



BERMUDA

CHARTERED PROFESSIONAL ACCOUNTANTS OF BERMUDA ACT 1973

1973 : 93

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[preamble and words of enactment omitted]

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[NB formerly the Institute of Chartered Accountants of Bermuda Act 1973. Retitled by 2014 : 8 s. 3 effective 11 April 2014]

Interpretation

- 1 In this Act unless the context otherwise requires—
- “AML/ATF Regulations” means the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, and any subsequent regulations made under section 49(3) of the Proceeds of Crime Act 1997 or section 12A of the Anti-Terrorism (Financial and other Measures) Act 2004;
- “Bar Council” means the Bar Council of Bermuda established under section 3 of the Bermuda Bar Act 1974;
- “Barristers and Accountants AML/ATF Board” means the Barristers and Accountants AML/ATF Board established by section 8A;
- “Bermudian status” has the meaning assigned to it in the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*];
- “By-Laws” means the by-laws governing the management and administration of the affairs of CPA Bermuda made under section 7;
- “corporate member” means a member that is a company;
- “CPA Bermuda” or “Chartered Professional Accountants of Bermuda” means the Chartered Professional Accountants of Bermuda established under this Act;
- “CPA Board” means the Board of Directors of CPA Bermuda established in accordance with section 4 and the By-laws;
- “individual member” means a member who is an individual;
- “member” means a member of CPA Bermuda and includes an individual member and a corporate member;
- “operative date” means the date on which this Act comes into operation [*the Act came into operation on assent on 9 August 1973*];
- “professional accountant” means a person resident in Bermuda who has the requisite skill and experience in establishing and maintaining accurate financial records for an individual or a business, and whose duties may include—
- (a) preparing financial statements;
 - (b) designing and controlling systems of records;
- “public accountant” means a person who, either alone or in partnership, engages for reward as an independent accountant or auditor in public practice involving the performance of services in Bermuda which include—
- (a) investigating or auditing any financial or accounting statement; or

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- (b) issuing any written opinion, report or certificate concerning any financial or accounting statement,

where a purpose in performing any such services is to enhance the credibility of such a statement;

“regulated professional firm” and “firm” have the meanings given in section 2 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 in relation to regulated professional firms of accountants.

[section 1 “member” substituted, and “corporate member” and “individual member” inserted, by 1999:52 s.2 effective 23 December 1999; “public accountant” amended by 2007:11 s.2 effective 29 March 2007; “AML/ATF Regulations”, “Bar Council”, “Barristers and Accountants AML/ATF Board”, and “regulated professional firm” and “firm” inserted by 2010 : 50 s. 48 effective 25 August 2010; “Member” and “Barristers and Accountants AML/ATF Board” amended by 2014 : 8 s.4 effective 11 April 2014; “Council”, “Institute” and “Society” deleted and “By-Laws”, “CPA Bermuda” and “CPA Board” inserted by 2014 : 8 s. 5 effective 11 April 2014; section 1 definitions “professional accountant” inserted, and “public accountant” amended by 2018 : 47 s. 2 effective 24 October 2018]

Chartered Professional Accountants of Bermuda

2 The body corporate established by section 2 of this Act (as originally enacted) shall continue in being under the name of “Chartered Professional Accountants of Bermuda”, with the exclusive right to use that name and under that name to have perpetual succession.

[Section 2 repealed and replaced by 2014 : 8 s. 6 effective 11 April 2014]

Objects

3 The principal objects of CPA Bermuda are—

- (a) to promote and increase the knowledge, skill and proficiency of its members and students;
- (b) to regulate the discipline and professional conduct of its members and students;
- (c) to promote the best standards of practice in financial reporting and in the expression of professional opinions in relation thereto;
- (d) to promote and protect the welfare and interest of CPA Bermuda and the accounting profession.

[Section 3 amended by 2014 : 8 s. 4 effective 11 April 2014]

Board of CPA Bermuda

4 (1) The affairs of CPA Bermuda shall be managed and conducted by CPA Board consisting of not less than five nor more than twenty individuals, of whom not more than two may be individuals who are not members of CPA Bermuda.

(2) Individuals who are members of CPA Bermuda shall be—

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- (a) elected annually by the members in general meeting; or
- (b) appointed as the by-laws of CPA Bermuda shall provide.

(3) Individuals who are not members of CPA Bermuda shall be appointed by CPA Board.

[section 4 amended by 1999:52 s.3 effective 23 December 1999; Section 4 repealed and replaced by 2010 : 10 s. 2 effective 19 March 2010; Section 4 amended by 2014 : 8 s.4 and headnote deleted and substituted by 2014 : 8 s. 7 effective 11 April 2014]

CPA Board

5 (1) Not less than sixty per cent of CPA Board members shall be persons possessing Bermudian status.

(2) Without prejudice to subsection (1), CPA Board shall not be competent to transact business at any meeting unless a majority of the Board members present possess Bermudian status.

[section 5 amended by 1999:52 s.4 effective 23 December 1999; Section 5 amended by 2010 : 10 s. 3 effective 19 March 2010; Section 5 headnote deleted and substituted and section amended by 2014 : 8 s. 7 and 8 effective 11 April 2014]

Powers of CPA Board

6 CPA Board shall have the following powers—

- (a) to sue and to be sued in its corporate capacity in all courts;
- (b) to have and use a common seal and to renew or vary the same at pleasure;
- (c) to enter into contracts and to do all things necessary for the carrying out of its objects;
- (d) to pass by-laws not inconsistent with this Act for the purpose of carrying out its objects;
- (e) to acquire by purchase, gift, exchange, lease, demise or otherwise any personal property and to hold, invest, mortgage, lease, sell or exchange the same as CPA Board may from time to time determine;
- (f) to take by way of lease, land situated in Bermuda bona fide required for the purposes of CPA Board for a term not exceeding twenty-one years;
- (g) to delegate to CPA Board the exercise of any of the powers conferred on CPA Bermuda by this Act.

[Section 6 amended by 2014 : 8 s. 4 effective 11 April 2014]

By-laws of CPA Board

7 (1) In pursuance of section 6 CPA Bermuda may pass by-laws governing the management and administration of its affairs, and without limiting the generality of the foregoing, may pass by-laws—

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- (a) providing for determination of the number of individual members to be elected or appointed to CPA Board, and for such election or appointment;
- (b) prescribing the requisite qualifications of individual members and corporate members, providing for admission to membership in CPA Bermuda of individual members and corporate members, providing for the registration of students and determining the rights and obligations of individual members and corporate members;
- (c) providing for election of officers of CPA Bermuda;
- (d) prescribing fees payable to CPA Bermuda;
- (e) providing for the establishment and maintenance of classes, lectures, courses of study and systems of training, and for requirements relating to practical experience and examinations;
- (f) providing for the receipt, management, investment and application of the assets of CPA Bermuda including contributions, donations and bequests from members and others;
- (g) providing for the exercise of disciplinary authority over members and students of CPA Bermuda by expulsion, suspension, fine or the imposition of any other penalty after due enquiry;
- (h) providing for standards and tests of competency, fitness and moral character, and for rules of professional conduct;
- (i) providing for affiliation with any university or college or with any corporation or association having similar or related objects.

(2) No by-law, nor any amendment to a by-law at any time in force, shall take effect unless it has been adopted by CPA Board and approved by a majority of the members voting thereon in accordance with the by-laws.

(3) The negative resolution procedure shall apply to bye-laws made under this section.

[section 7(1)(a) amended and paragraph (b) substituted by 1999:52 s.5 effective 23 December 1999; amended by 2014 : 8 s. 4 effective 11 April 2014]

By-laws respecting Barristers and Accountants AML/ATF Board

7A (1) CPA Board, in conjunction with the Bar Council may make by-laws respecting the Barristers and Accountants AML/ATF Board, including by-laws—

- (a) for the nomination and appointment of the Chairperson and members of the Barristers and Accountants AML/ATF Board;
- (b) prescribing the quorum, frequency of and place for holding meetings of the Barristers and Accountants AML/ATF Board and the manner of decision-making at Board meetings;

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- (c) providing for monitoring of regulated professional firms and investigating their compliance with the AML/ATF Regulations;
 - (d) governing the practice and procedure for imposing civil penalties on regulated professional firms under Part 4A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;
 - (e) establishing guidelines for expenditure by the Barristers and Accountants AML/ATF Board of its approved budget;
 - (f) respecting the presentation of the Barristers and Accountants AML/ATF Board's financial statements and the auditing of those statements; and
 - (g) fixing the fees payable by firms to defray the operational costs of the Barristers and Accountants AML/ATF Board and providing for penalties to be assessed against firms who fail to pay such fees, including the suspension, termination or expulsion from CPA Bermuda of members practising with such firms.
- (2) No by-law nor any amendment to a by-law made under this section shall take effect unless it has been—
- (a) adopted by CPA Board and approved by a majority of the members voting thereon in accordance with the by-laws; and
 - (b) approved by the Bar Council.
- (3) Section 6 of the Statutory Instruments Act 1977 shall not apply to by-laws made under this section.

[Section 7A inserted by 2010 : 50 s. 49 effective 25 August 2010; amended by 2014 : 8 s. 4 effective 11 April 2014]

Appeals

- 8
- (1) Any person who is aggrieved by a decision of CPA Bermuda pursuant to a by-law made under section 7(1) (b) or (g) may within twenty-one days from the day on which notice thereof was served on him in accordance with the by-laws of CPA Bermuda appeal against that decision to the Supreme Court.
 - (2) An appeal under this section shall be by way of rehearing on the record and the Supreme Court may confirm, reverse or modify the decision of CPA Bermuda or make such other order as may be just and CPA Bermuda shall govern itself accordingly.
 - (3) The Chief Justice may make rules for the better carrying out of the provisions of this section, for the procedure and forms to be used, for the admission of evidence and for fees to be paid on any appeal under this Act.
 - (4) The affirmative resolution procedure shall apply to rules fixing or varying the fees referred to in subsection (3)

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(5) Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to rules made under this section, other than those to which subsection (4) applies.

[Section 8 amended by 2014 : 8 s. 4 effective 11 April 2014]

Barristers and Accountants AML/ATF Board

8A (1) There shall be established a joint Board of CPA Bermuda and the Bermuda Bar Association under the name of the "Barristers and Accountants AML/ATF Board" which, upon designation by the Minister of Justice under section 4(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, shall have the powers and duties conferred by this Act, section 5 of that Act and any other statutory provision.

(2) The Barristers and Accountants AML/ATF Board shall be a body corporate having perpetual succession and a common seal and, subject to this Act, shall have power to acquire, hold and dispose of moveable and immoveable property of any kind and to enter into contracts and to do all things necessary for the purposes of its functions.

(3) The Barristers and Accountants AML/ATF Board may sue and be sued in its corporate name and may for all purposes be described by that name, to the use of which it shall have exclusive right.

(4) All documents, other than those required by law to be under seal, made by the Barristers and Accountants AML/ATF Board and all decisions of the Barristers and Accountants AML/ATF Board may be signified under the hand of the Chairman or any other member or officer authorized to act for him.

(5) The Barristers and Accountants AML/ATF Board's financial year shall be the period of twelve months ending on the 31st day of March.

[Section 8A inserted by 2010 : 50 s. 50 effective 25 August 2010; amended by 2014 : 8 s. 4 effective 11 April 2014]

Constitution of Barristers and Accountants AML/ATF Board

8B (1) The Barristers and Accountants AML/ATF Board shall consist of—

- (a) a Chairman, jointly appointed by CPA Bermuda and the Bar Council to hold office for a term of 3 years; and
- (b) a minimum of 4 and a maximum of 8 other members, one half of whom shall be appointed by CPA Bermuda and one half of whom shall be appointed by the Bar Council, to hold office for terms of up to 3 years.

(2) The terms of office of appointed members shall be such as to ensure, so far as possible, the expiration in any such year of not more than one half of the terms of office of those members.

(3) The Chairman shall be appointed from persons who have at least 10 years of experience in the practice of accounting or law in Bermuda and the other members of the Barristers and Accountants AML/ATF Board from persons who have at least 5 years of such experience.

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(4) CPA Board shall not appoint to the Barristers and Accountants AML/ATF Board any person who is a partner in a regulated professional firm or is employed by, affiliated with or has a financial interest in, a corporate member.

(5) The Barristers and Accountants AML/ATF Board shall pay to the Chairman such remuneration as CPA Bermuda and the Bar Council may determine.

(6) The Barristers and Accountants AML/ATF Board shall operate in accordance with Operating Principles made pursuant to Rules made under the Bermuda Bar Act 1974.

(7) The Barristers and Accountants AML/ATF Board may from time to time amend, enlarge or revoke the Operating Principles, and shall publish such Principles on its website.

[Section 8B inserted by 2010 : 50 s. 50 effective 25 August 2010; amended by 2014 : 8 by sections 4 & 7 effective 11 April 2014; subsection (3) amended by 2017 : 31 s. 4 effective 6 October 2017; subsections (6) and (7) inserted by 2018 : 47 s. 3 effective 24 October 2018]

Supervisor

8C (1) The Barristers and Accountants AML/ATF Board shall engage a professional accountant or legal adviser with experience in regulatory compliance as Supervisor responsible for assisting the Barristers and Accountants AML/ATF Board to ensure that regulated professional firms comply with the requirements of Part 4A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and the AML/ATF Regulations.

(2) The duties of the Supervisor include—

- (a) providing guidance to regulated professional firms as to compliance with the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and with the AML/ATF Regulations;
- (b) acting as registrar of a register established pursuant to section 30B of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;
- (c) carrying out on site and off site inspections of regulated professional firms to determine compliance with the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and the AML/ATF Regulations;
- (d) making submissions to the Barristers and Accountants AML/ATF Board respecting cases of non-compliance with the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and the AML/ATF Regulations and making recommendations on the imposition of civil penalties; and
- (e) reporting to the Barristers and Accountants AML/ATF Board on the compliance of regulated professional firms with the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and the AML/ATF Regulations and making recommendations respecting further supervision and enforcement actions.

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(3) The Supervisor shall disclose to CPA Board any information that he receives in carrying out his duties that causes him to suspect that an accountant or professional company has committed an act that constitutes a disciplinary offence under CPA Bermuda's by-laws.

[Section 8C inserted by 2010 : 50 s. 50 effective 25 August 2010; amended by 2014 : 8 s. 4 effective 11 April 2014; Section 8C subsection (2) amended by 2018 : 47 s. 4 effective 24 October 2018]

Expenditure budget

8D (1) The Barristers and Accountants AML/ATF Board shall, not later than December 1 of the year before the commencement of the Barristers and Accountants AML/ATF Board's financial year, submit to CPA Board and Bar Council for approval estimates, in such form and in such detail as CPA Board and Bar Council may require, of the Barristers and Accountants AML/ATF Board's expenditure on operations in that financial year.

(2) The Barristers and Accountants AML/ATF Board shall submit as soon as practicable to CPA Board and Bar Council for their approval any proposed amendments to any such estimates.

(3) CPA Board and Bar Council shall review the estimates and proposed amendments to the estimates without delay and shall not unreasonably withhold their approval.

(4) The estimates and any amendments to them, when approved by CPA Board and Bar Council shall constitute the Barristers and Accountants AML/ATF Board's expenditure budget for that financial year.

(5) The Barristers and Accountants AML/ATF Board shall not, without the approval CPA Board and Bar Council, spend in any financial year more than the total amount of expenditure approved for that financial year.

(6) In the management of its expenditure budget, the Barristers and Accountants AML/ATF Board shall comply with any expenditure guidelines established by CPA Board and Bar Council.

(7) Where a specific sum is provided in the Barristers and Accountants AML/ATF Board's expenditure budget for any financial year in respect of any expenditure item, the Barristers and Accountants AML/ATF Board shall not spend on that item in that financial year any amount in excess of that sum unless the excess expenditure either—

- (a) is made within the expenditure guidelines; or
- (b) has been approved by CPA Board and Bar Council.

[Section 8D inserted by 2010 : 50 s. 50 effective 25 August 2010; amended by 2014 : 8 s. 4 effective 11 April 2014]

Accounts of the Barristers and Accountants AML/ATF Board

8E (1) The Barristers and Accountants AML/ATF Board shall cause proper statements of its financial affairs to be maintained and shall prepare in respect of each financial year a statement of its accounts in accordance with generally accepted accounting principles in such form as CPA Board and Bar Council may direct.

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- (2) The statement of accounts must present fairly and accurately—
- (a) the financial transactions of the Barristers and Accountants AML/ATF Board during the financial year to which they relate; and
 - (b) the financial position of the Barristers and Accountants AML/ATF Board at the end of the financial year.

(3) The Barristers and Accountants AML/ATF Board shall within six months after the end of its financial year cause the statement of its accounts to be audited and presented to CPA Board and Bar Council.

(4) Upon completion of the audit, the Barristers and Accountants AML/ATF Board shall present the audited statements to CPA Board and Bar Council as soon as practicable after receiving it.

[Section 8E inserted by 2010 : 50 s. 50 effective 25 August 2010; amended by 2014 : 8 s. 4 effective 11 April 2014]

Right to use designations “Chartered Professional Accountant” and “Chartered Accountant”

9 (1) Each member who is admitted as a Fellow of CPA Bermuda has the right to use the designation “Fellow of the Chartered Professional Accountants” and the initials “FCPA”.

(2) Each member who is admitted as a Fellow of CPA Bermuda has the right to use—

- (a) the designation “Fellow of the Chartered Professional Accountants”; and
- (b) the initials “FCPA”.

(3) Each member of CPA Bermuda shall, subject to the by-laws, be entitled to use—

- (a) any of the following designations—
 - (i) “Associate of the Chartered Accountants”;
 - (ii) “Associate of the Chartered Professional Accountants”;
 - (iii) “Certified General Accountant”;
 - (iv) “Certified Management Accountant”;
 - (v) “Chartered Accountant”;
 - (vi) “Chartered Professional Accountant”;
 - (vii) “Certified Public Accountant”;
 - (viii) “Fellow of Certified General Accountants”;
 - (ix) “Fellow of the Chartered Professional Accountants”;
 - (x) “Fellow of the Chartered Accountants”;
 - (xi) “Fellow of the Certified Management Accountants”;

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- (xii) “Professional Accountant”; and
- (b) any of the following initials—
 - (i) “ACA”;
 - (ii) “ACPA”;
 - (iii) “CA”;
 - (iv) “CGA”;
 - (v) “CMA”;
 - (vi) “CPA”;
 - (vii) “CPA, CA”;
 - (viii) “CPA, CGA”;
 - (ix) “CPA, CMA”;
 - (x) “FCA”;
 - (xi) “FCGA”;
 - (xii) “FCPA, FCMA”;
 - (xiii) “FCPA, FCA”;
 - (xiv) “FCPA, FCGA”; or
 - (xv) “FCMA”;

either alone or in combination with any other word or words, or any other name, title, initials or description, implies or is calculated to imply that the member using any of the titles or initials is a chartered accountant, certified accountant or chartered professional accountant.

(4) No person resident in Bermuda shall have the right to use any designation or initials referred to in this section, either alone or in combination with any other word or words, or any other designation, name, title, initials or description (abbreviated or otherwise) which implies or is calculated to imply that the person using such words or initials is a chartered accountant, certified accountant or chartered professional accountant, other than as such rights are conferred under this section.

[section 9(2) amended by 1999:52 s.6 effective 23 December 1999; repealed and replaced by 2014 : 8 s. 9 effective 11 April 2014; section 9 subsection (3) amended, and subsection (4) inserted by 2018 : 47 s. 5 effective 24 October 2018]

Honorary Memberships

9A (1) CPA Bermuda may, in accordance with this Act and the by-laws, recognise an honorary membership.

- (2) For the purpose of subsection (1)—
 - “honorary membership” includes—

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- (a) fellowships;
- (b) life honours; and
- (c) life memberships.

(3) An honorary membership, recognised by CPA Bermuda in accordance with this Act and the by-laws, shall have effect for the duration the member retains an honorary membership.

[Section 9A inserted by 2014 : 8 s. 10 effective 11 April 2014]

Right to practise as a public accountant

9B (1) Subject to the By-Laws, each member shall be entitled to practise as a public accountant.

(2) Subject to section 13, no person shall provide or offer to provide the services of a public accountant in Bermuda unless entitled to practise as a public accountant under subsection (1).

[Section 9B inserted by 2018 : 47 s. 6 effective 24 October 2018]

Unqualified persons; offences

10 (1) Subject to section 13, a person who holds himself out as a chartered accountant, certified accountant or chartered professional accountant in contravention of section 9(4) commits an offence.

(1A) A person who provides or offers to provide the services of a public accountant in contravention of section 9B(2) commits an offence.

(2) Any person who commits an offence under this section shall be liable to a penalty not exceeding—

- (a) one thousand dollars for a first offence; or
- (b) two thousand dollars for a second offence or for each subsequent offence thereafter.

[Section 10 repealed and replaced by 2014 : 8 s. 11 effective 11 April 2014; Section 10 amended by 2018 : 47 s. 7 effective 24 October 2018]

Signing of contracts, opinions and other documents

10A A contract, opinion, report, certificate or other document may be made or executed on behalf of a corporate member by signing in the name of the corporate member by a director, officer or other person acting under the authority of the corporate member, express or implied.

[section 10A inserted by 2007:11 s.3 effective 29 March 2007]

Register of members

11 (1) CPA Board shall cause a register of the members and the students of CPA Bermuda to be kept by a registrar or other appropriate officer of CPA Bermuda, and the

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certificate of the registrar or such other appropriate officer that a person is or is not a member or student of CPA Bermuda shall be prima facie evidence in all courts and before all persons of the facts there certified.

(2) The register kept under subsection (1) shall be open to inspection by the public at all reasonable times.

[Section 11 amended by 2014 : 8 s. 4 effective 11 April 2014]

Transitional

12 *[omitted]*

Saving for certain persons practising on 9 August 1973

13 A person who has been ordinarily engaged in full time practice as a public accountant in Bermuda for a period of not less than three years immediately preceding the operative date and who has not at any time been a member of CPA Bermuda may continue to practise.

[Section 13 amended by 2014 : 8 s. 4 effective 11 April 2014]

[Assent Date: 9 August 1973]

[Amended by:

1977 : 35

1999 : 52

2007 : 11

2010 : 10

2010 : 50

2014 : 8

2017 : 31

2018 : 47]