  
of Professional  
Accountants as the  
Cayman Islands Institute  
of Professional  
Accountants

3. There shall continue to be established a body corporate formerly known as the Cayman Islands Society of Professional Accountants which shall be known as the Cayman Islands Institute of Professional Accountants and which shall have perpetual succession and a common seal and shall consist of -

- (a) all persons who immediately before the date of commencement of this Law were members, associate members or students of the Institute until pursuant to this Law, they cease to be members, associate members or students of the Institute; and

- (b) all persons who on or after the date of commencement of this Law, are registered under this Law as members, associate members or students, until pursuant to this Law they cease to be members, associate members or students of the Institute.

4. (1) There shall be continued a Council of the Institute which shall, upon the expiration of the tenure of its members, be reconstituted in accordance with this section. The Council

(2) The members of the Council shall be appointed in accordance with the articles of association of the Institute and shall be responsible for the management of the affairs of the Institute.

(3) The objects of the Institute are set out in Schedule 1 and shall be included in the Memorandum of Association of the Institute.

(4) The Cabinet, on the recommendation of the Council, may by Order amend Schedule 1.

(5) If Schedule 1 is amended, the Memorandum of Association of the Institute shall automatically be amended accordingly.

(6) A resolution of the Institute shall not be required if the Memorandum of Association of the Institute is amended pursuant to subsection (5).

5. The Council shall manage, administer and keep proper accounts of the funds of the Institute. The Institute's funds

6. (1) The accounts of the Institute shall be audited annually by a sole practitioner public accountant licensed under section 11 or 12 or by a firm of public accountants in which each partner, director or person holding an equivalent position engaged in public practice is licensed under section 11 or 12, appointed each year in accordance with the Institute's articles of association. The Institute's accounts

(2) A copy of the audited accounts shall be kept at the office of the Institute and shall at all reasonable times be open to inspection by any member, associate member or student, or pursuant to an authority empowered to do so under any other Law.

PART 3

REGISTRATION AND LICENSING

Registrar and the register

7. (1) There shall continue to be a Registrar of the Institute who shall, on the commencement of this Law, be the executive officer designated with this responsibility by the Council.

(2) The Registrar shall keep and maintain a register in which shall be entered the name of -

- (a) each person who is a member of the Institute;
- (b) each person who is licensed under section 11 or 12; and
- (c) each firm that registers with the Institute under section 38(3).

(3) Each entry in the register shall, except in the case of a firm that registers with the Institute under section 38(3), contain the following particulars in relation to each person registered -

- (a) the address of the person;
- (b) the date on which the person's application was approved by the Council;
- (c) if the person is licensed, the date on which the licence was issued;
- (d) notations in accordance with section 22(3)(a) regarding any disciplinary order made;
- (e) the overseas professional accounting institute of which the person is a member; and
- (f) any other relevant particulars the Council may specify.

(4) Each entry in the register shall, in the case of a firm that registers with the Institute under section 38(3), contain the following particulars in relation to each firm registered -

- (a) its address;
- (b) the date on which the firm was registered with the Institute; and
- (c) any other relevant particulars the Council may specify.

(5) The register shall be kept at a place determined by the Council and shall be open to inspection by the public during normal business hours.

(6) A registered person or firm shall inform the Registrar in a timely manner and in the format determined by the Council of any change in the person's or the firm's particulars under subsections (3)(a), (e) or (f) or 4(a) or (c).

(7) The Registrar shall, when notified, make alterations to particulars in the register and shall remove from the register the name of a registered person who is deceased or otherwise ceases to be a member and shall make a notation against the name of a member who ceases to be licensed or whose licence has been suspended.

(8) The Registrar shall remove the name of a person, who ceases to be a member of the Institute from the register.

8. (1) A person who -

- (a) has attained the age of twenty-one years;
- (b) is qualified under subsection (3) to be registered as a member;
- (c) satisfies the Council that the person is of good character; and
- (d) pays the prescribed fee,

Registration of members  
and renewal of  
membership

may apply in the prescribed form to be registered by the Council as a member of the Institute.

(2) The Council, if satisfied that a person meets the requirements for registration under subsection (1), shall issue a certificate of membership to the person.

(3) A person is qualified to be registered as a member, if the person is a member in good standing of an approved institute, has passed the prescribed accounting examinations and has satisfied the prescribed requirements.

(4) A person is qualified to be registered as a member only if -

- (a) the person is Caymanian;
- (b) the person is a permanent resident and -
  - (i) has been granted permission under section 48 or section 53 of the Immigration Law (2015 Revision), to engage in gainful occupation;
  - (ii) has been granted a Residency and Employment Rights Certificate under section 30 of the Immigration Law (2015 Revision);
  - (iii) falls within the class of persons prescribed under section 40(1)(e) of the Immigration Law (2015 Revision); or
  - (iv) is permitted to engage in gainful occupation in accordance with the policies, rules or regulations of one of the three Immigration Boards, pending grant or renewal of a work permit; or
- (c) the person is not Caymanian or a permanent resident but -

- (i) has been granted permission under section 48 or section 53 of the Immigration Law (2015 Revision) to engage in a gainful occupation;
- (ii) falls within a class of persons prescribed under section 40(1)(e) of the Immigration Law (2015 Revision); or
- (iii) is permitted to engage in gainful occupation in accordance with the policies, rules or regulations of one of the three Immigration Boards, pending grant or renewal of a work permit.

(5) A member shall be subject to the following continuing obligations -

- (a) to maintain a good standing in the member's overseas professional accounting institute;
- (b) to comply with the prescribed continuing or professional development of education requirements; and
- (c) to satisfy any other prescribed requirements.

(6) Membership of the Institute is valid for one year and may be renewed in accordance with subsection (7).

(7) To renew membership with the Institute, a member shall submit an application for renewal of membership in the prescribed manner and pay the prescribed fee by the date specified by the Council.

Registration of an  
associate member and  
renewal of membership

9. (1) A person who -

- (a) has attained the age of twenty-one years;
- (b) is qualified to be registered as an associate member;
- (c) satisfies the Council that the person is of good character; and
- (d) pays the prescribed fee,

may apply in the prescribed form to be registered as an associate member of the Institute.

(2) The Council if satisfied that a person satisfies the requirements for registration under subsection (1), shall -

- (a) cause that person to be registered as an associate member; and
- (b) issue a certificate of associate membership to the person.

(3) Associate membership with the Institute is valid for one year and may be renewed in accordance with subsection (4).



(4) To renew associate membership with the Institute, an associate member shall submit an application for renewal in the prescribed manner and pay the prescribed fee.

(5) Where the Council is satisfied that an associate member is no longer of good character, the Council may terminate the membership of that associate member and forthwith inform the person whose associate membership has been terminated of the termination.

10. (1) A person who pursuing prescribed courses of instruction and systems of training in accounting may -

Registration of students  
and renewal of  
membership

- (a) apply to the Council for registration as a student in the prescribed manner;
- (b) furnish to the Council any evidence that the Council may require to show that the person -
  - (i) is of good character; and
  - (ii) has attained the prescribed standard of education;

(2) The Council, if satisfied that a person making an application pursuant to subsection (1), satisfies the requirements of the subsection, may register the person as a student.

(3) A person making an application pursuant to subsection (1) may only do so if the person is Caymanian or a permanent resident.

(4) Membership as a student of the Institute is valid for one year and may be renewed in accordance with subsection (5).

(5) To renew membership as a student of the Institute, a member shall submit an application for renewal of membership in the prescribed manner by the date specified by the Council.

11. (1) A person who is Caymanian or a permanent resident and who -

Licensing of Caymanians  
and permanent residents

- (a) is registered as a member under section 8 and continues to meet the qualifications for membership specified in section 8;
- (b) is or seeks to be a sole practitioner public accountant or a partner, director or person holding an equivalent position in a firm of public accountants;
- (c) is either registered as a relevant sole practitioner or the firm of public accountants of which the person is a partner, director or person holding an equivalent position has registered as a relevant firm under section 38;

- (d) pays the prescribed fee; and
- (e) satisfies any other requirements relating to fitness and propriety that may be prescribed,

may apply in the prescribed form to be licenced by the Council to engage in public practice from or within the Islands.

(2) The Council, if satisfied that a person satisfies the requirements for licensing under subsection (1), shall issue a licence to the person.

Licensing of work permit holders

12. (1) A person who is not Caymanian or a permanent resident and who -
- (a) is registered as a member under section 8 and continues to meet the qualifications for membership specified in section 8;
  - (b) is or seeks to be a sole practitioner public accountant or a partner, director or person holding an equivalent position in a firm of public accountants;
  - (c) is either registered as a relevant sole practitioner or the firm of public accountants of which the person is a partner, director or person holding an equivalent position has registered as a relevant firm under section 38;
  - (d) pays the prescribed fee; and
  - (e) satisfies any other requirements relating to fitness and propriety that may be prescribed,

may apply in the prescribed form to be licenced by the Council to engage in public practice from or within the Islands.

(2) The Council, if satisfied that a person meets the requirements for licensing under subsection (1), shall issue a licence to the person.

(3) Where a person is qualified to be a member by virtue of the person having been granted permission under section 53 of the Immigration Law (2012 Revision) to engage in a gainful occupation, the Council may only issue a licence to engage in public practice from or within the Islands to the person if the Council is satisfied that -

- (a) the person or a firm of public accountants with which that person is affiliated has a place of business in the Islands from which public accounting services are carried on; and
- (b) there is a special need to issue the licence having regard to circumstances the Council considers relevant.

(4) Where the person is qualified to be a member by virtue of the person having been granted permission under section 48 of the Immigration Law (2012

Revision) to engage in a gainful occupation but the Council is not satisfied that the person is resident in the Islands, the Council may only issue a licence to engage in public practice from or within the Islands to the person if the Council is satisfied that -

- (a) the person or a firm of public accountants with which that person is affiliated has a place of business in the Islands from which public accounting services are carried on; and
- (b) there is a special need to issue the licence having regard to circumstances the Council considers relevant.

(5) A licence granted by the Council under subsection (3) or (4) shall only be granted for a limited duration of time and is subject to the conditions that the Council determines appropriate.

13. (1) A person shall not offer services as a public accountant or engage in public practice, either as a partner, director or person holding an equivalent position in a firm of public accountants or as a sole practitioner, from or within the Islands unless the person is the holder of a valid licence issued under section 11 or 12.

Practising without a  
licence to be an offence

(2) A firm or company shall not offer services as a firm of public accountants or engage in public practice, unless each partner, director or person holding an equivalent position engaged in public practice, from or within the Islands, in the firm or company is the holder of a valid licence issued under section 11 or 12.

(3) A person who contravenes subsections (1) or (2) commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars or to imprisonment for a term of one year, or to both; and if the offence for which the person is convicted is continued after conviction that person commits a further offence and is liable to a fine of one hundred dollars for each day on which the offence is so continued.

(4) Where an offence under this section which has been committed by a firm or company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any partner, director, manager, secretary or other similar officer of the firm or company, or any person who was purporting to act in any such capacity, the person as well as the firm or company is guilty of that offence and liable to be proceeded against and punished accordingly.

(5) Where the affairs of a firm or company are managed by its members, subsection (4) shall apply in relation to the acts and defaults of a member of the

firm or company in connection with the member's functions of management as if the member was a partner or director of the firm or company.

(6) This section shall not apply to public officers acting in their capacity as such.

Validity and renewal of licence

14. (1) A licence shall take effect on the date specified therein and, subject to this Law, shall expire on the 31<sup>st</sup> December next following that date.

(2) A licence granted under section 11 or section 12 may be renewed by the Council upon application in the prescribed form, payment of the prescribed fee and satisfaction by the holder thereof of the prescribed requirements.

(3) An application for the renewal of a licence, accompanied by the prescribed fee, shall be submitted not later than 31<sup>st</sup> January in the year in respect of which the application is made.

(4) A person who fails to renew the person's licence for the succeeding year before the 31<sup>st</sup> December in the immediately preceding year and whose licence expires on the 31<sup>st</sup> December of the immediately preceding year shall not be considered to be unlicensed for the purposes of this Law during the period commencing with that date and ending on the 31<sup>st</sup> January of the succeeding year.

(5) Where a licence has been lost, destroyed or mutilated, it may be replaced by the Council by the issue of a copy thereof upon the application in writing of the holder of the licence and on the payment of the prescribed fee.

Notification of results of applications

15. (1) Where the Council refuses an application made under sections 8, 9, 10, 11, 12 or 14, it shall, within ten days from the date of refusal, give to the applicant written notice of the decision and of the reasons for the refusal.

(2) The applicant may, under section 27, appeal a refusal made by the Council.

List of licence holders to be published

16. (1) The Registrar shall publish by notice in the Gazette -

- (a) in the month of February in each year an alphabetical list of persons who at the 1st February in that year were licensees; and
- (b) as soon as practicable after the grant of a licence at any other time, the name of the licensee.

(2) A copy of the Gazette containing the list referred to in subsection (1)(a) or the names published under subsection (1)(b) is evidence of the facts stated therein.

#### PART 4 - DISCIPLINE

17. (1) There shall continue to be established a committee of the Institute known as the Investigation Committee which shall, upon the expiration of the tenure of its members be reconstituted in accordance with this section. Investigation Committee

(2) The Investigation Committee shall consist of a chairperson who shall be a member of the Council and not more than seven other members appointed by the Council.

(3) The Council shall appoint members the Council considers to have the necessary knowledge and experience to serve as the Investigation Committee.

(4) Subject to the prior approval of the Council, the Investigation Committee shall have the power to delegate any functions that it considers necessary.

18. Section 19 applies where the Council is of the opinion that, or a complaint is made to the Council alleging that, a person who is a member or licensed under this Law - Professional misconduct

- (a) is, in the performance of the person's professional duties, guilty of misconduct, dishonesty, or incompetence;
- (b) has breached the Institute's professional standards;
- (c) has failed to meet the continuing obligations to be a member specified in section 8(4);
- (d) has breached -
  - (i) this Law; or
  - (ii) any rules made under this Law;
- (e) has breached the standards of professional conduct of an overseas professional accounting institute of which the person is a member;
- (f) for the purpose of procuring or renewing the person's registration as a member, or of obtaining or renewing a licence, has made any statement which to that person's knowledge is false in any material particular or has made any other misleading or fraudulent representation;

- (g) has been convicted in a court of the Islands or elsewhere of a criminal offence which renders the person unfit to be a member or licensee; or
- (h) has acted in a manner likely to bring the Institute into disrepute.

19. (1) A complaint against a person who is a member or licensed under this Law shall be made to the Council in writing and shall bear the date of the complaint and the signature of the complainant.

Complaints

(2) Unless the Council is of the opinion that a complaint made in accordance with subsection (1) is frivolous or vexatious, it shall refer the matter to the Investigation Committee.

20. The Investigation Committee shall investigate each matter referred to it in the prescribed manner and shall either -

Investigations and  
recommendations

- (a) dismiss the matter; or
- (b) refer the matter to the Disciplinary Tribunal or to the person's overseas professional accounting institute for its action, or to both.

21. (1) There shall continue to be established a Disciplinary Tribunal which shall, upon the expiration of the tenure of its members be reconstituted in accordance with this section and which shall consider and determine matters referred by the Council or the Investigation Committee to the Disciplinary Tribunal for consideration and determination.

Disciplinary and other  
orders

(2) There shall be appointed by the Council, on an annual basis, a Chairmanship Panel of the Disciplinary Tribunal which shall consist of no more than three persons and two of the three persons shall not be members of the Institute.

(3) Where a matter is referred by the Council or the Investigation Committee to the Disciplinary Tribunal for consideration and determination, the Chairmanship Panel of the Disciplinary Tribunal shall meet for the purposes of appointing a person, who the Chairmanship Panel of the Disciplinary Tribunal considers suitable, to be the Chairperson of the Disciplinary Tribunal for the matter referred.

(4) The Chairperson of the Disciplinary Tribunal appointed pursuant to subsection (3) shall, upon receipt of confirmation of the appointment forthwith appoint any number of but not less than two persons, who the Chairperson of the Disciplinary Tribunal considers suitable, to comprise the Disciplinary Tribunal for the purpose of considering and determining the matter referred under subsection (3).

(5) If only two persons are appointed pursuant to subsection (4), the Chairperson of the Disciplinary Tribunal shall ensure that at least one of those persons appointed is a member of the Institute unless the Chairperson of the Disciplinary Tribunal is a member of the Institute but if the number of persons appointed pursuant to subsection (4) exceeds two persons then the Chairperson of the Disciplinary Tribunal shall, taking into consideration the Chairperson of the Disciplinary Tribunal as included in the number of persons comprising the Disciplinary Tribunal, ensure that the majority of persons appointed are not members of the Institute.

(3) The Cabinet in consultation with the Council may make regulations with regard to the conduct of proceedings by the Disciplinary Tribunal and any other matters relating to the Disciplinary Tribunal the Cabinet may consider necessary.

(4) If in relation to a matter referred to the Disciplinary Tribunal, the Disciplinary Tribunal is satisfied that an order of a disciplinary nature should be made, the Disciplinary Tribunal may order any disciplinary action that the Disciplinary Tribunal determines appropriate including but not limited to the following -

- (a) that the name of a member be removed from the register; or
- (b) where a member has been issued with a licence -
  - (i) that the licence be suspended for a specified period not exceeding one year; or
  - (ii) that the licence be revoked.

(5) Where the Council is satisfied, by a certificate of a registered medical practitioner, that a licensee is suffering from an illness or injury which renders the licensee unfit to satisfactorily perform that licensee's duties as a public accountant, the Council may, by order, suspend that licence for a period the Council determines appropriate.

Orders to be registered

22. (1) An order made by the Disciplinary Tribunal or the Council under section 21 shall -

- (a) be signed by the Chairperson of the Disciplinary Tribunal or the Chairperson of the Council, as the case may be;
- (b) be filed immediately with the Registrar; and
- (c) subject to section 23(1), take effect -
  - (i) where no appeal under section 27 is brought against the order within the period allowed for the appeal, on the expiration of that period;



- (ii) where an appeal is brought and is withdrawn or struck out for want of prosecution or for any other reason, on the withdrawal or striking out of the appeal; or
- (iii) where an appeal is brought and is not withdrawn or struck out, when the appeal is dismissed.

(2) An order when it takes effect shall be acted upon and be enforceable in the same manner as an order of a court of summary jurisdiction.

(3) Upon the taking of effect of an order filed with the Registrar under subsection (1), the Registrar shall -

- (a) in the case of an order that does not provide for the removal of the name of a person from the register, cause a note of the effect of the order to be entered in the register against the name of the person to whom the order relates; and
- (b) in the case of an order providing either for the removal of the name of a person from the register or for the suspension or revocation of a licence, cause a notice stating the effect of the order to be published in the Gazette.

23. (1) If, on making an order under section 21(4)(b), the Disciplinary Tribunal is satisfied that it is necessary for the protection of members of the public, it may order that a licence be suspended or revoked forthwith.

Immediate  
implementation of orders

(2) A licensee who is subject to an Order made under subsection (1) may apply to the Grand Court to have the order revoked.

(3) The Grand Court may revoke any order made under subsection (1) and the decision of the Court on any application under subsection (2) shall be final.

24. (1) The Registrar shall remove the name of a person who is a member or licensed under this Law from the register -

Amendment of register  
on order

- (a) upon the application of the person;
- (b) upon the failure of the person to pay any prescribed annual fee within nine months after the date on which the fee becomes payable; or
- (c) upon the taking effect of an order of the Disciplinary Tribunal under section 21(4)(a) in relation to that person.

(2) Where a matter concerning a member is referred to the Investigation Committee or the Disciplinary Tribunal under section 19(2) or (3), the member's name shall not be removed from the register under section 21(4)(a) until the

matter or any appeal in relation thereto, has been finally disposed of under this Law.

(3) Where the name of a person has been removed from the register a licence issued to the person shall cease to be valid.

Certificate or licence to  
be returned

25. (1) Where the name of a person has been removed from the register or the licence of a person has been suspended or revoked, the Council may, by notice in writing served by post, require the person to return to the Registrar the person's membership certificate or licence.

(2) A person who fails without reasonable excuse to return the person's membership certificate or licence within fourteen days of the date of a notice served under subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred dollars.

Restoration of name to  
the register or  
reinstatement of a licence

26. (1) The Council may, where the restoration of a name to the register or the reinstatement of a licence is not contrary to any relevant order of the Disciplinary Tribunal, upon an application in writing by a person whose name has been removed from the register or whose licence has been suspended or revoked, restore the person's name to the register, or reinstate that person's licence or terminate that person's suspension, with effect from a date appointed by the Council, and shall immediately give notice of the restoration or reinstatement or termination of suspension to the Registrar.

(2) On receipt of notice of a restoration or reinstatement made by the Council under subsection (1), the Registrar shall immediately restore the name of the person to the register, or enter on the register a note of restoration or the reinstatement or the termination of suspension of the licence, and shall publish notice of the Council's decision in the Gazette.

Appeals against  
decisions

27. (1) A person aggrieved -

- (a) by the refusal of the Council of the person's application for registration as a member or for a licence, including an application for the renewal of registration as a member or the renewal of a licence; or
- (b) by an order by the Disciplinary Tribunal or the Council under section 21 in relation to a matter concerning the person,

may, within three months of the date of the decision, appeal against the decision to the Grand Court and Schedule 2 shall apply in relation to every appeal made under this section.

(2) No further appeal shall lie from the decision of the Grand Court on an appeal made under this section.

## PART 5 - MISCELLANEOUS

28. Nothing in Part 3 derogates from the provisions of the Trade and Business Licensing Law (2014 Revision).

Part 3 not to derogate from the provisions of the Trade and Business Licensing Law (Law 21 of 2014)

29. On or before the 31st January in each year, every sole practitioner public accountant and firm of public accountants shall file with the Authority a certificate in the form prescribed by the Council stating that to the best of their knowledge and belief, the applicable requirements of the Proceeds of Crime Law, 2014 and any regulations made thereunder have been complied with, or to the extent that they have not been complied with, disclosing the nature and extent of non-compliance.

Compliance with the Proceeds of Crime Law, (2014 Revision)

30. The Cabinet in consultation with the Council may make regulations for carrying into effect the purposes and provisions of this Law, and for -

Regulations

- (a) prescribing the standards of professional conduct for members ;
- (b) regulating the hearing and determination of complaints brought under this Law;
- (c) providing for the establishment, maintenance and approval of classes, lectures, courses of study and systems of training and examination in accounting and for requirements relating to practical experience and including co-operation with overseas educational establishments;
- (d) prescribing public practice requirements;
- (e) providing for the establishment of systems and procedures for quality assurance reviews, including the power to take action for failings in quality assurance;
- (f) prescribing the time, manner and form of making any application, the information and evidence to be submitted in connection therewith, and the procedure to be followed in the consideration of applications;
- (g) prescribing fees, subscriptions or other sums payable to the Institute by members, associate members or students; and
- (h) prescribing anything required by this Law to be prescribed.

31. A person who -

Offences in relation to licences and registration

- (a) uses the licence of another person;

- (b) for the purpose of procuring or attempting to procure a licence for the person or for any other person, wilfully makes or procures or causes to be made or procured any untrue representation or declaration either oral or in writing;
- (c) for the purpose of procuring or attempting to procure registration as a member for the person or for any other person, wilfully makes or procures or causes to be made or procured any untrue representation or declaration either oral or in writing; or
- (d) makes or causes to be made any falsification in the register or in any matter relating to the register,

commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars or to imprisonment for a term of twelve months or to both.

*Immunity*

32. Neither the Institute, its officers, employees or agents nor any member of the Council, of the Disciplinary Tribunal, of the Investigation Committee or of any other committee of the Institute, shall be liable in damages for anything done or omitted in the discharge or the purported discharge of their respective functions responsibilities, powers and duties under this Law unless it is shown that the act or omission was done in bad faith.

*Cooperation*

33. (1) Where the Institute is satisfied that -

- (a) a request for information from a relevant person in connection with a specified purpose should be granted; or
- (b) information should be disclosed to a relevant person in connection with a specified purpose,

the Institute may disclose the information and that disclosure shall not be treated as a breach of any restriction upon the disclosure of information by any enactment or otherwise and the fact of the disclosure shall not give rise to any criminal or civil liability for the Institute nor any Council member, officer, employee or agent of the Institute.

(2) For the purposes of subsection (1) -

“relevant person” means the Authority, the Financial Reporting Authority, the Auditors Oversight Authority any overseas regulatory authority, any approved institute, any overseas professional accounting institute, any institute, society, association or other body which conducts quality assurance reviews of public accountants or firms of public accountants, the International Federation of Accountants, the Attorney General, the Solicitor General, the Auditor General, a constable of the rank of Inspector or above, the Financial Secretary, any of the

Immigration Boards, the Trade & Business Licensing Board and any other prescribed person; and

“specified purpose” means the exercise of any regulatory oversight, investigative, disciplinary or quality assurance function, the conduct of civil or administrative proceedings to enforce laws, regulations and rules, the investigation or prosecution of any crime or any other purpose where the Council determines that it is in the best public interest to disclose the information requested.

34. The Public Accountants Law (2009 Revision) is repealed.

Repeal

35. (1) Every application for a licence, dispensation or approval or other matter made under the repealed Law that has not been wholly dealt with by the Council or other person or body to which it has been made when this Law comes into force shall be taken to be an application made under this Law, and this Law shall apply accordingly.

Saving, transitional and consequential provisions

(2) Except as otherwise expressly provided in this Law every civil matter and proceeding commenced in any court under the repealed Law and pending or in progress immediately before this Law comes into force may be continued, completed and enforced under this Law.

(3) All proceedings in respect of offences committed against the repealed Law may be continued as if this Law had not come into force.

(4) Subject to subsection (5), every licence, dispensation, approval or direction made or granted under the repealed Law and in force immediately before this Law comes into force shall continue in force after this Law comes into force on the same conditions and with the same effect as if this Law had not come into force.

(5) Every form issued or prescribed for use under the repealed Law is to be regarded as issued or approved for use under this Law until another form is issued or prescribed for use under this Law in place of that form.

(6) In this section -

“repealed Law” means the Public Accountants Law (2009 Revision) repealed under section 34.

36. (1) The Institute may issue or amend rules or statements of principle or guidance concerning its powers under this Law.

Powers of Institute with regard to rule making etc.

- (2) Rules or statements of principle or guidance issued under subsection (1) shall be consistent with this Law and shall state the provision of this Law to which they relate.

Fee may be waived,  
reduced or deferred

37. The Institute may, for good cause waive, reduce or defer the payment of any fee imposed by virtue of this Law and any waiver, reduction or deferment of payment shall be published by Notice in the Gazette.

#### PART 6 – QUALITY ASSURANCE

Oversight procedures

38. (1) For the purposes of this section -

- (a) “relevant sole practitioner” means a sole practitioner public accountant who is the holder of a licence issued under section 11 or 12; and
- (b) “relevant firm” means a firm of public accountants where the partners, directors or persons holding an equivalent position in the firm are the holders of a licence issued under section 11 or 12.

(2) A relevant sole practitioner and a relevant firm shall comply with the system of oversight, quality assurance and investigation imposed by the Institute.

(3) A relevant sole practitioner and a relevant firm shall make an application in the prescribed manner and pay the prescribed fee to be registered with the Institute as a sole practitioner or firm which is subject to the Institute’s system of oversight, quality assurance, investigation and penalties.

(4) Registration under subsection (3) is valid for one year and shall be renewed annually.

(5) Registration under this section may be renewed by submitting an application for renewal of registration in the prescribed manner and paying the prescribed fee by a date specified by the Council.

(6) A relevant sole practitioner or a relevant firm who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of ten thousand dollars; and if the offence for which the relevant sole practitioner is convicted is continued after conviction the relevant sole practitioner commits a further offence and is liable to a fine of one hundred dollars for each day on which the offence is so continued.

(7) Where an offence, committed by a relevant firm under subsection (6), is proved to have been committed with the consent or connivance of, or to have

been attributable to neglect by a partner, director, manager, secretary or other similar officer of the relevant firm or person who was purporting to act in any of the foregoing capacities, that person is also considered to have committed the offence and is liable to be proceeded against and penalised in accordance with subsection (6).

(8) The Institute may, on terms approved by the Council, delegate, in whole or in part, any of its functions under this section to any person the Council considers necessary for the better exercise of the function.

(9) The Institute shall not delegate a function under this section to a person unless the person has -

- (a) experience in -
  - (i) regulating public accountants;
  - (ii) assisting regulatory authorities in their supervision and investigation of public accountants and their professional activities; and
  - (iii) assessing accounting and assurance standards of regulatory oversight bodies; and
- (b) adequate knowledge in areas relevant to audit and assurance.

#### SCHEDULE 1

*(Section 4)*

#### OBJECTS OF THE INSTITUTE

The objects of the Institute are to -

- (a) govern the discipline, and regulate the professional conduct of members;
- (b) promote and protect the welfare and interest of the Institute and the accounting profession;
- (c) promote and increase the knowledge, skill and proficiency of members and students in all things relating to the business or profession of accountants;
- (d) promote, foster and maintain the highest standards of accounting in public practice and commercial and private sector spheres;
- (e) safeguard and enhance the professional standing, interest and reputation of accountants who are members thereof;

- (f) maintain the highest standards of professional etiquette and ethics among its members and encourage the observance of these standards among non-members;
- (g) provide opportunities for discussion and exchange of views among its members, and students, whether or not they are engaged in actual practice;
- (h) encourage and assist in providing increased facilities for the study of accountancy and related subjects and co-operate with bodies that are in pursuit of those objects;
- (i) associate with any regional or international body having objects similar to those of the Institute to further the interests of the profession; and
- (j) do anything that is necessary or incidental to the carrying out of the objects specified in paragraphs (a) to (i).

## SCHEDULE 2

*(Section 27)*

### PROVISIONS RELATING TO APPEALS AGAINST DECISIONS OF THE DISCIPLINARY TRIBUNAL OR THE COUNCIL

Civil appeals

1. (1) An appeal shall lie to the Grand Court -
  - (a) from a refusal by the Council to grant an application for registration made under section 8, 9 or 10 or the renewal of registration;
  - (b) from a refusal by the Council to grant an application for a licence or for the renewal of a licence, made under section 11, 12 or 14; or
  - (c) from an order of the Disciplinary Tribunal or the Council made under section 21 or 23.
- (2) An appeal shall not lie, except by special leave of the Grand Court, from any of the following -
  - (a) an order or decision made by consent;
  - (b) an order or decision relating to costs only; or
  - (c) an order or decision made by default for want of appearance or otherwise.
- (3) The party seeking special leave under subsection (2) shall make oath in writing setting forth the party's grounds of appeal and, where applicable, the



reasons why the party did not appear at the hearing, and that the appeal involves a matter of substantial justice.

2. The Disciplinary Tribunal or the Council, upon making any decision from which an appeal lies under the Law shall inform any party, of the party's right of appeal, and a note shall be made in the minutes of the meeting of the Disciplinary Tribunal or the Council that the information has been given and in that case the Secretary of the Institute shall, whenever required, furnish the intended appellant with the necessary form of notice and recognisance of appeal.

Unrepresented person to be informed of right of appeal

3. (1) An appellant shall deliver a written notice of appeal, signed by the appellant or the appellant's legal representative, to the Clerk of the Court and to the Secretary of the Institute within three months after the decision is given; and within a further period of seven days after the first period, shall deliver to the Clerk of the Court and to the Secretary of the Institute a statement in writing, signed by the appellant or the appellant's legal representative, setting forth the grounds of the appellant's appeal and shall enter into a recognisance, in a sum, not exceeding five thousand dollars in respect of the costs of the appeal, as the court shall direct, for the due prosecution of the appeal and the compliance by the appellant with all judgments, orders or other decisions of the Grand Court in the matter, and, if the appeal is not allowed the payment of any costs of the proceedings in the appeal, if the Grand Court shall so direct; but in any case the Judge may grant an extension of either period for any sufficient reason and subject to any conditions which seem to the Judge to be fit.

(2) If the appellant fails to serve notice and grounds of appeal and to enter into a recognisance in accordance with subsection (1), the appellant's right of appeal shall cease and determine and the Institute shall be at liberty forthwith to enforce the same according to law.

Appeal not to have effect of suspending decision

4. Subject to section 24(2), the giving of notice of appeal in accordance with this Law shall not have the effect of suspending the decision appealed from pending the determination of the appeal, unless the Judge, upon application made, shall so direct; but upon application made by either party, after notice of appeal has been given, the Judge may make the order the Judge considers fit.

Certified copies of proceedings to be available to appellant and to be sent to the Grand Court

5. The Secretary of the Institute shall supply to an appellant applying for the same a certified copy of the evidence taken, proceedings had and the decision made in the matter to which the appeal relates, and shall make up, certify and transmit to the Grand Court not later than fourteen days from receipt of the written notice of appeal or a further time allowed by the Judge, the original or copies of all original documents, a copy of the evidence taken, proceedings had and the decision made.

Setting down appeal for hearing and procedures thereupon

6. (1) The Clerk of the Court may list for hearing, at the next ensuing sitting or adjourned sitting of the Grand Court, every appeal in which the grounds of appeal have been lodged seven clear days before the sitting or adjourned sitting.

(2) The practice and procedure in relation to the hearing of appeals by the Grand Court, and for the enforcement of the decision upon any appeals, shall be as prescribed by the Grand Court Law (2008 Revision) but in any circumstances in which no provision is made for some matter or any difficulty shall arise the Judge may give directions as to the procedure to be followed.

Powers of the Grand Court upon hearing the appeal

7. (1) The Grand Court shall have power upon the hearing of any appeal to confirm, reverse, vary or modify the decision against which the appeal is made or to return any matter to the Disciplinary Tribunal or the Council, with the opinion and directions of the Grand Court thereon, or to set aside the proceedings and order a new hearing or to make an order in the matter it may think just; and may, by the order, exercise any power which the Disciplinary Tribunal or the Council could have exercised; and the order shall have the same effect and may be enforced in the same manner as if it had been made by the Disciplinary Tribunal or the Council.

(2) In the exercise of its appellate jurisdiction the Grand Court may amend any defect in form in any part of the proceedings, or may allow any party to amend or correct any defect or irregularity upon the terms the Judge considers just; and no proceeding shall be set aside for defect of form or similar irregularity where it appears that the party called upon to answer had due notice of the substance of the hearing or the appeal, and that no miscarriage of justice has thereby been caused.

(3) The Judge shall endorse upon the record of the hearing of the appeal the decision of the Grand Court including any order as to costs and the Clerk of the Court shall, on the application of any party entitled, certify the costs payable, in respect of the proceedings to which the appeal relates and issue all necessary warrants for the recovery of the whole by distress or otherwise, and the same may be enforced in the same manner as any judgment of the court in the exercise of its civil jurisdiction.

8. The costs payable by any party at any stage of, or in respect of any matter arising out of, any issue in relation to which an appeal is made, shall be in the discretion of the Grand Court. Costs in appeals

Passed by the Legislative Assembly the      day of      , 2016.

Speaker.

Clerk of the Legislative Assembly.