

A BILL

entitled

CHARTERED PROFESSIONAL ACCOUNTANTS
OF BERMUDA AMENDMENT ACT 2018

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WHEREAS it is expedient to amend the Chartered Professional Accountants of Bermuda Act 1973;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Chartered Professional Accountants of Bermuda Act 1973 (the "principal Act"), may be cited as the Chartered Professional Accountants of Bermuda Amendment Act 2018.

Amends section 1

2 The principal Act is amended in section 1—

(a) by inserting the following definition in its proper alphabetical order—

“professional accountant” means a person resident in Bermuda who has the requisite skill and experience in establishing and maintaining accurate financial records for an individual or a business, and whose duties may include—

(a) preparing financial statements;

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- (b) designing and controlling systems of records;”;
- (b) in the definition of “public accountant” in the introduction—
 - (i) by deleting the words “resident in Bermuda”;
 - (ii) by inserting after “services” the words “in Bermuda”.

Amends section 8B

3 The principal Act is amended in section 8B by inserting the following after subsection (5)—

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

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

Amends section 8C

4 The principal Act is amended in section 8C(2)—

- (a) in paragraph (a) by inserting after “compliance with” the words “the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and”;
- (b) in paragraph (c) by inserting after “compliance with” the words “the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and”;
- (c) in paragraph (d) by inserting after “non-compliance with” the words “the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and”;
- (d) in paragraph (e) by inserting after “with” the words “the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and”.

Amends section 9

5 The principal Act is amended in section 9—

- (a) in subsection (3)(b) in the continuation by deleting “or certified accountant” and substituting “, certified accountant or chartered professional accountant”;
- (b) by inserting the following after subsection (3)—

“(4) No person resident in Bermuda shall have the right to use any designation or initials referred to in this section, either alone or in combination with any other word or words, or any other designation, name, title, initials or

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description (abbreviated or otherwise) which implies or is calculated to imply that the person using such words or initials is a chartered accountant, certified accountant or chartered professional accountant, other than as such rights are conferred under this section.”.

Inserts section 9B

6 The principal Act is amended by inserting the following after section 9A—

“Right to practice as a public accountant

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

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

Amends section 10

7 The principal Act is amended in section 10—

(a) by repealing and replacing subsection (1) with the following and inserting subsection (1A)—

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

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

(b) in subsection (2) by deleting “holds himself out in contravention of section 9” and substituting “commits an offence under this section”.

Commencement

8 This Act comes into operation on such day as the Minister of Finance may appoint by notice published in the Gazette, and different days may be appointed for different provisions.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Chartered Professional Accountants of Bermuda Act 1973 (the “principal Act”) for the purpose of further mitigating and managing the risk to Bermuda of money laundering and terrorist financing in the accounting sector.

Clause 1 is self-explanatory.

Clause 2 amends section 1 of the principal Act by (a) inserting a definition for “professional accountant”; and (b) amending the definition of “public accountant” by deleting the reference to residency of the public accountant in Bermuda, and specifying that the services performed by a public accountant relate to services that are provided in Bermuda.

Clause 3 inserts a section 8B which provides for the Barristers and Accountants AML/ATF Board to operate in accordance with Operating Principles issued under the Bermuda Bar Act 1974, and for the Board to amend those Principles from time-to-time, and to publish them on the Board’s website.

Clause 4 amends section 8C of the principal Act by adding the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 to the scope of the duties of the Supervisor.

Clause 5 amends section 9 of the principal Act (a) in the continuation to section 9(3)(b) by providing for chartered professional accountants who are members of CPA Bermuda to use any of the designations or initials listed under subsection (3); and (b) by inserting a new subsection (4) which provides that no person who is resident in Bermuda is entitled to use any designation or initial referred to in section 9 unless that person is a chartered accountant, certified accountant or chartered professional accountant.

Clause 6 inserts section 9B which provides for every member of CPA Bermuda to be entitled to practise as a public accountant, and for no person to provide, or offer to provide, the services of a public accountant unless entitled to practise.

Clause 7 amend section 10 of the principal Act by providing for it to be an offence for a person to (a) hold himself out as a chartered accountant, certified accountant or chartered professional accountant; and (b) provide, or offer to provide, the services of a public accountant in contravention of section 9B.

Clause 8 provides for this Act to come into operation by notice published in the Gazette by the Minister of Finance, and for the appointment of different days for different provisions.