

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

BERMUDA PUBLIC ACCOUNTABILITY AMENDMENT ACT 2015

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WHEREAS it is expedient to amend the Bermuda Public Accountability Act 2011;

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 Bermuda Public Accountability Act 2011 (the "principal Act"), may be cited as the Bermuda Public Accountability Amendment Act 2015.

Amends section 22

2 The principal Act is amended in section 22 by inserting after subsection (4) the following new subsection—

"(5) A PIE public accountant aggrieved by the removal of his name from the Register under subsection (1)(b),(c) or (d) may file a petition for review proceedings under Part 6."

Amends section 32

3 The principal Act is amended in section 32 by inserting after subsection (5) the following new subsection—

"(6) All expenses of and incidental to an inspection shall be defrayed by the PIE public accountant under inspection."

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Inserts section 32A

4 The principal Act is amended by inserting after section 32 the following new section—

“Power to impose civil penalties

32A (1) The Committee may impose civil penalties on any PIE public accountant that fails to comply with any requirement or restriction made following an inspection or investigation of the PIE public accountant.

(2) The Minister may make Regulations, subject to the negative resolution procedure, prescribing—

- (a) the process for levying civil penalties with respect to contraventions of requirements or restrictions; and
- (b) publication of continuing restrictions and penalties where a PIE public accountant has failed to comply with requirements or restrictions.

(3) A civil penalty levied pursuant to the Regulations referred to under subsection (2)—

- (a) shall not exceed \$10,000; and
- (b) may be recovered by the Committee as a civil debt.

(4) A PIE public accountant aggrieved by the Committees’s imposition of civil penalties may file a petition for review proceedings under section 33(1)(b).”.

Amends section 33

5 The principal Act is amended in section 33 by repealing subsection (1)(a) and substituting the following—

“(1) The Committee shall issue an order for review proceedings—

- (a) against a PIE public accountant where the Committee deems it necessary based on—
 - (i) reports resulting from any inspections or investigations conducted under the Act; or
 - (ii) any provision of the Act that requires that in the case of non-compliance with the provision, review proceedings be conducted; ”.

Amends section 34

6 The principal Act is amended in section 34 by repealing subsections (6)(b) and (7).

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EXPLANATORY MEMORANDUM

This Bill amends the Bermuda Public Accountability Act 2011 (the “principal Act”) to provide further with respect to the right of a Public Interest Entity public accountant (PIE public accountant) to file a petition to a Review Panel and to provide for the power to impose civil penalties.

Clause 1 provides a citation for the Bill.

Clause 2 amends the principal Act in section 22 to insert a subsection (5) to enable a PIE public accountant aggrieved by the removal of their name from the Register of PIE public accountants to file a petition with the Review Panel.

Clause 3 amends the principal Act in section 32 to insert a subsection (6) to require a PIE public accountant under inspection to defray all the expenses and incidentals of the inspection conducted.

Clause 4 amends the principal Act to insert a section 32A. The new section grants power to the Committee to impose penalties on any PIE public accountant that fails to comply with any requirement or restriction made following an inspection or investigation of the PIE public accountant. The Minister is given power under the new section 32A to make Regulations, subject to the negative resolution procedure, to provide for the procedure for levying penalties.

Clause 5 amends the principal Act in section 33 to correct the lack of clarity with respect to the circumstances under which the Committee may issue an order for review proceedings.

Clause 6 amends the principal Act in section 34 by repealing subsections (6)(b) and (7) to remove the power of the Review Panel to impose penalties. The power to impose penalties for failure of a PIE public accountant to comply with any requirement or restriction has now been granted to the Committee under the newly inserted section 32A. The Review Panel will now deal with issues of penalties on a petition to the Review Panel from the decisions of the Committee.