

**立法會**  
*Legislative Council*

LC Paper No. LS12/18-19

**Paper for the House Committee Meeting  
on 16 November 2018**

**Legal Service Division Report on  
Professional Accountants (Amendment) Bill 2018  
(Member's Bill)**

**I. SUMMARY**

- 1. The Bill**

The Bill is a Member's Bill introduced with the written consent of the Chief Executive. The Member in charge is Hon Kenneth LEUNG.

The Bill proposes to amend the Professional Accountants Ordinance (Cap. 50) to tighten up restrictions on the use of misleading descriptions by individuals, firms and companies that are not certified public accountants or practice units registered under Cap. 50.
- 2. Public Consultation**

Approval from members of the Hong Kong Institute of Certified Public Accountants to support the Bill was obtained at its annual general meeting on 14 December 2017. There is no information on whether public consultation has been conducted.
- 3. Consultation with LegCo Panel**

The Panel on Financial Affairs was consulted at its meeting of 5 January 2018. Members discussed issues including the possible impact of the Bill on small accounting firms, and had no objection to the introduction of the Bill into the Legislative Council.
- 4. Conclusion**

In view of the issues raised at the above Panel meeting, Members may consider whether to form a Bills Committee to study the Bill in detail.

## **II. REPORT**

The Bill is scheduled for first reading at the Council meeting of 14 November 2018. No Legislative Council ("LegCo") Brief on the Bill has been issued. For more information, Members may refer to the background brief on the Bill (LC Paper No. CB(1)401/17-18(03)) provided by Hon Kenneth LEUNG for discussion at the meeting of the Panel on Financial Affairs ("FA Panel") on 5 January 2018 ("Background Brief").

### **Object of the Bill**

2. The Bill proposes to amend the Professional Accountants Ordinance (Cap. 50) to tighten up restrictions on the use of misleading descriptions by individuals, firms and companies that are not certified public accountants or practice units registered under Cap. 50.

### **Background**

3. This is a Member's bill introduced with the written consent of the Chief Executive. The Member in charge is Hon Kenneth LEUNG.

4. Section 42(1) of Cap. 50 provides, among others, that an individual who is not a certified public accountant ("CPA") or a body corporate<sup>1</sup> or a firm not being a practice unit registered under Cap. 50 is prohibited to use in connection with their business, trade, calling, profession or in their names certain specified descriptions. The prohibited descriptions include "certified public accountant", the initials "CPA" or the characters "會計師" or any words, initials or abbreviations of words with the intention of causing, or in a way which may reasonably cause, a person to believe that they are CPAs or practice units registered under Cap. 50.

5. Doing any of the prohibited acts under section 42(1) (except section 42(1)(l)) is an offence which is punishable by a fine at level 4 (\$25,000) and imprisonment of 12 months in the case of an individual, and by a fine at level 4 in the case of a firm of CPAs or a body corporate.

6. According to paragraphs 7 to 12 of the Background Brief, the Bill is mainly introduced to address concerns about crimes involving financial intermediaries operating under the name of, among others, an "accounting firm" and to enable the general public to identify whether a person or a company is qualified to provide professional auditing service under Cap. 50.

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<sup>1</sup> The prohibition in relation to the use of specified descriptions by a body corporate not being a practice unit registered under Cap. 50 was added by the Professional Accountants (Amendment) Ordinance 2013.

## **Provisions of the Bill**

7. The Bill proposes to amend section 42(1) of Cap. 50 to:
- (a) prohibit a person who is not a CPA from using nine additional specified descriptions which are similar in meaning to "professional accountant" or "CPA" in connection with his/her business, trade, calling or profession (clause 3(1) to (4) of the Bill);
  - (b) prohibit a body corporate, not being a practice unit registered under Cap. 50 ("corporate practice"), from using in its name 13 additional specified descriptions which are similar in meaning to "professional accountant" or "CPA" (clause 3(5) to (10) of the Bill);
  - (c) prohibit a firm which is not a practice unit registered under section Cap. 50, other than a sole proprietorship of a CPA, from using in its name 16 specified descriptions, with the effect that the prohibited descriptions in relation to such a firm would be the same as those in relation to a corporate practice (clause 3(11) of the Bill); and
  - (d) increase the level of fine payable for certain offences under section 42(1) of Cap. 50 from level 4 (\$25,000) to level 5 (\$50,000) (clause 3(12) and (14) of the Bill).
8. A list of specified descriptions under the existing Cap. 50 and the additional descriptions proposed in the Bill is at Annex.

9. The Legal Service Division has sought clarification from Hon Kenneth LEUNG on whether the proposed increase in the level of fine is intended to apply to all the offences under section 42(1) of Cap. 50. In response, Mr LEUNG confirmed that the legislative intent is to raise the penalty level for offences related to the prohibited use of misleading descriptions only and appropriate amendments would be proposed to the Bill to clarify the legislative intent.

## **Commencement**

10. There is no commencement provision in the Bill. By virtue of section 20(2)(a) of the Interpretation and General Clauses Ordinance (Cap. 1), the Bill, if passed, would commence on the day on which it is published in the Gazette.

## **Public Consultation**

11. According to paragraph 15 of the Background Brief, approval from members of the Hong Kong Institute of Certified Public Accountants to support the Bill was obtained at its annual general meeting on 14 December 2017. There is no information on whether any public consultation has been conducted.

## **Consultation with LegCo Panel**

12. As advised by the Clerk to the FA Panel, the Panel was briefed by Hon Kenneth LEUNG at its meeting of 5 January 2018 on his proposed amendments to Cap. 50 to tighten up the use of specified descriptions which were similar in meaning to "professional accountant" or "certified public accountant". Members discussed issues including the impact of the Bill on small firms providing accounting, company or bookkeeping services, and whether qualified accountants in other jurisdictions would be prohibited from using the term "professional accountant" in carrying out business in Hong Kong after enactment of the Bill.

## **Conclusion**

13. The Legal Service Division will study the proposed amendments to the Bill mentioned in paragraph 9 above. Meanwhile, Members may consider whether to form a Bills Committee to study the Bill in detail in view of the issues raised at the FA Panel meeting.

Encl.

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**List of specified descriptions under the existing Cap. 50 and  
the additional descriptions proposed in the Bill**

	Specified descriptions under Cap. 50	Additional specified descriptions proposed in the Bill
Individual	As provided in section 42(1)(h)(i) – <ol style="list-style-type: none"> <li>1. professional accountant</li> <li>2. certified public accountant</li> <li>3. certified accountant</li> <li>4. 專業會計師</li> <li>5. 會計師</li> <li>6. 註冊會計師</li> </ol>	As added by clause 3(1) to (4) – <ol style="list-style-type: none"> <li>1. registered accountant</li> <li>2. professional accounting</li> <li>3. registered accounting</li> <li>4. certified public accounting</li> <li>5. certified accounting</li> <li>6. 專業會計</li> <li>7. 註冊會計</li> <li>8. 認可會計</li> <li>9. 執業會計</li> </ol>
Body corporate	As provided in section 42(1)(ha)(iv) – <ol style="list-style-type: none"> <li>1. certified public accountant</li> <li>2. CPA</li> <li>3. 會計師</li> </ol>	As added by clause 3(5) to (10) – <ol style="list-style-type: none"> <li>1. professional accountant</li> <li>2. certified accountant</li> <li>3. registered accountant</li> <li>4. professional accounting</li> <li>5. registered accounting</li> <li>6. certified public accounting</li> <li>7. certified accounting</li> <li>8. 專業會計師</li> <li>9. 註冊會計師</li> <li>10. 專業會計</li> <li>11. 註冊會計</li> <li>12. 認可會計</li> <li>13. 執業會計</li> </ol>
Firm (except sole proprietorship of a certified public accountant)	Not provided in the existing section 42(1)	As added by clause 3(11) – <ol style="list-style-type: none"> <li>1. professional accountant</li> <li>2. certified public accountant</li> <li>3. certified accountant</li> <li>4. registered accountant</li> <li>5. professional accounting</li> <li>6. registered accounting</li> <li>7. certified public accounting</li> <li>8. certified accounting</li> <li>9. CPA</li> <li>10. 專業會計師</li> <li>11. 會計師</li> <li>12. 註冊會計師</li> <li>13. 專業會計</li> <li>14. 註冊會計</li> <li>15. 認可會計</li> <li>16. 執業會計</li> </ol>