

LEGISLATIVE COUNCIL BRIEF

Professional Accountants Ordinance (Chapter 50)

PROFESSIONAL ACCOUNTANTS (AMENDMENT) BYLAW 2010

INTRODUCTION

A At the meeting of the Executive Council on 20 April 2010, the Council ADVISED and the Chief Executive ORDERED that the Professional Accountants (Amendment) Bylaw 2010, at **Annex A**, should be made under section 8 of the Professional Accountants Ordinance.

JUSTIFICATIONS

Powers of the Institute

2. The Hong Kong Institute of Certified Public Accountants (the Institute) is a professional body established under the Professional Accountants Ordinance (the Ordinance), with a wide range of powers and responsibilities conferred upon it for the registration and training of certified public accountants (CPAs), maintenance of accounting, auditing and assurance, and ethical standards, and regulation of the practice of the accountancy profession. Under section 8(1) of the Ordinance, the Institute may, subject to the approval of the Chief Executive in Council, make bylaws on specified matters.

Voting at meetings of Council

3. Bylaw 8 that governs the voting by Council members at the Institute's Council meeting does not contain any express provision that governs voting via tele-/video-conferencing or other electronic means. In

order to facilitate the conduct of Council business, the Institute intends to amend the Professional Accountants Bylaws (the Bylaws) to make it clear that a Council member may vote at a Council meeting if he participates by telephone, video conferencing or other electronic means, provided that he can hear and be heard by others present. The Institute's intention is to accept voting by electronic means if the Council member concerned who is not able to attend a Council meeting in person dials in and stays on line throughout the discussion of an agenda item that Council resolves to put to vote, noting that Council members are volunteers who have busy schedules and many are frequent travellers. This arrangement to accept voting by electronic means will apply where voting does not require a secret ballot.

4. The proposed arrangement will provide greater flexibility to Council members and will better reflect present-day needs. The Institute will also be able to benefit from the fuller participation of those Council members who are not physically present at the meeting.

CPA and Fellows

5. Under the current bylaw 22, a member of the Institute who has not less than seven years of membership with the Institute or with an overseas accountancy body recognized by the Institute may apply to become a Fellow of the Institute, in the latter case regardless of whether he has joined the Institute for not less than seven years. Fellows of the Institute are entitled to use the initials "FCPA". Other than the difference in designation and payment of an application fee, a member and a Fellow have the same rights, benefits and obligations.

6. The Institute considers that the existing arrangement reflects the historical background when it did not offer its own professional examinations for qualifying individuals as members, and unilaterally recognized certain overseas accountancy bodies and their members as Institute members without further examination, including directly recognizing Fellowship status. The situation has changed since 1999, when the Institute launched its own professional examinations and started to sign reciprocal membership agreements with overseas accountancy bodies which are of a comparable status as the Institute in 2002.

7. The Institute has reviewed its eligibility criteria for members to advance to Fellowship and proposed that, in line with the practice of a number of chartered accountancy bodies in overseas jurisdictions, including Australia, Ireland and the United Kingdom, only those who have been members of the Institute for not less than seven years may become Fellows of the Institute. It is noted that in 2009, the majority of members who gained fellowship status of the Institute did so by virtue of their seven-year membership with the Institute.

Restriction on registration as a certified public accountant

8. Under the current bylaw 41, registration as a CPA requires at least 5 years' practical experience and the Institute's Council may reduce the practical experience required of the following two categories by not more than two years, namely, the holder of a degree awarded by an educational institute approved by the Council, and the holder of a diploma in accountancy awarded by an educational institute approved by the Council who has attended a full time course for not less than three years.

9. The Institute proposed that the provision for reduction of the practical experience duration should be extended to cover Hong Kong Institute of Accredited Accounting Technicians ("HKIAAT") graduates who do not hold a degree but have met the entry requirement of the Institute's Qualification Programme ("QP"), viz. those who have passed the HKIAAT's Professional Bridging Examination¹, and passed the QP. HKIAAT was set up by the Institute in 1988 to train accounting technicians and promote their competencies. The Institute considers that the above-mentioned category of HKIAAT graduates have similar competency level with those degree-holding QP graduates, and hence should be eligible for a similar reduction in the practical experience requirement by not more than two years.

¹ This proposal also covers persons who graduated from the Institute's accredited Foundation Programmes offered by the Hong Kong Polytechnic University and the Open University of Hong Kong, which was the entry requirement of the Institute's QP before the introduction of Professional Bridging Examination by HKIAAT in 2005.

Making of the Bylaw

10. The Professional Accountants (Amendment) Bylaw 2010 (the Amendment Bylaw) was made by the Institute at its Annual General Meeting (AGM) held on 11 December 2009 in accordance with section 8(3) of the Ordinance, and has been duly certified by its President in accordance with section 8(2) of the Ordinance. A copy of section 8 of the Ordinance is at **Annex B**.

B

THE AMENDMENT BYLAW

11. **Section 2** amends bylaw 8 by adding a new paragraph (3) to enable the Institute's Council members to vote at Council meetings by telephone, video conferencing or other electronic means. **Section 3** amends bylaw 22(3) to specify that only members who have not less than seven years' membership with the Institute may apply to become a Fellow of the Institute. Amendment to bylaw 22(2) is a consequential amendment to by-law 22(3). **Section 4** amends by-law 41(2) to the effect that the provision for a reduction for not more than two years in the practical experience requirement for registration as a CPA also covers HKIAAT graduates who have met the Institute's QP entry requirement and passed the QP.

12. The relevant existing provisions of bylaws 8, 22 and 41 are at **Annex C**.

C

LEGISLATIVE TIMETABLE

13. Subject to Members' approval of the Amendment Bylaw, the legislative timetable will be as follows –

Publication in the Gazette	30 April 2010
Tabling before the Legislative Council	5 May 2010
Commencement of the Amendment Bylaw	1 July 2010

IMPLICATIONS OF THE AMENDMENT BYLAW

14. The Amendment Bylaw is in conformity with the Basic Law, including the provisions concerning human rights, and will not affect the current binding effect of the Ordinance. It has no financial, economic, civil service, productivity, environmental or sustainability implications.

PUBLIC CONSULTATION

15. Members of the Institute did not raise any negative comments on the proposed amendments which were approved at the Institute's AGM on 11 December 2009 unanimously. The amendments to the By-laws mainly concern the administrative matters of the Institute and qualification requirements to be registered as a CPA. The general public is unlikely to be affected or interested.

PUBLICITY

16. A Legislative Council brief will be issued. A spokesman from the Institute will be available for answering any media enquiries.

ENQUIRIES

17. Enquiries on this brief should be directed to Miss Amy Yeung, Assistant Secretary for Financial Services and the Treasury (Financial Services), at 2527 3102 or Ms Winnie Cheung, Chief Executive and Registrar of the Institute, at 2287 7032.

Financial Services and the Treasury Bureau
27 April 2010

LEGISLATIVE COUNCIL BRIEF

PROFESSIONAL ACCOUNTANTS (AMENDMENT) BYLAW 2010

Annex A	-	Professional Accountants (Amendment) Bylaw 2010
Annex B	-	Section 8 of the Professional Accountants Ordinance
Annex C	-	Relevant sections of the existing legislation to be amended

PROFESSIONAL ACCOUNTANTS (AMENDMENT) BYLAW 2010

(Made by the Hong Kong Institute of Certified Public Accountants under section 8 of the Professional Accountants Ordinance (Cap. 50) with the approval of the Chief Executive in Council)

1. Commencement

This Bylaw comes into operation on 1 July 2010.

2. Voting at meetings of Council

By-law 8 of the Professional Accountants By-laws (Cap. 50 sub. leg. A) is amended by adding –

“(3) A member of the Council is to be regarded as being present at a meeting of the Council if he participates in the meeting by telephone, video conferencing or other electronic means, provided he is able to hear all the other members present at the meeting and all of them are able to hear him.”.

3. CPA and Fellows

(1) By-law 22(2) is amended in the English text by repealing “the conditions” and substituting “the condition”.

(2) By-law 22(3) is repealed and the following substituted –

“(3) The condition referred to in paragraph (2) is that the certified public accountant has been a certified public accountant or professional accountant (or a combination of both) for not less than 7 years.”.

4. Restriction on registration as a certified public accountant

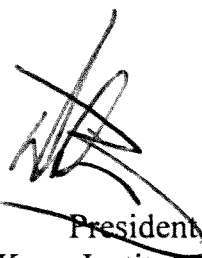
By-law 41(2) is repealed and the following substituted –

“(2) The Council may, in the case of –

- (a) the holder of a degree awarded by an educational institute approved by the Council;
- (b) the holder of a diploma in accountancy awarded by an educational institute approved by the Council who has attended a full time course for not less than 3 years; or
- (c) a registered student who passes an entry examination approved by the Council and the “HKSA or HKICPA professional programme and examinations” held on or after 1 January 1999,

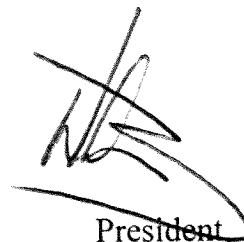
reduce the period of practical experience required by paragraph (1) by any amount as it thinks fit, not being more than 2 years.”.

Made by the Hong Kong Institute of Certified Public Accountants on
11 December 2009.



President
Hong Kong Institute of Certified
Public Accountants

Certified by the President of the Hong Kong Institute of Certified Public Accountants on 11 December 2009.



President
Hong Kong Institute of Certified
Public Accountants

Approved by the Chief Executive in Council on 2010.

Clerk to the Executive Council

COUNCIL CHAMBER

2010

Explanatory Note


This Bylaw amends by-laws 8, 22 and 41 of the Professional Accountants By-laws (Cap. 50 sub. leg. A) –

- (a) to enable members of the Council of the Hong Kong Institute of Certified Public Accountants (“the Institute”) to vote at meetings of the Council in person, or by telephone, video conferencing or other electronic means;

- (b) to allow only members who have 7 years' membership with the Institute, and not other accountancy bodies, to advance to fellowship; and
- (c) to bring the practical experience requirement for the Institute's membership for the Hong Kong Institute of Accredited Accounting Technicians graduates who do not hold a degree but have met the Institute's Qualification Programme ("QP") graduate entry requirement and passed the QP, in line with that for degree-holding QP graduates who are required to possess 3 years of practical experience.

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Chapter:	50		Title:	PROFESSIONAL ACCOUNTANTS ORDINANCE	Gazette Number:	23 of 2004
Section:	8		Heading:	Power of Institute to make by-laws	Version Date:	08/09/2004

(1) The Institute may, subject to the approval of the Chief Executive in Council, make by-laws-
(Amended 31 of 1999 s. 3; 23 of 2004 s. 54)

- (a) regulating the practice of accountancy by professional accountants in Hong Kong;
- (b) (Repealed 22 of 1977 s. 3)
- (c) regulating meetings of the Institute and the Council;
- (d) governing the registration, training and education of students; (Amended 22 of 1977 s. 3)
- (e) governing the discipline of students;
- (f) empowering the Council to make rules prescribing examinations of the Institute, the fees payable therefor and all matters incidental to the holding thereof including exemptions or concessions which may be granted in respect of the examinations; (Amended 22 of 1977 s. 3)
- (g) regulating the conditions on which examiners shall be engaged;
- (h) regulating the appointment of an auditor;
- (i) providing for the use and custody of the common seal of the Institute;
- (j) providing for the custody, investment and expenditure of the funds and the management of property of the Institute; (Amended 23 of 2004 s. 54)
- (k) (Repealed 14 of 1985 s. 2)
- (l) specifying the designations for certified public accountants and the initials by which certified public accountants may be known; (Amended 23 of 2004 s. 54)
- (la) providing for the admission of persons as affiliates of the Institute and specifying the designations for such affiliates and the initials by which such affiliates may be known; (Added 23 of 2004 s. 8)
- (m) (Repealed 22 of 1977 s. 3)
- (n) regulating the nomination and election of elected members of the Council;
- (o) conferring on members of the Council and employees and auditors of the Institute a right of indemnity against the Institute for actions brought against them for things done by them in the execution of the Ordinance; (Amended 23 of 2004 s. 54)
- (oa) providing for and regulating the provision and retention of information, the giving of any notice and communication, the election of any person, the voting on any matter, the signature of any person, under or pursuant to this Ordinance, by electronic means; (Added 23 of 2004 s. 8)
- (p) prescribing anything which is to be or may be prescribed by the Ordinance;
- (q) generally for the better carrying into effect of the purposes of this Ordinance and for the furtherance of the objects of the Institute.

(2) A copy of any by-laws made by the Institute shall, as soon as practicable after the making thereof, be duly certified by the President and transmitted by him for the approval of the Chief

Executive in Council. (Amended L.N. 137 of 1981; 31 of 1999 s. 3)

(3) A by-law under subsection (1) may be made only by a majority of two-thirds of the certified public accountants present in person or by proxy and voting at a general meeting of the Institute convened for the purpose of making the by-laws. Notice of such meeting and of the by-laws to be proposed thereat shall be sent to every certified public accountant not less than 21 days before the date fixed for the meeting, but the non-receipt of such a notice by any certified public accountant shall not invalidate the proceedings thereat. (Amended 22 of 1977 s. 3; 23 of 2004 s. 8)


(4) (Repealed 32 of 2000 s. 48)

(Amended 23 of 2004 s. 54)

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Chapter: 50A Title: PROFESSIONAL Gazette Number:
Bylaw:  8 Heading: ACCOUNTANTS BY-LAWS
Version Date: 30/06/1997

- (1) Subject to section 4(6) of the Ordinance, a question arising at a meeting of the Council shall be decided by a majority vote of the members present and voting.
- (2) At a meeting of the Council, each member present shall have one vote on any question before the Council and, in the event of an equality of votes, the chairman shall have a second or casting vote.

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Chapter:	50A	Title:	PROFESSIONAL ACCOUNTANTS BY-LAWS	Gazette Number:	23 of 2004
Bylaw:	PDF 22	Heading:	CPA and Fellows	Version Date:	08/09/2004

PART V

DESIGNATION OF CERTIFIED PUBLIC ACCOUNTANTS

(23 of 2004 s. 55)

(1) Subject to paragraph (2), a certified public accountant shall- (23 of 2004 s. 55)

- (a) be designated as a Certified Public Accountant (會計師);
- (b) be entitled to use the initials "CPA" after his name; and
- (c) be issued by the Registrar with a certificate, signed by the President, certifying that he is a certified public accountant.

(2) A certified public accountant who satisfies the conditions specified in paragraph (3) shall on application to the Council in such form as it may specify and on payment of the fee fixed by the Council- (L.N. 137 of 1977; L.N. 395 of 1981; 23 of 2004 s. 55)

- (a) be designated as a Fellow of the Hong Kong Institute of Certified Public Accountants (資深會計師);
- (b) be entitled to use the initials "FCPA" after his name; and
- (c) be issued by the Registrar with a certificate, signed by the President, certifying that he is a Fellow of the Institute.

(3) The conditions referred to in paragraph (2) are that the certified public accountant- (23 of 2004 s. 55)


- (a) has been a certified public accountant for not less than 7 years; or
- (b) has, in the opinion of the Council, a standing equivalent to that of a professional accountant before the relevant day or of a certified public accountant for not less than 7 years, by reason of his standing as a member of-
 - (i) another accountancy body with which there is in force an agreement of mutual or reciprocal recognition between the accountancy body and the Institute; or
 - (ii) another accountancy body accepted by the Council by resolution approved by two-thirds of its members as being of a standard similar to that of the Institute. (23 of 2004 s. 55)

(23 of 2004 s. 55)

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Chapter:	50A	Title:	PROFESSIONAL	Gazette Number:	23 of 2004
			ACCOUNTANTS BY-LAWS		
Bylaw:	41	Heading:	Restriction on registration as a certified public accountant	Version Date:	08/09/2004

Restriction on registration as a certified public accountant

(23 of 2004 s. 55)

(1) Subject to paragraph (2), neither a registered student who passes the examinations of the Institute nor a member of an accountancy body accepted by the Council under section 24(1A) shall be registered as a certified public accountant unless he has not less than 5 years practical experience. (23 of 2004 s. 55)

(2) The Council may, in the case of the holder of a degree awarded by an educational institute approved by the Council, or the holder of a diploma in accountancy awarded by an educational institute approved by the Council who has attended a full time course for not less than 3 years, reduce the period of practical experience required by paragraph (1) by such amount as it thinks fit, not being more than 2 years. (L.N. 137 of 1977)

(3) In this by-law-

"practical experience" (實際經驗) means experience whether in Hong Kong or elsewhere acceptable to the Council as an employee of person practising public accountancy or in the financial or management accountancy department of an organization in industry, commerce or the public service or in a similar department.

(96 of 1994 s. 45)

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