

The Professional Accountants (Amendment) Bill 2004

Summary of proposed amendments

<u>Policy areas</u>	<u>Substantive amendments</u>		<u>Technical/consequential amendments</u>	
	Clause number reference (Bill)	Section number reference (Ordinance/By law)	Clause number reference (Bill)	Section number reference (Ordinance/By-law)
(1) Reform of the Regulatory Regime - Composition of the Council, Investigation Panel/Committee and Disciplinary Panel/Committee <u>(A) Council</u> <ul style="list-style-type: none"> • That the number of elected members on the Council shall be increased from 12 to 14. • That the immediate past President of the Society shall continue to hold office as a member of the Council for a term of 1 year. • That lay members, including government officials on the Council, shall be increased from 2 to 6. • That the additional 4 lay members shall be appointed by the 	<p>10(b)</p> <p>10(d)</p>	<p>10(2)(b)(c)(d) & (e)</p> <p>10(3)</p>	<p>6</p> <p>11</p> <p>12(a)</p> <p>12(b)</p> <p>12(c)</p> <p>13(a)</p> <p>13(b)</p> <p>13(c)</p> <p>13(d)</p> <p>3 – Sch. 1</p>	<p>4(2)(b)</p> <p>11(1) & (2)(b)</p> <p>12(1)</p> <p>12(1A)</p> <p>12(4)</p> <p>15(1)</p> <p>15(1)(e)</p> <p>15(1)(f)</p> <p>15(2) & (3)</p> <p>By-law 5</p>

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<p>Government.</p> <ul style="list-style-type: none"> That the term of office of the lay members shall be 2 years. That the renewal of office of the Government appointees shall be at the discretion of the Government. 				
<p>(B) Disciplinary <u>Panel/Committee</u></p> <ul style="list-style-type: none"> That there shall be two Disciplinary Panels from which a Disciplinary Committee is formed. <ul style="list-style-type: none"> Panel A shall comprise not less than 18 lay members appointed by the Government and Panel B shall comprise not less than 12 professional accountants appointed by the Council of whom not less than 6 shall be holders of practising certificates. That the renewal of the office of the Panel A members shall be at the discretion of the Government. 	<p>3</p> <p>35(a)</p> <p>35(c)</p>	<p>Interpretation section 2</p> <p>33(1), (1A) & (1B)</p> <p>33(3)</p>	<p>33</p> <p>35(b)</p> <p>36(c)</p> <p>36(e)</p>	<p>32D(7)</p> <p>33(2)</p> <p>34(1)</p> <p>34(1A)</p>

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	Clause number reference (Bill)	Section number reference (Ordinance/By law)	Clause number reference (Bill)	Section number reference (Ordinance/By-law)
<ul style="list-style-type: none"> • That 3 of the 5 members of a Disciplinary Committee including the Chairman, shall be appointed from Panel A and the other two members appointed from Panel B. • That the Government shall appoint a Panel A member to be a Disciplinary Committee Convenor who is delegated the power to identify and appoint the Chairman and members of a Disciplinary Committee to deal with a particular case. • That the Disciplinary Committee Convenor shall not be appointed to any Disciplinary Committee formed during his term as the Convenor, which shall be one year. 				

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<p>(C) Investigation</p> <p><u>Panel/Committee</u></p> <ul style="list-style-type: none"> That there shall be two Investigation Panels from which an Investigation Committee is formed. Panel A shall comprise not less than 18 lay members appointed by the Government and Panel B shall comprise not less than 12 professional accountants appointed by the Council of whom not less than 6 shall be holders of practising certificates. That the renewal of the office of the Panel A members shall be at the discretion of the Government. That the membership of any Investigation Committee instigated by the Council shall be expanded from 3 to 5 persons with three members, including the Chairman, appointed from Panel A and the other two members appointed from Panel B. 	<p>3</p> <p>45(a)</p> <p>46(c)</p>	<p>Interpretation section 2</p> <p>42B(1), (1A) & (1B)</p> <p>42C(2)(b)</p>	<p>45(b)</p> <p>46(a)</p> <p>46(b)</p>	<p>42B(2)</p> <p>42C(1)</p> <p>42C(2)(a)</p>

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	Clause number reference (Bill)	Section number reference (Ordinance/By law)	Clause number reference (Bill)	Section number reference (Ordinance/By-law)
<ul style="list-style-type: none"> That the Government shall appoint a Panel A member to be an Investigation Committee Convenor who is delegated the power to identify and appoint the Chairman and members of an Investigation Committee to deal with a particular case when an investigation is instigated by the Council. That the Investigation Committee Convenor shall not be appointed to any Investigation Committee formed during his term as the Convenor, which shall be one year. 				

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	Clause number reference (Bill)	Section number reference (Ordinance/By law)	Clause number reference (Bill)	Section number reference (Ordinance/By-law)
(2) Other Regulatory and Operational Reviews				
(A) Disciplinary proceedings				
<ul style="list-style-type: none"> That the hearings of a Disciplinary Committee shall be made public except in the interest of justice that the Disciplinary Committee shall determine that the hearing shall not be held in public. 	39(b) 40(a) 40(b) 40(c)	36(1A) 37(1)(a) 37(1)(c) 37(2)	26 39(a) 15(d) – Sch. 1 18 – Sch. 1	28G(1) 36(1)(c) By-law 34(3) By-law 36A
<ul style="list-style-type: none"> That the Disciplinary Committee shall be empowered to issue a consent order rather than conduct a disciplinary hearing for lesser offences. 	38	35B	26 43(a), (b), (c) & (e) 17 – Sch. 1	28G(1) 41A By-law 35B
<ul style="list-style-type: none"> That a complainant aggrieved by a Council’s decision not to refer his complaint to a Disciplinary Committee shall be entitled to request the Council to constitute a Disciplinary Committee to enable him to present his case directly to the 	—	—	36(d) 15 (a), (b) & (c) - Sch. 1	34(1AAA) By-law 34(1), (1A) & (2)

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Disciplinary Committee. <ul style="list-style-type: none"> • That the Disciplinary Committee shall be empowered to:- <ul style="list-style-type: none"> - determine the effective date of a disciplinary order; and - order the withdrawal of a HKSA member's practising certificate either permanently or temporarily. • That 'dishonorable conduct' shall be redefined to include conduct that would likely bring discredit upon a member concerned or the HKSA or the accountancy profession. • That the Court of Appeal shall be able to award costs. 	—	—	37(b) & (c) 16 – Sch. 1	35(1)(e),(f),(g)&(h) By-law 35(1) & (1A)
	—	—	28(e) 37(a) 41(b)	29A(1B) 35(1)(da) & (db) 38(2)
	—	—	36(a) 36(b) 36(f)	34(1)(a)(x) 34(1)(b)(v) 34(2)
	—	—	42(a) 42(b) 42(c)	41(1)(b)(iii) 41(3) 41(3)(d)
<u>(B) Other functional areas</u>				
<ul style="list-style-type: none"> • That the Council shall be empowered to:- 				

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- cancel the practising certificate of a practising accountant who is subject to a bankruptcy order;	29(d)	30(7)	—	—
- compel a member to act in accordance with a direction made by the Council in respect of registration matters, the conduct of his practice and conduct unbecoming of a member (to fall under section 34(1)(a)(ix) of the Professional Accountants Ordinance);	—	—	9 16	9(4) 18B
- impose penalties for failure to comply with a direction made by the Council; and				
- make continuous professional development (“CPD”) a condition of membership and practising certificate renewal.	—	—	21(c) 29(d)	28(2)(c) 30(8) & (9)

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<ul style="list-style-type: none"> That an Investigation Committee shall be empowered to obtain information and documents from any member other than the member who is under investigation. 	—	—	47	42D(2)
<ul style="list-style-type: none"> Technical amendments to ensure changes in the composition of a practice unit will not affect a practice review which has commenced on the unit prior to the change. 	—	—	34	32I
<ul style="list-style-type: none"> Provisions added to permit payment of fees to Disciplinary Committee members. (To be consistent with Investigation Committee members.) 	—	—	38 17 – Sch. 1	35A By-law 35A
<ul style="list-style-type: none"> That the HKSA shall be allowed to prepare summary financial statements for distribution to members. 	14	16 (4), (4A), (4B) & (7)	—	—

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<ul style="list-style-type: none"> That the timeframe for Council elections shall be lengthened so that members, particularly those residing or working outside Hong Kong, will have more time to exercise their voting rights. 	—	—	1 – Sch. 1 2 – Sch. 1	By-law 2 By-law 3(1)
<ul style="list-style-type: none"> That the HKSA shall be able to send out ballots and serve notices by electronic means and to accept electronic voting in addition to the existing paper format. 	—	—	8(a)(ii) 2 – Sch. 1	8(oa) By-law 3(7) & (8)
<ul style="list-style-type: none"> That the minimum number of members required to propose a resolution unrelated to the ordinary business at an annual general meeting shall be increased from 10 to 50. 	—	—	6 – Sch. 1	By-law 15

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<ul style="list-style-type: none"> That the minimum number of members required to call a general meeting of the HKSA shall be increased from not less than 20 to not less than 100 or 0.5% of the total membership, whichever is the lower. 	—	—	5 – Sch. 1	By-law 13(2) & (3)
<ul style="list-style-type: none"> Provision added to empower the Institute to make by-laws to provide for the admission of persons as affiliates 	8(a)(i) 10 – Sch. 1	8(1)(1a) By-law 22A	—	—
<ul style="list-style-type: none"> Provision added to define longest serving Vice-President 	—	—	4 – Sch. 1	By-law 7(1A)

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<ul style="list-style-type: none"> Other miscellaneous technical and consequential amendments 	—	—	1 7(b) 8(b) 15 18 19 20 21(a) & (b) 22(e) & (f) 24 28(a) – (d) 29(c) 32 41(a) 50 52(b) 7 – Sch 1 8 – Sch 1 19(a) & (c) – Sch 1 20 – Sch 1 21 – Sch 1 22 – Sch 1	Short title and commencement 7(g) 8(3) 18A(1)(b) & 2(b) 24 26(2)(a) 27 28(2)(a) & (b) 28A(5) & (6) 28C 29A(1) 30(5) 32C(4) & (7) 38(1) 43 51(4) By-law 18(8) By-law 20(1) By-law 38(1) & (5) By-law 43(3) By-law 44 By-law 45(4)

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(3) Immunities <ul style="list-style-type: none"> In line with the immunity protection now provided to persons involved in practice reviews, provisions added to provide immunity to persons involved in statutory investigation and disciplinary cases as well as members of the Council, its committees, the Registrar and other persons in performing duties on behalf of the HKSA in good faith. 	—	—	44 48 53	41B 42H 52 & 53

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(4) Change of name of HKSA to HKICPA and change of the designation of its members. For details of the new membership designation and the new description of practice units under the Bill, please refer to Annex A attached.	2	Long Title	7(a) & (c)	7(a) & (h)
	3	Interpretation section 2	10(a) 10(c)	10(1) 10(2A)
	4	Heading of Part II	10(e)	10(4)
	5	3(b)	17	22
	9 – Sch. 1	By-law 22	22(a) – (d)	28A(1), (2) & (3)
	11 – Sch. 1	By-law 25	23	28B
			25	28D
			27	29(1) & (3)(a)(ii)
			29(a)	30(2)
			* 29(b)	* 30(4)
			30	31
			31	Heading of section 32
			43(d)	41A
			49	42
			51	45
			52(a)	51(1)(e)
		54(1)	2; 8(3); 9(4); 10(2A); 11(1)&(2); 13(1)(c)&(2); 14; 15(1)(f); 18A(1); 24(1); 25(1); 27(1)(a), (2), (3), (4), (5), & (6); 28(1) & (2); 28C; 28E(2); 28G(1)&(2); 29(1); 29A(1); 30(1), (2) & (6); 31(5)(a); 32(3)(a); 32B(1)(d); 32C(5)(a); 32D(5)(a);	

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	Clause number reference (Bill)	Section number reference (Ordinance/By law)	Clause number reference (Bill)	Section number reference (Ordinance/By-law)
			54(2)	32D(5)&(7); 32E(2); 32F(3); 33B(2) & 3(a)(i); 34(1)(a) &(b)(v), (1A) & (2); 35(1)(a), (b), (c) & (d); 37(2); 38(2); 40; 41(1)(b); 41A; 42C(1) & (2)(a); 42(1)(f), (g) & (i) & (2); 45; 48; 49(1) & (3); 51(1)(e)(i) 2; 3; 7(a) & (h); 8(1)(l) & (3); 10(4); 13(1); 16(3); 18(2); 32(1)(a) & (3)(a); 32A(2).
			54(3)	49(2)
			54(4)	Headings of Part IV & VA
			54(5)	Headings of sections 14, 39 & 40
			54(6)	Heading of section 13
			54(7)	2; 4(1); 5; 6(1)&(2); 7; 8(1),(2)&(3); 9(1),(2),(3)&(4); 10(2)(c); 12(1); 13(1); 16(1), (2), (5), (6) & (7); 17(1)&(2); 18(1)(a), (c), (e), (f), (i), (j),

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				(k) & (l) & (2); 19(1), (2) & (3); 20; 21(2); 22(3); 24(1A); 27(2)(b); 32B(2); 32E(1)(d); 35(1)(c); 42D(1)(d); 42F; 48; 49(1) and (3)(c). 54(8) Heading of Part III 54(9) Heading of sections 5 & 49 12 – Sch 1 By-law 28(c) 13 - Sch 1 By-law 29 14 – Sch 1 By-law 29A 19(b) – Sch 1 By-law 38(4) 23(1) – Sch 1 By-law 2(1A), (1), (2)(b) & (5); 3(1) & (3); 14; 15(1), (2)(a) & (b) & (4); 17(2)(b); 18(2) & (8); 22(1), (2) & (3) (other than paragraph (3)(b)); 26(2)(a); 28; 29; 34(1)(d); 41(1); 43(1). 23(2) – Sch 1 By law 2(1); 15(4)(b); 16(1) & (3); 17(1A) & (2); 18(3)(a) & (b) & (6); 20(1) & (1A); 26(1) & 1(A); 45(2) & (4)

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	Clause number reference (Bill)	Section number reference (Ordinance/By law)	Clause number reference (Bill)	Section number reference (Ordinance/By-law)
			23(3) – Sch 1	Heading of Part V of By-laws
			23(4) – Sch 1	Heading of By-law 41
			23(5) – Sch 1	By-law 2(1A); 3(4A) & (5); 4(2); 11(1) & (2); 13(1) & (2); 14; 15(2)(d); 16(1); 17(1), (1A) & (2); 18(1), (9) & (11); 22(2)(c); 30; 31(1)(c)(ii); 33(1), (2) & (3); 35(1)(ii); 37(a); 38(1), (2) & (5); 39(1)(a) & (b); 40(1) & (2)(a); 41(1); 42(1); 46(1); 47
			23(6) – Sch 1	Heading of Part III
			23(7) – Sch 1	Headings of by-laws 11, 14, 16 & 17

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(5) Consequential amendments to other Ordinances	—	—	Schedule 2: Clauses 1 - 54	—

27 May 2004

Annex A

Membership Designation and the Description of Practice Units under the Professional Accountants (Amendment) Bill 2004

	<u>Category</u>	<u>Long Form</u>	<u>Short form</u>	<u>Chinese</u>
I. Member	• Associate	Certified Public Accountant	CPA	會計師
	• Fellow	Fellow of the Hong Kong Institute of Certified Public Accountants	FCPA	資深會計師
II. Practising Certificate Holder	• Associate Member (Note 1)	Certified Public Accountant (Practising)	CPA (Practising)	執業會計師
	• Fellow Member (Note 2)	Fellow of the Hong Kong Institute of Certified Public Accountants (Practising)	FCPA (Practising)	資深執業會計師

III. Practice Units

	<u>English</u>	<u>Chinese</u>
(A) Practising in own Name	[Same as Practising Certificate Holder in II above.]	
(B) Firm (Note 3)	ABC & Co., Certified Public Accountants (Practising); or	ABC 會計師事務所(or 會計師行); 或
	A & B, Certified Public Accountants (Practising)	A & B 會計師事務所(or 會計師行)
(C) Corporate Practice (Note 3)	ABC Ltd., Certified Public Accountants (Practising); or	ABC 會計師事務所(or 會計師行)有限公司; 或
	A & B Certified Public Accountants (Practising) Ltd.	A & B 會計師事務所(or 會計師行)有限公司

Notes

- (1) The addition of the word “(Practising)” and “執業會計師” after the designation or otherwise is at the discretion of the practising certificate holder.
- (2) The designation of a Fellow who holds a practising certificate has not been specified in the Bill, but Fellow Members may use the designation “FCPA (Practising)” or “資深執業會計師” under a Council Ruling. The Society will seek future amendments to specify this designation in the By-Laws.
- (3) Firms and corporate practices may use the description “Certified Public Accountants (Practising)” or in Chinese “會計師事務所” or “會計師行” in or after their name if they elect to do so. In other words, this is an option, not a statutory requirement, for the firms and corporate practices in naming themselves as such and therefore, for those whose existing Chinese name contains the description other than the aforementioned ones (e.g. “會計師樓”), they do not need to change their name if they choose not to do so.