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THE BAHAMAS INSTITUTE OF CHARTERED ACCOUNTANTS ACT, 2015

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No. 13 of 2015

THE BAHAMAS INSTITUTE OF CHARTERED ACCOUNTANTS ACT, 2015

AN ACT TO REPEAL AND REPLACE THE PUBLIC ACCOUNTANTS
ACT AND TO REFORM THE LAW REGULATING THE PRACTICE OF
PUBLIC ACCOUNTING

[Date of Assent - 12th June, 2015]

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as The Bahamas Institute of Chartered Accountants Act, 2015.
- (2) This Act shall come into force on a day to be appointed by the Minister by Notice in the Gazette.

2. Interpretation.

In this Act —

- “**Appeal Committee**” means the Committee constituted under section 23;
“**approved institute**” means an institute, association or other body specified in the *Second Schedule*;
“**associate**” means an associate of the Institute pursuant to section 11;
“**Council**” means the Council of the Institute referred to in section 5;
“**Disciplinary Committee**” means the Committee constituted under section 22;

- “firm of public accountants”** means a firm of accountants whereby each sole practitioner or proprietor, partner, or with respect to a body corporate, each equity owner engages in public practice;
- “former Institute”** means The Bahamas Institute of Chartered Accountants established pursuant to section 3 of the Public Accountants Act (*Ch. 364*);
- “Institute”** means The Bahamas Institute of Chartered Accountants preserved and continued under section 3;
- “Investigations Committee”** means the Committee constituted under section 21;
- “licence”** means a licence issued under section 13;
- “member”** means a member of the Institute pursuant to section 10;
- “permanent resident”** has the meaning ascribed to it under the Immigration Act (*Ch. 191*);
- “public accountant”** means a person licensed under section 13 to engage in public practice;
- “public practice”** means —
- (a) engaging in auditing or other attest services;
 - (b) executing or issuing any account, report, certificate or other return concerning the statement of a person’s financial affairs, whereby a third party has reasonable grounds to believe that reliance may be placed on the execution or issuance of same;
 - (c) representing oneself as being available to undertake any of the services referred to in paragraphs (a) or (b), whether by using a description or designation for accountant or otherwise,
whether for reward or otherwise and other than as an employee in the public service;
- “Public Practice Committee”** means the committee appointed pursuant to section 18(1);
- “register”** means the register provided for in section 9;
- “Registrar”** means the Registrar of the Institute appointed under section 8;
- “student”** means a student of the Institute pursuant to section 12;
- “work permit”** means a permit issued in accordance with the provisions of the Immigration Act (*Ch. 191*) permitting the holder thereof to engage in gainful occupation.

PART II – CONTINUANCE OF THE BAHAMAS INSTITUTE OF CHARTERED ACCOUNTANTS

3. Continuance of The Bahamas Institute of Chartered Accountants.

- (1) The body known and existing as The Bahamas Institute of Chartered Accountants immediately before the coming into operation of this Act is hereby preserved and continued as a body corporate for the purposes of this Act with power to acquire, hold and dispose of land and other property of whatever kind, to enter into contracts, to sue and be sued and to do all things necessary for the purposes of the Act.
- (2) The Institute shall consist of such persons who immediately before the date of commencement of this Act were members, licensees, associates or students of the Institute in good standing, and of all persons who may hereafter be registered as members, associates or students under the provisions of this Act.

4. Objects of the Institute.

The objects of the Institute are —

- (a) to govern the discipline, and regulate the professional conduct of members, licensees, associates and students;
- (b) to promote the best standards of practice in financial reporting and in the expression of professional opinions in relation thereto;
- (c) to promote and protect the welfare and interest of the Institute and the accounting profession;
- (d) to promote and increase the knowledge, skill and proficiency of members, associates and students in all things relating to the business or profession of accountants;
- (e) to make provision for the training, education and examination of persons engaging in or intending to engage in the accounting profession;
- (f) to provide information on accounting by way of lectures, discussions, and the dissemination of literature and correspondence;
- (g) to do all such things as are incidental to the aforesaid objects or as the Institute may think conducive to the attainment of those objects or any of them.

5. Council of Institute.

- (1) The Council shall continue to be the governing body of the Institute which shall be responsible for the management of the affairs of the Institute.

- (2) The provisions of the *First Schedule* shall have effect with respect to the constitution and procedure of the Council and otherwise in relation thereto.
- (3) The Minister, upon the recommendation of the Council, may amend the *First Schedule* by order.

6. Funds of the Institute.

- (1) The funds of the Institute shall consist of such moneys as may be lawfully paid to the Institute.
- (2) The Council shall manage, administer and keep proper accounts of the funds.
- (3) The Institute may, for carrying out its objects borrow money and pay interest thereon out of the funds of the Institute;

7. Audit of accounts.

- (1) The accounts of the Institute shall be audited annually by an auditor appointed in each year by the members, and the report of the audit so made, including a full financial statement of the affairs of the Institute, shall be presented to the members at the next Annual General Meeting.
- (2) A copy of the audited financial statements shall be kept at the office of the Institute and shall at all reasonable times be open to inspection.

PART III - REGISTRATION AND LICENSING

REGISTRATION

8. Appointment of Registrar.

- (1) The Council shall appoint a Registrar who shall hold office for a period of two years and shall perform the functions assigned to the Registrar under this Act.
- (2) The appointment of the Registrar may be extended for a further period of two years.

9. Register of members, firms, etc.

- (1) The Registrar shall keep a register in which shall be entered ----
 - (a) the name of every person —

- (i) who at the date of commencement of this Act was a member of the former Institute in good standing as a member, holder of a licence to engage in public practice, associate or student;
 - (ii) whose application for membership has been approved by the Council;
 - (iii) whose application for registration as an associate has been approved by the Council;
 - (iv) whose application for registration as a student has been approved by the Council;
 - (v) licensed under section 13,
- together with the following particulars in relation to each such person —
- (aa) his residential address;
 - (bb) the address of his place of business (hereinafter referred to as the “registered address”);
 - (cc) his electronic mail address;
 - (dd) the date on which his application was approved by the Council;
 - (ee) if licensed, the date on which the licence was issued;
 - (ff) such other particulars as the Council may require; and
- (b) the name of every firm of public accountants, together with the following particulars —
 - (i) the address of the place of business;
 - (ii) a list of all owners;
 - (iii) a list of the authorized signatories;
 - (iv) the date of formation of the partnership or company;
 - (v) such other particulars as the Council may require.
- (2) The register shall be kept at such place as the Council may from time to time determine and shall be open to inspection by the public at all reasonable times.
 - (3) It shall be the duty of the Registrar to make such alterations in the addresses or other particulars of persons registered under subsection (1) as are necessary and to remove from the register the name of any firm of public accountants which ceases to be a going concern or duly licensed business or any person who is deceased or otherwise ceases to be a member, associate or student or ceases to be licensed.
 - (4) It shall be the duty of any person registered under subsection (1) —

- (a) by 1st January of each year to make a declaration to the Institute in such form as the Institute may prescribe stating —
 - (i) whether or not he is engaged in public practice;
 - (ii) his registered and residential address; and
 - (iii) his electronic mail address.
 - (b) upon the occurrence of any change in his address or in any other particulars relating to him to inform the Registrar of such change.
- (5) Any member who fails to give a registered address in The Bahamas, shall not be entitled to receive notice of any general meetings or other proceedings of the Institute and no such meetings or proceedings shall be invalidated by reason of his not having received such notice as aforesaid.

10. Qualifications for membership to Institute.

- (1) Subject to the provisions of this Act, any person who satisfies the Council that —
- (a) he has attained the age of eighteen years;
 - (b) he is of good character; and
 - (c) he is qualified to be registered as a member in accordance with subsection (2),

is entitled, upon approval by the Council of his application made in the prescribed manner and payment of the prescribed fee, to be registered as a member and upon registration shall receive from the Council a certificate evidencing his membership (in this Act referred to as a “membership certificate”).

- (2) Subject to subsection (3), for the purposes of subsection (1)(c), a person is qualified to be registered as a member if —
- (a) he is a member in good standing of an approved institute or has satisfied the academic and professional requirements for admission to membership in an approved institute and —
 - (i) he has passed the prescribed examinations as the Council may require;
 - (ii) he can show to the satisfaction of Council that he has the approved accountancy experience; and
 - (iii) he satisfies such other requirements as may be prescribed; or
 - (b) he has passed the prescribed qualifying examinations of the Institute and —
 - (i) he can show to the satisfaction of the Council that he has the approved accountancy experience; and
 - (ii) he satisfies such other requirements as may be prescribed.

- (3) Any person referred to in paragraphs (a) or (b) of subsection (2) shall satisfy the Council that —
 - (a) he is a citizen of The Bahamas; or
 - (b) he is a permanent resident —
 - (i) whose permanent residence certificate permits him to engage in gainful occupation; or
 - (ii) in possession of a valid work permit.
- (4) The Council may by Order amend the *Second Schedule*.
- (5) Any person registered as a member may use the designation —
 - (a) “Chartered Accountant” and the initials “C. A.” after his name; or
 - (b) “Fellow Chartered Accountant” and the initials “F.C.A.” after his name,in accordance with regulations as may be prescribed.

11. Qualifications for registration as an associate.

- (1) Subject to the provisions of this Act, any person, not being a citizen of The Bahamas or a permanent resident, who satisfies the Council that —
 - (a) he has attained the age of eighteen years;
 - (b) he is of good character;
 - (c) he is a member in good standing of an approved institute or of an accounting body accepted by the Council by resolution as being of a standard similar to an approved institute; and
 - (d) he is in possession of a valid work permit,is entitled, upon approval by the Council of his application made in the prescribed manner and payment of the prescribed fee, to be registered as an associate and upon registration shall receive from the Council a certificate evidencing that he is an associate (in this Act referred to as a “certificate of association”).
- (2) Notwithstanding subsection (1), any person not being a citizen of The Bahamas or permanent resident, who satisfies paragraphs (a) and (b) of subsection (1) may, upon application in writing and payment of the prescribed fee, be registered as an associate if in the opinion of the Council that person is a fit and proper person to be registered as an associate and is a person whose registration as an associate is in the best interest of the Institute.
- (3) An associate shall not be entitled to vote at any general meeting of the Institute and shall not be eligible to serve on the Council or in any other office of the Institute.

12. Qualifications for registration as a student.

- (1) Any person —
 - (a) pursuing prescribed courses of instruction and systems of training in accounting which shall lead to that person becoming a member of an approved institute, or taking steps to satisfy academic and professional requirements for admission to membership in an approved institute; and
 - (b) who is desirous of being registered as a student with the Institute, shall —
 - (i) apply to the Council for registration as a student in such manner as the Council may specify; and
 - (ii) furnish to the Council such evidence as the Council may require satisfying that he —
 - (aa) is of good character; and
 - (bb) has attained the prescribed standard of education.
- (2) The Council may from time to time appoint examiners and assistants as it considers necessary on such terms as to remuneration and otherwise as the Council may deem fit.
- (3) A student shall not be entitled to vote at any general meeting of the Institute and shall not be eligible to serve on the Council or in any other office of the Institute.

LICENSING

13. Requirements for licence to engage in public practice.

- (1) Any person who being a citizen of The Bahamas or a permanent resident —
 - (a) whose permanent residence certificate permits him to engage in gainful occupation; or
 - (b) in possession of a valid work permit,and who —
 - (i) is registered as a member under section 10;
 - (ii) has satisfied the prescribed public practice requirements; and
 - (iii) engages in public practice either alone or as an owner in a firm or partnership of public accountants,shall make application to the Council for a licence in the prescribed form.

- (2) The Council shall, upon satisfaction of the conditions of subsection (1) being met and on payment of the prescribed fee, issue a licence to that person.
- (3) Notwithstanding subsection (1)(b)(iii), the Council may, with the approval of the Governor-General, make regulations governing members whose practice includes forensic accounting, insolvency, consultancy or other similar services.

14. Duration of licence.

Every licence granted under section 13 shall take effect on the date specified in the licence as the date on which it is to take effect, and subject to the provisions of this Act, shall expire on the 31st day of December of that year unless such licence was cancelled.

15. Renewal of licence.

- (1) A licence shall be renewed by the Council upon —
 - (a) application in the prescribed form;
 - (b) payment of the prescribed fee; and
 - (c) satisfaction of prescribed public practice requirements by the holder thereof,and, subject to the provisions of this Act, such licence shall expire on the 31st day of December next following the date of renewal.
- (2) The annual renewal licence fee is payable not later than the 31st day of January in each year and any person who fails to pay such fee within the time specified shall, in respect of his licence for that year, pay in addition to that fee, such amount as may be prescribed.
- (3) A person who fails to comply with subsection (2) and whose licence expires on the 31st day of December of the immediately preceding year shall not be considered to be unlicensed for the purposes of this Act during the period commencing with that date and ending on the 31st day of January of the succeeding year.
- (4) 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.

16. Acceptance or rejection of application by Council.

- (1) The Council may approve or reject any application made under sections 10, 11, 12, 13 or 15.

- (2) Where under subsection (1) the Council rejects the application of any person, it shall within ten days from the date of such rejection give written notice thereof to the person whose application was so rejected.

17. Publication of list of public accountants.

The Registrar shall cause to be published by notice in the *Gazette* —

- (a) in the month of February in each year, an alphabetical list of all persons who at the 31st day of January in that year obtained a licence;
- (b) as soon as practicable after he obtains a licence, the name of the person obtaining such licence after the 31st day of January in any year.

18. Public Practice Committee.

- (1) There shall be a committee appointed by the Council (to be known as the “Public Practice Committee”)(hereinafter in this section referred to as “the Committee”) which shall have responsibility for ensuring that the high professional standards of the public accounting profession are maintained by the members of the Institute who are licensed to engage in such practice.
- (2) The Council may from time to time, with the approval of the Governor-General, make regulations prescribing the procedures to be followed by, and confidentiality obligations of, the members of the Public Practice Committee and any person acting on its behalf in carrying out its duties under the Act.

PART IV – PROFESSIONAL MISCONDUCT AND DISCIPLINE

PROFESSIONAL MISCONDUCT

19. Professional misconduct.

- (1) For the purposes of this Act, it shall be professional misconduct in the case of any person registered under this Act if such person—
- (a) for the purpose of procuring his registration as a member; associate or student, or of obtaining a licence, makes any statement which to his knowledge is false in any material particular or makes any other misleading or fraudulent representation;

- (b) is guilty of dishonesty or incompetence in the performance of his professional duties or otherwise breaches the prescribed standards of professional conduct;
 - (c) wilfully betrays any professional confidence;
 - (d) knowingly gives a certificate or report with respect to any matter relating to accounting or auditing services which he knows or ought to know is untrue, misleading or otherwise improper;
 - (e) allows a licence issued to him to be used by any other person;
 - (f) not being licensed, uses or has in his possession any document purporting to be a licence;
 - (g) being in possession of a licence, but failing to obtain the requisite work permit under the Immigration Act;
 - (h) is convicted by a court in The Bahamas or elsewhere of a criminal offence which in the opinion of the Council, renders him unfit to be a member, associate, student or licensee;
 - (i) is guilty of improper conduct or association with any client;
 - (j) is otherwise guilty of any act or thing which is contrary to his professional duties and responsibilities or of the failure to do any such act or thing in accordance with such duties and responsibilities whether under this Act or any other law.
- (2) For the purpose of section (1)(c), any disclosure of confidential information by a person registered under this Act pertaining to any client shall not be deemed to be wilful where such disclosure is required by lawful authority, or by the Investigations Committee, the Disciplinary Committee or the Appeal Committee in the proper exercise of their duties.

20. Complaints of professional misconduct.

- (1) A complaint that any person registered under this Act has been guilty of professional misconduct shall be submitted to the Secretary in writing by any person and shall —
- (a) bear the date of the complaint;
 - (b) bear the name, address and signature of the complainant;
 - (c) state the matters of fact on which the complainant relies in support of the complaint.
- (2) The Secretary shall refer the complaint to the Investigations Committee.
- (3) Notwithstanding subsection (1), the Council may initiate the disciplinary process where the Council becomes aware —
- (a) of a breach of the regulations established in the code of conduct;
 - (b) of any other matter that would bring the profession into disrepute;

- (c) of any other matter that the Council considers requires further investigation.

21. Investigations Committee.

- (1) The Investigations Committee has responsibility to consider and decide whether a complaint received ought to be investigated, and if so, whether, at the conclusion of its investigation, to refer the complaint to the Disciplinary Committee, unless the Committee otherwise determines to make a consent order in accordance with regulations as may be prescribed.
- (2) The Investigations Committee may, with the agreement of the person against whom a complaint is made and providing the complainant has been given an opportunity to object, make any one or more of the following orders —
 - (a) if the relevant person is a member, associate or a firm, that —
 - (i) he or it be severely reprimanded or admonished;
 - (ii) he or it be fined a sum not exceeding the amounts as may be prescribed by Council from time to time;
 - (b) if the relevant person is a student, that he be severely reprimanded or admonished.
- (3) The Investigations Committee may also direct that the person to whom the complaint relates pay a sum by way of costs to the Institute in an amount not exceeding twenty thousand dollars.
- (4) Subject to section 9(2) of the First Schedule, the Council shall appoint annually seven persons to the Investigations Committee —
 - (a) two persons, of which shall be non-accountants; and
 - (b) one person, of which shall be an attorney-at-law and who is not a member of the Institute.
- (5) The Chairman and Deputy-Chairman shall be appointed by the Council from among the seven persons for a period of two years, and can be reappointed for a further period of two years.
- (6) A quorum of a meeting of the Investigations Committee shall be four, one person of whom shall not be a member of the accounting profession.
- (7) No member of Council is eligible for service to the Investigations Committee for the period of time during which he remains a member of Council, and for two years thereafter.
- (8) The Council has the power to fill any vacancy on the Investigations Committee and may remove any member of the Investigations Committee by reason that he —

- (a) is no longer a fit and proper person;
- (b) has failed to comply with the sitting requirements on three consecutive occasions, without prior approval of the Council;
- (c) is the subject of disciplinary procedures.

22. Disciplinary Committee.

- (1) The Disciplinary Committee has responsibility to hear and determine cases referred to it by the Investigations Committee.
- (2) Subject to subsection (3), the Council shall appoint not less than nine persons consisting of members and non-accountants for a fixed term of two years to the Disciplinary Panel, from which not less than three and not more than five persons shall be selected by the Council for the Disciplinary Committee, at least one of the non-accountants shall be an attorney-at-law.
- (3) The Chairman and Deputy-Chairman of the Disciplinary Committee shall be appointed by the Council from among the persons appointed in subsection (2) to serve for a period of two years, at the end of which, they can be re-appointed for a further period of two years.
- (4) The Chairman of the Disciplinary Committee shall preside over each disciplinary hearing, or in his absence, the Deputy-Chairman shall preside.
- (5) The Council has the power to fill any vacancy on the Disciplinary Panel and remove any member of the Disciplinary Panel if deemed not to be a fit and proper person.
- (6) No member of Council is eligible for service to the Panel for the period of time during which he remains a member of Council, and for two years thereafter.
- (7) The Council is responsible for ensuring that, during any hearing, the Disciplinary Committee comprise a minimum of three (in which case a quorum will be two) and a maximum of five (in which case a quorum will be three), providing in all cases non-accountants are in the majority.
- (8) The Council shall ensure that the above arrangements, together with such other regulations as Council may prescribe, provide for both legal expertise and outside consultants on the Disciplinary Committee.
- (9) A member of the Investigations Committee shall not sit as a member of the Disciplinary Committee.
- (10) On the hearing of a complaint the Disciplinary Committee shall either dismiss the complaint or make an order of a disciplinary nature, and any such order may provide —

- (a) for the removal from the register of the name of the person to whom the complaint relates;
 - (b) where the person to whom the complaint relates has been issued with a licence, for —
 - (i) the suspension of the licence for a period not exceeding one year; or
 - (ii) the revocation of the licence;
 - (c) for payment of a fine not exceeding the amounts as may be prescribed by Council from time to time; and
 - (d) for payment, by any party to the proceedings, of an award of costs or of such sum as the Disciplinary Committee may consider a reasonable contribution towards the costs incurred in connection with those proceedings.
- (11) Every order made by the Disciplinary Committee under subsection (10) shall state the findings of the Disciplinary Committee of the facts of the case and shall be signed by its Chairman.
- (12) Any payment ordered to be made by any person under paragraph (c) of subsection (10) may be enforced in a summary manner as a judgment debt owed to the Institute.

23. Appeal Committee.

- (1) The Appeal Committee has responsibility to hear and determine appeals on the decisions of the Disciplinary Committee.
- (2) The Council shall appoint not less than nine persons to an Appeal Panel from which not less than three and not more than five persons shall be appointed by the Council to the Appeal Committee.
- (3) No member of the Investigations Committee or the Disciplinary Committee shall sit on the Appeal Committee in connection with the same case.
- (4) The Appeal Committee shall have the same powers as the Disciplinary Committee.
- (5) An appeal by a person who is the subject of a decision made by the Disciplinary Committee may be successful on the ground that —
 - (a) the Committee made an error of fact or law, which would have altered one or more of the findings or orders made in the case;
 - (b) the Committee misinterpreted the regulations of the Institute or any relevant guidance or technical standard, which would have altered one or more of the findings or orders made in the case;

- (c) the Committee failed to take into account certain relevant evidence, which would have altered one or more of the findings or orders made in the case;
 - (d) there is new evidence not previously available, which would have altered one or more of the findings or orders made in the case;
 - (e) the order of the Committee is disproportionate or unreasonable in light of its findings; or
 - (f) the finding or order of the Committee is unjust due to a serious procedural irregularity in the proceedings.
- (6) On the conclusion of the hearing of an appeal, the Appeal Committee may —
- (a) in the case of an appeal against a finding of the Disciplinary Committee —
 - (i) affirm or vary the finding of the Disciplinary Committee;
 - (ii) substitute any other finding which the Disciplinary Committee could have made;
 - (iii) order that the case be heard afresh by the Disciplinary Committee;
 - (b) in the case of an appeal against an order, but not a finding of the Disciplinary Committee —
 - (i) affirm, vary or rescind the order of the Disciplinary Committee;
 - (ii) substitute any other order which the Disciplinary Committee could have made;
 - (iii) order that the case be heard afresh by the Disciplinary Committee.
- (7) The Institute may appeal a decision of the Disciplinary Committee on the grounds that the decision was one that no Committee acting reasonably would have made.

24. Orders of Committees.

- (1) Every order made by a Committee pursuant to sections 21, 22 or 23 shall be signed by the Chairman of the Committee and filed with the Registrar and shall take effect —
 - (a) where no appeal under section 30 is brought against the order within the time limit for the appeal, on the expiration of that time;
 - (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal;

- (c) where such an appeal is brought and is not withdrawn or struck out as aforesaid, if and when the appeal is dismissed and not otherwise.
- (2) Upon the taking effect of an order filed pursuant to subsection (1), the Registrar shall —
 - (a) cause a note of the effect of every such 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 for the removal of the name of any 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.

25. Power to order immediate suspension.

- (1) On making an order under section 22(10) in respect of any person, the Disciplinary Committee if satisfied that to do so is necessary for the protection of members of the public may order that the licence of the person be suspended or revoked forthwith.
- (2) Where an order under subsection (1) is made in respect of any person, his licence shall be suspended, or revoked (that is to say, shall not have effect) from the time when the order is made until the time when the relevant order takes effect in accordance with section 24(1) or an appeal against it under section 30 is determined.
- (3) The Supreme Court may revoke any order made under subsection (1) and the decision of the Court on an application under this subsection shall be final.

26. Suspension of licence of medically unfit person.

- (1) Where the Council is satisfied, by a certificate of two registered medical practitioners, that any holder of a licence is suffering from any illness which renders him unfit to satisfactorily perform his duties as a public accountant, the Council may make an order to suspend his licence for a period not exceeding one year.
- (2) Where an order under subsection (1) is made, the provisions of this Part shall *mutatis mutandis* apply.

27. Removal of name from register.

- (1) The Registrar shall remove the name of any person registered under this Act from the register —
 - (a) upon the application of that person;

- (b) upon the failure of that person to pay any prescribed annual fee within three months after the date on which such fee becomes payable;
 - (c) upon the taking effect of a bankruptcy order against the person either individually or as a partner of a firm or upon his making or agreeing to make any arrangement for the benefit of his creditors;
 - (d) upon the taking effect of an order by the Disciplinary Committee under section 22(10).
- (2) If a registered firm becomes insolvent under the laws of The Bahamas, it shall cease to be registered by the Institute.
 - (3) Any person ceasing to be a member of the Institute either by death, de-registration or otherwise shall not, nor shall his or its representatives as the case may be, have any claims upon or interest in the funds of the Institute.
 - (4) Where a complaint has been made against any person under section 20(1), his name shall not be removed under subsection (1)(d) until the complaint or any appeal in relation thereto, has been finally determined in accordance with this Act.
 - (5) Where the name of any person has been removed from the register, any licence issued to him shall cease to have effect for as long as his name remains off the register.

28. Return of certificates or licence upon removal from register.

- (1) Where the name of any person has been removed from the register or the licence of any person has been suspended or revoked, the Council may, in writing, require such person to return to the Registrar his membership certificate, certificate of association or licence, as the case may be, and such person shall comply with that requirement.
- (2) Any person who fails without reasonable excuse to return his membership certificate, certificate of association or licence as required by subsection (1), commits an offence and is liable on summary conviction to a fine of five hundred dollars.

29. Restoration to register, etc.

- (1) The Council may, at any time upon application in writing by any person whose name has been removed from the register or whose licence has been suspended or revoked, determine, if it thinks fit, that such person's name shall be restored to the register or, that his licence be restored or the suspension cease as the case may be, with effect from such date as the

Council may appoint, and shall forthwith give notice of any such determination to the Registrar.

- (2) On receipt of notice of a determination made by the Council under subsection (1) in relation to any person, the Registrar shall —
 - (a) forthwith cause the name of that person to be restored to the register;
 - (b) cause a note of the cessation of the suspension or the restoration of his licence to be entered therein;
 - (c) cause notice of the determination of the Council to be published in the Gazette.

30. Appeal to Supreme Court.

An appeal from any decision of the Council or the Appeal Committee shall lie to the Supreme Court.

PART V - MISCELLANEOUS

31. Continuity of practice.

- (1) In the event of —
 - (a) the grave illness or disability of a sole licensee in a firm of public accountants; and
 - (b) the absence of a continuity agreement with another licensee or firm or power of attorney directing dissolution or continuity of the firm,the Council may appoint another licensee to manage the affairs of the licensee, at a fee to be agreed between the Council, the deceased personal representative and the appointee, to be paid out of the estate of the deceased.
- (2) In the event of the sudden death of a sole licensee and the absence of a testamentary document by that licensee, the Council may appoint another licensee to assist the personal representative of the deceased in the winding up of the practice of the deceased.

32. Confidentiality.

- (1) Any person who obtains information in any form as a result of performing his duties under the Act shall not disclose that information to any person except so far as it is required or permitted under this Act or any written law.

- (2) Any person who communicates any information in breach of subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

33. Regulations.

The Council with the approval of the Governor-General may make regulations for carrying into effect the purposes and provisions of this Act, and, without restricting the generality of the foregoing, may make regulations —

- (a) prescribing the standards of professional conduct for members, associates, students and registered firms;
- (b) regulating the hearing and determination of complaints brought under this Act;
- (c) providing for the establishment and maintenance of classes, lectures, courses of study and systems of training and examinations in accounting and auditing and for requirements relating to practical experience;
- (d) prescribing public practice requirements, including regulations relating to insurance coverage, practice monitoring and continuing professional development;
- (e) providing for the receipt, management, investment and application of the assets of the Institute including contributions, donations and bequests from members and others;
- (f) providing for the affiliation of the Institute with any university or college or with any corporation or association having similar or related objects to those provided for under section 4;
- (g) 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;
- (h) prescribing fees, subscriptions or other sums to be paid to the Institute by members, associates or students;
- (i) providing for general meetings of the Institute and for the procedure at such meetings;
- (j) providing for the procedure of any committee of the Institute;
- (k) prescribing the conditions on which persons may be registered as students; the conduct, syllabus and examinations of the Institute and the exemptions that may be granted to students;
- (l) prescribing anything authorised or required by this Act to be prescribed.

34. Offences and penalties.

- (1) A person who —
 - (a) engages in public practice without obtaining a licence or uses the licence of another person;
 - (b) for the purpose of procuring or attempting to procure a licence for himself or for any other person, wilfully makes or produces or causes to be made or produced any fraudulent representation or declaration either oral or in writing;
 - (c) for the purpose of procuring or attempting to procure registration as a member, associate or student for himself or for any other person or registering any firm, wilfully makes or produces or causes to be made or produced any fraudulent representation or declaration either oral or in writing;
 - (d) makes or causes to be made any falsification in the register or in any matter relating to the register; or
 - (e) holds himself out as a public accountant or engages in public practice without being in possession of a valid licence,commits an offence.
- (2) Any person who commits an offence under subsection (1) is liable on summary conviction—
 - (a) where such person is registered as a member, to a fine of five hundred dollars and to a daily penalty of one hundred dollars;
 - (b) in any other case, to a fine of two thousand dollars or to imprisonment for a term of twelve months or to both such fine and imprisonment.
- (3) Nothing in subsection (1)(e) shall prevent a person from—
 - (a) engaging in public practice exclusively in the course of his duties as an employee of any other person; or
 - (b) engaging in bookkeeping or cost accounting or in the installation of bookkeeping, business or cost systems.

35. Transitional and savings.

- (1) Every person who immediately before the date of commencement of this Act was elected or appointed, as the case may be, to any office of the former Institute shall be deemed to have been elected or appointed under this Act and, subject to the provisions of the *First Schedule*, shall continue to serve in that office for the unexpired portion of the term remaining to be served.

- (2) Where any complaint of professional misconduct has been made to the Council before the coming into force of this Act against any person who on the date of the commencement of this Act was a member of the former Institute that complaint shall, after the coming into force of this Act, be dealt with, inquired into and determined in accordance with this Act.
- (3) On the date of commencement of this Act, all property, rights and liabilities which immediately before that date were property, rights and liabilities of the former Institute shall, by virtue of this section, vest in the Institute continued pursuant to section 3 and on or after that date any legal proceedings in respect of any such property, rights or liabilities may be commenced or continued by or against the Institute so established as if they could have been commenced or continued by or against the former Institute.

36. Application of other law.

Nothing in this Act shall derogate from the provisions of any other law.

37. Repeal.

The Public Accountants Act (*Ch. 364*) is repealed.

FIRST SCHEDULE

(Section 5)

1. Constitution of Council.

- (1) On the date of the coming into operation of this Act, the existing Council and officers shall, subject to paragraph 2, continue to serve until the Second Annual General Meeting save that the First Vice President shall become the President Elect and the office of Second Vice President shall cease.
- (2) At the conclusion of the Second Annual General Meeting, the Council shall comprise of the following members —
 - (a) a President;
 - (b) a President Elect;
 - (c) the Immediate Past President; and
 - (d) ten council members,

and thereafter, the Council shall consist of not less than nine and not more than thirteen persons who shall be elected in the prescribed manner by the members from among the membership.

- (3) Not less than sixty per centum of the members elected to the Council shall be citizens of The Bahamas.
- (4) No person shall be qualified to be a member of Council if he is a Senator or a member of the House of Assembly.
- (5) The members of the Council shall elect from among themselves the officers of the Institute who shall be the President, the President Elect and the Treasurer.
- (6) The Council shall appoint one person as Secretary of the Institute.
- (7) The President of the Institute shall be the Chairman of the Council and the President Elect shall be the Deputy-Chairman of the Council.
- (8) A person shall not qualify to be elected a member of the Council unless notice in writing is given to the Secretary not later than seven days before the day of the election, by two members qualified to vote for such election of their desire to propose such person for election.
- (9) A statement under the hand of the person proposed for election of his willingness to be elected a member of the Council must accompany the notice.

2. Tenure of office.

- (1) On the expiry of the term of office pursuant to paragraph 1(1), the subsequent holders of the office of President, President Elect and Immediate Past President shall hold office for two years.
- (2) At the end of the two year term referred to in subparagraph (1), the President shall become the Immediate Past President and subject to paragraph 9(2)(b), the President Elect shall become the President.
- (3) Where the Nominating Committee does not recommend that the President Elect become the President, then paragraph 1(5) shall apply.
- (4) At the Annual General Meeting in every year, one-third of the elected members, other than those whose tenure continues per subparagraph (1) and (2) above, who have been longest in office since their last election, or the number nearest to but not exceeding one-third, shall retire from office, and they may be re-elected or other members may be elected to fill their places.
- (5) A retiring member of the Council shall retain office until the dissolution of the meeting at which he retires.

3. Resignation and removal from office.

- (1) Any member of the Council may at any time resign his office by notice in writing to the Secretary and on acceptance of his resignation by the Council his office shall become vacant.
- (2) A member of the Council who resigns shall not thereby be disqualified from being at any time thereafter re-elected.
- (3) The members may by resolution in general meeting passed by a majority of those entitled to vote and voting thereat remove an elected member of the Council from his office, providing notice in writing of the intention by a member to move any such resolution, shall be given to the Secretary not less than twenty-one days before the meeting at which it is to be moved and the Secretary shall give members notice of such resolution, at the same time and in the same manner as he shall give notice of the meeting and providing also that on receipt of notice of such an intended resolution, the Secretary shall send a copy thereof to the members of the Council concerned.

4. Vacancies.

- (1) If any vacancy occurs in the membership of the Council, such vacancy shall be filled by the appointment by the Council of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period to be served by the previous member.
- (2) If any vacancy occurs from among the officers referred to in paragraph 1(2) such vacancy shall be filled by the election from among themselves by the Council and the officer so elected shall, subject to the provisions of this Schedule, hold office for the remainder of the period to be served by the previous officer; notice of such meeting and of the existence of any such vacancy shall be given to all members of the Council.
- (3) A vacancy created by the removal of a member of the Council pursuant to the provisions of paragraph 2 may be filled at the meeting at which the removal is effected or, if not so, filled as a casual vacancy.
- (4) Every member of the Council shall vacate his office on ceasing to be a member of the Institute or on being suspended from membership of the Institute or becoming subject to any other penalty imposed by the Disciplinary or Appeal Committees, or on being so incapacitated by ill-health for three consecutive months as to be unable to perform his duties as a member of the Council.
- (5) Any member of the Council who fails to attend three consecutive meetings of the Council owing to unexcused absence may be removed

from office by a majority vote of the members present at any meeting of the Council and the vacancy so created may be filled as a casual vacancy.

5. Gazetting of appointments.

The names of all members of the Council and every change in the membership thereof shall be published by notice in the *Gazette*.

6. Seal.

- (1) The seal of the Council shall be kept in the custody of the Chairman or the Secretary and shall be affixed to instruments in the presence of the Chairman or any other member of the Council.
- (2) The seal of the Council shall be authenticated by the signatures of the Chairman, the Deputy-Chairman and the Secretary or any other Council member authorised to act on their behalf, and shall be officially and judicially noted.

7. Procedure and meetings.

- (1) The Council shall meet at such time as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Council may determine.
- (2) The Chairman may at any time call a special meeting of the Council and shall call a special meeting within seven days of the receipt of a written requisition for that purpose addressed to him by any two members of the Council.
- (3) The members of the Council may act notwithstanding any vacancy in the Council, provided always that in case the members shall at any time be or be reduced in number to less than five, it shall be lawful for the members of the Council to act as such in emergencies or for the purpose of filling vacancies on the Council or of summoning a general meeting of the Institute, but not for any other purpose.
- (4) The Chairman shall preside at all meetings of the Council at which he is present and, in the case of the Chairman's absence from any meeting or at his request, the Deputy-Chairman shall act as Chairman. In the absence of the Deputy-Chairman, a Chairman shall be elected from among those members of the Council present.
- (5) A quorum of the Council shall be a simple majority of its members.
- (6) The decisions of the Council shall be by a majority of votes, and, in addition to an original vote, the Chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

- (7) Minutes in proper form of each meeting of the Council shall be kept by the Secretary and shall be signed by the Chairman of the meeting at which they are read.
- (8) Subject to the provisions of this Schedule the Council may regulate its own proceedings.
- (9) Council meetings may be held by telephone conference, video conference or by other similar means provided all persons notionally attending the meeting are able to hear and be heard by all the other participants.

8. Validity of decisions.

No decision or act of the Council or act done under the authority of the Council shall be invalid by reason of the fact that —

- (a) the full number of members for which provision is made in paragraph 1 of this *Schedule* was not appointed or there was a vacancy or vacancies amongst such members; or
- (b) a disqualified person acted as a member of the Council at the time the decision was taken or the act was done or authorized,

if the decision was taken or the act was done or authorized by a majority vote of the persons who at the time were entitled to act as such members.

9. Committees.

- (1) The Council shall appoint a committee (to be known as the “Nominating Committee”) comprising the President, the President-Elect and three other Council members chosen by the Council.
- (2) The Nominating Committee shall have responsibility for recommending to the Council —
 - (a) the candidates to be considered for election by the Council for the office of President and President-Elect;
 - (b) whether the President Elect should become the President upon the expiration of the President's term in office;
 - (c) the persons who will be nominated for appointment to the Investigations and Disciplinary Committee;
 - (d) the persons who will be nominated for appointment as administrative staff members of the Institute; and
 - (e) such other persons who the Council may from time to time desire to appoint.
- (3) Subject to the provisions of this Act, the Council may appoint such other committees from among members and associates as it may think fit and

may delegate to any such committee the power and authority to carry out on its behalf such duties as the Council may determine.

- (4) The constitution of each committee shall be determined by the Council.

10. Indemnity.

- (1) The members of the Council, members of committees, the Secretary and officials of the Institute shall be indemnified by the Institute from all losses and expenses incurred by them in or about the discharge of their respective duties unless arising from their own wilful default or negligence.
- (2) No member of the Council, member of any committee, Secretary and officer of the Institute shall be liable for any member of the Council or of a committee, trustee, official of the Institute or for joining in any receipt or other act of conformity or for any loss or expense happening to the Institute unless arising from his own wilful default or negligence.

SECOND SCHEDULE

(Section 2)

APPROVED INSTITUTES

The Institute of Chartered Accountants in England and Wales
Chartered Professional Accountants Canada
The Chartered Association of Certified Accountants
The American Institute of Certified Public Accountants