

No. S 115

**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

ACCOUNTANTS ORDER, 2010

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CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

ACCOUNTANTS ORDER, 2010

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Accountants Order, 2010 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*.

(2) The long title of this Order is "An Order relating to accountants and other purposes relating thereto or connected therewith".

Interpretation.

2. In this Order, unless the context otherwise requires —

"accounting corporation" means a company approved as an accounting corporation under section 20;

"accounting firm" means a firm approved as an accounting firm under section 21;

"accounting limited liability partnership" means a limited liability partnership approved as an accounting limited liability partnership under section 22;

"Authority" means such person as is appointed by His Majesty the Sultan and Yang Di-Pertuan under section 3(1) to be the Authority for the purposes of this Order;

"company" has the same meaning as in the Companies Act (Chapter 39);

"corporate practitioner" —

(a) in relation to an accounting corporation, means a director or an employee of the corporation who is a public accountant and practising as such in that corporation;

(b) in relation to an accounting Limited Liability Partnership, means a partner or an employee of the accounting Limited Liability Partnership who is a public accountant and practising as such in that accounting Limited Liability Partnership;

"costs and expenses", in relation to any disciplinary proceedings under Part VII, includes —

(a) the costs and expenses of any legal assessor and any advocate and solicitor appointed by the Authority for proceedings before the Oversight Committee or a Disciplinary Committee;

(b) such reasonable expenses as the Oversight Committee may pay to witnesses; and

(c) such reasonable expenses as are necessary for, or incidental to, the institution and conduct of proceedings before a Disciplinary Committee;

"Disciplinary Committee" means a Disciplinary Committee appointed under Part VII;

"Disciplinary Panel" means the Disciplinary Panel appointed under section 45(1);

"firm" means a sole proprietorship or partnership;

"Minister" means the Minister of Finance;

"Oversight Committee" means the Public Accountants Oversight Committee appointed by the Authority under section 5(1);

"professional indemnity insurance" includes insurance indemnifying a public accountant, an accounting corporation, an accounting firm or an accounting Limited Liability Partnership against liability to compensate a third party who has sustained financial loss or any other damage or injury due to a breach of professional duty or to any professional negligence on the part of such public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership, as the case may be (including any such negligence by any director of such accounting corporation or any partner of such accounting Limited Liability Partnership), or fraud or dishonesty;

"public accountancy services" means the audit and reporting on financial statements and the doing of such other acts that are required by any written law to be done by a public accountant;

"public accountant" means a person who is registered in accordance with this Order as a public accountant;

"Register of Public Accountants" means the register kept and maintained under section 6(1)(a)(i);

"Register of Public Accounting Corporations" means the register kept and maintained under section 6(1)(a)(ii);

"Register of Public Accounting Firms" means the register kept and maintained under section 6(1)(a)(iii);

"Register of Public Accounting Limited Liability Partnerships" means the register kept and maintained under section 6(1)(a)(iv);

"Registrar" means the Registrar of Public Accountants appointed by His Majesty the Sultan and Yang Di-Pertuan under section 10(1)(a) and includes a Deputy Registrar and an Assistant Registrar appointed under section 10(1)(b);

"relevant particulars", in relation to a public accountant, an accounting corporation, an accounting firm or an accounting Limited Liability Partnership, means such particulars of the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership as the Authority may determine to be relevant for inclusion in the Register of Public Accountants, the Register of Public Accounting Corporations, the Register of Public Accounting Firms or the Register of Public Accounting Limited Liability Partnerships, as the case may be;

"regulations" means regulations made under section 71;

"voting share", in relation to a company or an accounting corporation, means an issued share in the company or accounting corporation other than —

(a) a share to which, in no circumstances, is there attached a right to vote; or

(b) a share to which there is attached a right to vote only in one or more of the following circumstances —

- (i) during a period in which a dividend, or part of a dividend, in respect of the share is in arrears;
- (ii) upon a proposal to reduce the share capital of the company or accounting corporation;
- (iii) upon a proposal that affects rights attached to the share;

- (iv) upon a proposal to wind up the company or accounting corporation;
- (v) upon a proposal for the disposal of the whole of the property, business and undertakings of the company or accounting corporation;
- (vi) during the winding-up of the company or accounting corporation.

PART II

APPOINTMENT OF AUTHORITY, AUTHORISED PERSONS ETC.

Appointment of Authority, authorised persons etc.

3. (1) His Majesty the Sultan and Yang Di-Pertuan may, by notification published in the *Gazette*, appoint a person to be the Authority for the purposes of this Order.

(2) The Authority may authorise or appoint any person to assist in the exercise of his powers, duties and functions under this Order, either generally or in any particular case.

(3) Any person authorised or appointed by the Authority under subsection (2) shall be deemed to be a public servant for the purposes of the Penal Code (Chapter 22).

PART III

ADMINISTRATION OF ORDER

Administration of Order.

4. The Authority shall be responsible —

(a) for the registration of public accountants and the approval of accounting corporations and accounting firms and the names thereof under this Order;

(b) for the control and regulation of the practice of the profession of accountancy by public accountants, accounting corporations and accounting firms; and

(c) generally, for the administration of this Order,

and shall carry out such functions subject to the general or special directions of the Minister.

Appointment of Public Accountants Oversight Committee.

5. (1) For the discharge of its functions under section 6, the Authority may, with the approval of the Minister and subject to subsection (2), appoint a committee to be known as the Public Accountants Oversight Committee.

(2) At least 2 members of the Oversight Committee shall be public accountants.

(3) The Oversight Committee shall carry out the functions and duties and exercise the powers conferred on it by this Order in accordance with such general or special directions as the Authority may give to the Oversight Committee.

(4) The First Schedule shall have effect with respect to the Oversight Committee, its members and proceedings.

Powers and functions of Authority.

6. (1) The Authority in the discharge of the Authority's functions under section 5 shall —

(a) keep and maintain —

- (i) a Register of Public Accountants;
- (ii) a Register of Public Accounting Corporations;
- (iii) a Register of Public Accounting Firms;
- (iv) a Register of Public Accounting Limited Liability Partnerships;
and
- (v) such other registers as may be necessary for the purposes of this Order;

(b) consider and, as appropriate, grant, whether unconditionally or subject to such conditions as it thinks fit, or reject —

- (i) all applications for registration made under Part IV; and
- (ii) all applications for approval under Part V;

(c) inquire into —

- (i) any complaint against any public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership; or

- (ii) any information relating to any professional misconduct on the part of any public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership,

and, if necessary, institute disciplinary proceedings in accordance with Part VII;

(d) conduct or arrange for the conduct of such examinations as it thinks necessary for the purposes of registering public accountants; and

(e) administer the continuing professional education programmes for public accountants;

(f) consult the Brunei Institute of Certified Public Accountants or such other person as he thinks fit.

(2) The registers referred to in subsection (1)(a) may be kept in such form as the Authority may determine.

Functions and powers of Oversight Committee.

7. (1) The Oversight Committee shall assist the Authority in the discharge of the Authority's functions under section 6 and, in so doing, shall —

(a) assist the Authority in determining, prescribing and reviewing the requirements to be satisfied by persons seeking to be registered as public accountants under Part IV;

(b) administer the practice monitoring programmes under Part VI;

(c) inquire into —

(i) any complaint against any public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership, or

(ii) any information relating to any professional misconduct on the part of any public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership,

and if necessary, institute disciplinary proceedings in accordance with Part VII;

(d) assist the Authority in determining, prescribing and reviewing —

(i) the codes of professional conduct and ethics for public accountants; and

(ii) the standards, methods and procedures to be applied by public accountants when providing public accountancy services;

(e) advise the Authority on any matter which relates to the profession of public accountancy; and

(f) generally do all such acts, matters and things as are necessary to be carried out, or which the Oversight Committee is authorised to carry out, under this Order.

(2) Subject to any general or special direction given by the Authority, the Oversight Committee shall have the powers to do anything for the purpose of discharging its functions under this Order, or which is incidental or conducive to the discharge of those functions.

Appointment of sub-committees by Authority.

8. (1) Subject to any general or special direction of the Minister, the Authority may appoint one or more sub-committees for any general or special purpose which, in the opinion of the Authority may be better dealt with or managed by a sub-committee.

(2) The Authority may delegate to any sub-committee appointed under subsection (1), with or without conditions, any of the powers or functions which may be exercised or performed by the Authority under this Order.

(3) The number and term of office of the members of any sub-committee appointed under this section and the number of those members necessary to form a *quorum* shall be determined by the Authority.

(4) The Authority may continue to exercise any power or perform any function under this Order notwithstanding the delegation of such power or function to a sub-committee under this section.

Appointment of sub-committees by Oversight Committee.

9. (1) Subject to any general or special direction of the Authority, the Oversight Committee may appoint one or more sub-committees for any general or special purpose which, in the opinion of the Oversight Committee, may be better dealt with or managed by a sub-committee.

(2) The Oversight Committee may delegate to any sub-committee appointed under subsection (1), with or without conditions, any of the powers or functions which may be exercised or performed by the Oversight Committee under this Order.

(3) The number and term of office of the members of any sub-committee appointed under this section and the number of those members necessary to form a *quorum* shall be determined by the Authority.

(4) A sub-committee appointed under this section may include persons who are not members of the Oversight Committee.

(5) The Oversight Committee may continue to exercise any power conferred upon it or perform any function under this Order notwithstanding the delegation of such power or function to a sub-committee under this section.

Appointment and duties of Registrar.

10. (1) His Majesty the Sultan and Yang Di-Pertuan shall appoint —

(a) a Registrar of Public Accountants; and

(b) such number of Deputy Registrars and Assistant Registrars of Public Accountants as His Majesty the Sultan and Yang Di-Pertuan considers necessary.

(2) The Registrar shall —

(a) carry out the functions and duties and exercise the powers conferred on him by this Order in accordance with such general or special directions as the Authority or the Oversight Committee may give to him;

(b) attend all meetings of the Oversight Committee and record the proceedings thereof;

(c) conduct the correspondence and deal with such matters as may be assigned to him by the Authority or the Oversight Committee;

(d) issue all certificates and notices required to be issued under this Order; and

(e) collect all fees payable under this Order.

(3) Subject to such restrictions and limitations as the Authority or Oversight Committee may determine, the powers and duties of the Registrar under this Order may be exercised and discharged by a Deputy Registrar or an Assistant Registrar.

Registers.

11. (1) The Registrar shall be responsible for the custody and maintenance of —
- (a) the Register of Public Accountants;
 - (b) the Register of Public Accounting Corporations;
 - (c) the Register of Public Accounting Firms; and
 - (d) the Register of Public Accounting Limited Liability Partnerships.
- (2) The Registrar shall —
- (a) record —
 - (i) in the Register of Public Accountants, the name and relevant particulars of every public accountant who is registered under this Order or whose registration has been suspended or cancelled;
 - (ii) in the Register of Public Accounting Corporations, the name and relevant particulars of every accounting corporation that is approved under this Order or that has had its approval revoked;
 - (iii) in the Register of Public Accounting Firms, the name and relevant particulars of every accounting firm that is approved under this Order or that has had its approval revoked;
 - (iv) in the Register of Public Accounting Limited Liability Partnerships, the name and relevant particulars of every accounting Limited Liability Partnership that is approved under this Order or that has had its approval revoked;
 - (b) allow any person to inspect the Register of Public Accountants, the Register of Public Accounting Corporations, the Register of Public Accounting Firms or the Register of Public Accounting Limited Liability Partnerships in such manner and on such terms as the Oversight Committee may determine;
 - (c) insert in the appropriate register any change in the names or relevant particulars recorded therein that may have been notified to him or that may otherwise have come to his knowledge; and
 - (d) correct any error in any entry in any of the registers.

Certificate of Registrar.

12. Where any question arises as to whether or not —

- (a) a person is or was a public accountant registered under this Order;
- (b) a company is or was an accounting corporation approved under this Order;
- (c) a firm is or was an accounting firm approved under this Order; or
- (d) a limited liability partnership is or was or accounting Limited Liability Partnership approved under this Order;
- (e) an entry in any register kept under this Order is accurate or correct,

a certificate issued by the Registrar addressing such question shall be admissible as evidence in any proceedings and shall be *prima facie* evidence of the facts stated therein.

PART IV

REGISTRATION OF PUBLIC ACCOUNTANTS

Qualifications for registration.

13. (1) Any person who —

- (a) has attained the age of 21 years; and
- (b) satisfies the prescribed requirements relating to —
 - (i) qualifications;
 - (ii) practical experience;
 - (iii) membership of the Brunei Institute of Certified Public Accountants;
 - (iv) membership of any professional accountancy body or organisation specified in the Second Schedule other than the Brunei Institute of Certified Public Accountants,

shall be entitled, on payment of the prescribed fee, to be registered as a public accountant under this Part.

(2) The Authority may, after consultation with the Oversight Committee and subject to such conditions as he thinks fit, exempt any person from any of the prescribed requirements referred to in subsection (1)(b).

Application for registration.

14. (1) Any person who desires to be registered as a public accountant under this Part may make an application to the Authority in such form or manner as the Authority may require.

(2) An application under subsection (1) shall be accompanied by —

(a) the prescribed fee; and

(b) a declaration by the applicant verifying any information contained in or relating to the application.

(3) The Authority may require an applicant for registration to undergo such interviews as the Authority may determine.

(4) The Authority may refuse to register any applicant who —

(a) in the opinion of the Authority —

(i) is not of good reputation or character;

(ii) is engaged in any business or occupation that is inconsistent with the integrity of a public accountant; or

(iii) is otherwise unfit to practise as a public accountant; or

(b) has had his registration, licence or approval to practise as a public accountant in any other country or territory withdrawn, suspended, cancelled or revoked.

(5) Where the Authority refuses to register an applicant, he shall by notice in writing inform the applicant of his refusal.

(6) Any person who is aggrieved by any refusal of the Authority under subsection (4) may, within 30 days of the notice given under subsection (5), appeal to the Minister whose decision shall be final.

Certificate of registration and record in Register of Public Accountants.

15. (1) Upon a person being registered as a public accountant under this Part, the Registrar shall —

(a) issue to him a certificate of registration; and

(b) record his name and relevant particulars in the Register of Public Accountants.

(2) A certificate of registration shall be issued in such form or manner as the Authority may determine.

(3) Subject to the provisions of this Order, every such certificate of registration shall be in force from the date of its issue or renewal until 31st December of the year in respect of which the certificate was issued or renewed.

Renewal of registration.

16. (1) Unless the Authority or the Registrar allows otherwise, a public accountant who desires to renew his certificate of registration upon its expiry shall, not less than 60 days before the date of the expiry, submit his application for the renewal to the Authority in such form or manner as the Authority may require.

(2) An application under subsection (1) shall be accompanied by —

(a) the prescribed fee; and

(b) a declaration by the applicant verifying any information contained in or relating to the application.

(3) Unless the Authority determines otherwise, a public accountant shall not be entitled to have his certificate of registration renewed if he has failed —

(a) to comply with the prescribed requirements relating to continuing professional education;

(b) to pass any practice review under Part VI or comply with any order or requirement under section 44(1)(a); or

(c) to satisfy any such other requirement as the Authority or Registrar thinks relevant.

Duty to report change in particulars.

17. (1) Every public accountant shall, whenever there is any change in his name or any of his relevant particulars as recorded in the Register of Public Accountants, notify the Registrar of such change within 30 days thereof in such manner as the Authority may require.

(2) Any person who fails without reasonable excuse to comply with subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$1,000.

Removal from Register of Public Accountants.

18. (1) The Registrar shall remove from the Register of Public Accountants the name and relevant particulars of any public accountant —

(a) who has died;

(b) who has become unfit to practise as a public accountant by reason of any physical or mental condition;

(c) who has been adjudged a bankrupt;

(d) who, without reasonable excuse, has failed to renew his certificate of registration after 30 days from the date of the expiry thereof;

(e) whose registration has been cancelled under the provisions of Parts VI or VII; or

(f) who has applied to the Authority for his registration to be cancelled and whose application has been granted by the Oversight Committee.

(2) Subject to subsection (3), any person whose name has been removed from the Register under subsection (1)(d) may, if he desires to be reinstated in the Register, apply to the Registrar for reinstatement within 21 days of his being informed by the Registrar of the removal of his name from the Register, and the Registrar shall, upon payment of the prescribed fee by the applicant, reinstate the applicant in the Register.

(3) The Registrar shall not remove the name and relevant particulars of a public accountant from the Register of Public Accountants under subsection (1)(d) and the Authority shall not grant an application by a public accountant to cancel his registration under subsection (1)(f), if the Registrar or Authority, as the case may be, has received any complaint or information against the public accountant under Part VII, or if disciplinary proceedings under that Part are pending against him.

(4) The Authority may also cancel the registration of a public accountant and order the removal of his name and relevant particulars from the Register of Public Accountants if he is satisfied that —

(a) the public accountant has obtained his registration by fraud or misrepresentation;

(b) the public accountant has made an arrangement with his creditors;

(c) the public accountant no longer satisfies any of the requirements prescribed under section 13(1)*(b)* by virtue of which he was registered under this Part;

(d) for any reason, the public accountant has been censured by any professional accountancy body or organisation of which he is a member or with which he is registered, or has had his membership or registration with such body or organisation terminated or suspended; or

(e) the public accountant is no longer in a position to discharge the duties of a public accountant effectively.

(5) The Authority shall, before exercising its powers under subsection (4), notify the public accountant concerned of its intention to take such action and shall give him an opportunity to submit reasons, within such period as the Authority may determine, as to why his registration should not be cancelled.

(6) Any public accountant who is aggrieved by an order under subsection (4) may, within 30 days of being notified of the order, appeal to the Minister whose decision shall be final.

Publication of list of public accountants.

19. The Registrar may prepare and publish in such form or manner as the Authority may determine a list of the names and particulars of all public accountants.

PART V

ACCOUNTING CORPORATIONS, ACCOUNTING FIRMS AND ACCOUNTING LIMITED LIABILITY PARTNERSHIPS

Approval of accounting corporations.

20. (1) A public accountant who wishes to have a company or proposed company approved as an accounting corporation may apply to the Authority for approval of —

(a) the company as an accounting corporation; and

(b) the name or proposed name of the accounting corporation.

(2) An application under subsection (1) shall be made in accordance with the prescribed requirements and shall be accompanied by the prescribed fee.

(3) Subject to subsection (4) and to any other provisions of this Order, the Authority may, on receiving an application made under this section, approve the company or proposed company concerned as an accounting corporation if –

(a) one of the primary objects of the company or proposed company is to provide public accountancy services;

(b) the share capital of the company or proposed company that is paid up or to be paid up is not less than \$20,000 or such other sum as may be prescribed;

(c) the articles of association of the company or proposed company provide that –

(i) not less than two-thirds, or such other proportion as may be prescribed, of the directors (including the chairman) shall be public accountants, but

(A) if the company or proposed company has only one director, that director shall be a public accountant;

(B) if the company or proposed company has only 2 directors, one of those directors shall be a public accountant;

(ii) not less than two-thirds, or such other proportion as may be prescribed, of the voting shares of the company or proposed company shall be owned by corporate practitioners; and

(iii) only individuals may own any shares of the company or proposed company;

(d) the business of the company or proposed company, so far as it relates to the provision of public accountancy services in Brunei Darussalam, will be under the control and management of one or more directors of the company who are public accountants; and

(e) the company or proposed company is or will be covered by professional indemnity insurance in accordance with section 33 and the prescribed requirements.

(4) If the Authority grants its approval for a proposed company to be an accounting corporation, the approval shall not take effect until the company has been registered under the Companies Act (Chapter 39).

Approval of accounting firms.

21. (1) A public accountant who wishes to have a firm or proposed firm approved as an accounting firm may apply to the Authority for approval of —

(a) the firm as an accounting firm; and

(b) the name or proposed name of the accounting firm.

(2) An application under subsection (1) shall be made in accordance with the prescribed requirements and shall be accompanied by the prescribed fee.

(3) The Authority may, on receiving an application made under this section, approve the firm or proposed firm concerned as an accounting firm only if —

(a) one of the primary objects of the firm or proposed firm is to provide public accountancy services;

(b) at least two-thirds, or such other proportion as may be prescribed, of the partners are public accountants, or if the partnership has only 2 partners, one of those partners is a public accountant; and

(c) the business of the partnership, so far as it relates to the supply of public accountancy services in Brunei Darussalam, will be under the control and management of one or more partners who are public accountants ordinarily resident in Brunei Darussalam.

Approval of accounting Limited Liability Partnerships.

22. (1) A public accountant who wishes to have a limited liability partnership or proposed limited liability partnership approved as an accounting Limited Liability Partnership may apply to the Authority for the approval of —

(a) the limited liability partnership as an accounting Limited Liability Partnership; and

(b) the name or proposed name of the accounting Limited Liability Partnership.

(2) An application under subsection (1) shall be made in accordance with the prescribed requirements and shall be accompanied by the prescribed fee.

(3) The Authority may, on receiving an application made under this section, approve the limited liability partnership or proposed limited liability partnership concerned as an accounting Limited Liability Partnership only if —

(a) one of the primary objects of the limited liability partnership or proposed limited liability partnership is to provide public accountancy services;

(b) the capital of the limited liability partnership or proposed limited liability partnership that is paid up or to be paid up is not less than \$20,000 or such other sum as may be prescribed;

(c) at least two-thirds, or such other proportion as may be prescribed, of the partners are public accountants or, if the partnership has only 2 partners, one of those partners is ordinarily resident in Brunei Darussalam;

(d) the accounting Limited Liability Partnership or proposed accounting Limited Liability Partnership is or shall be covered by professional indemnity insurance in accordance with section 33 and the prescribed requirements; and

(e) the business of the accounting Limited Liability Partnership, so far as it relates to the supply of public accountancy services in Brunei Darussalam, will be under the control and management of one or more partners who are ordinarily resident in Brunei Darussalam.

Name of accounting corporation, accounting firm or accounting Limited Liability Partnership.

22. (1) The Authority shall not approve the name or proposed name, or any proposed change in the name, of an accounting corporation, accounting firm or accounting Limited Liability Partnership if he is of the opinion that the name or proposed name —

(a) is undesirable; or

(b) is a name of a kind that the Minister has directed the Authority not to accept for registration.

(2) Notwithstanding section 20 of the Companies Act (Chapter 39), an accounting corporation which is a limited company need not have the word "Limited" or "Berhad" as part of its name and an accounting corporation which is a private company need not have the word "Private" or "Sendirian" as part of its name.

(3) Every accounting corporation shall have either the words "Public Accounting Corporation" as part of its name or the acronym "PAC" at the end of

its name, and no person, firm or company other than an approved accounting corporation shall have such words or acronym as part of or at the end of its name, as the case may be.

(4) The name of an accounting corporation, accounting firm or accounting Limited Liability Partnership shall not be changed without the prior approval in writing of the Authority.

(5) Notwithstanding anything in this section or in section 20 of the Companies Act (Chapter 39), where the Authority is satisfied that the name of an accounting corporation, accounting firm or accounting Limited Liability Partnership has been approved (whether through inadvertence or otherwise and whether originally or by change of name) in contravention of subsection (1), the Authority may direct the accounting corporation, accounting firm or accounting Limited Liability Partnership to change its name.

(6) The accounting corporation, accounting firm or accounting Limited Liability Partnership shall comply with the direction of the Authority under subsection (5) within 6 weeks of the date of the direction or such longer period as the Authority may allow.

Right of appeal against decision of Authority.

24. (1) An applicant for approval by the Authority of —

- (a) a company or proposed company as an accounting corporation;
- (b) a firm or proposed firm as an accounting firm;
- (c) a limited liability partnership or proposed limited liability partnership as an accounting Limited Liability Partnership; or
- (d) the name or a change in the name of an accounting corporation, accounting firm or accounting Limited Liability Partnership,

may, within 30 days after the Authority's decision under sections 20, 21, 22 or 23, as the case may be, is communicated to the applicant, appeal to the Minister against the decision of the Authority.

(2) An applicant making an appeal under subsection (1) shall comply with the prescribed requirements relating to such an appeal.

(3) On the hearing of an appeal, the Minister may —

- (a) confirm the decision of the Authority; or

(b) direct the Authority to grant the application for approval, either unconditionally or subject to conditions specified by the Minister,

and may make such order as he thinks fit.

(4) The decision of the Minister on appeal under subsection (3) shall be final.

Notification of approval and record in Register.

25. Where the Authority has approved a company, a firm or a limited liability partnership as an accounting corporation, an accounting firm or an accounting Limited Liability Partnership under this Part, the Registrar shall –

(a) notify the accounting corporation, accounting firm or accounting Limited Liability Partnership of the approval; and

(b) record the name and relevant particulars of the accounting corporation, accounting firm or accounting Limited Liability Partnership in the Register of Public Accounting Corporations, the Register of Public Accounting Firms or the Register of Public Accounting Limited Liability Partnerships, as the case may be.

Duty to report change in particulars.

26. (1) A public accountant shall notify the Registrar of any change in the name or relevant particulars, as recorded in the Register of Public Accounting Corporations, the Register of Public Accounting Firms or the Register of Public Accounting Limited Liability Partnerships, as the case may be, of the accounting corporation, accounting firm or accounting Limited Liability Partnership in which he is practising.

(2) Any notification under subsection (1) shall be given within 30 days of the change and in such manner as the Authority may require.

(3) Any person who fails without reasonable excuse to comply with this section is guilty of an offence and liable on conviction to a fine not exceeding \$1,000.

Effect of company becoming accounting corporation.

27. (1) An accounting corporation is authorised to do anything that a public accountant can do by law and is required to do all that a public accountant is required to do by law in respect of the provision of public accountancy services by that accounting corporation.

(2) Subsection (1) does not apply to the doing of anything that can only be done by a public accountant as an individual.

(3) A public accountant who provides public accountancy services as a director or as an employee of an accounting corporation shall be subject to the same standards of professional conduct and competence in respect of such services as if he were personally providing the public accountancy services as a public accountant in an accounting firm.

(4) The fact that a public accountant personally provides public accountancy services as a director or as an employee of an accounting corporation shall not affect the personal liability of that public accountant at law.

Effect of becoming accounting Limited Liability Partnership.

28. (1) An accounting Limited Liability Partnership is authorised to do anything that a public accountant can do by law and is required to do all that a public accountant is required to do by law in respect of the provision of public accountancy services by that accounting Limited Liability Partnership.

(2) Subsection (1) does not apply to the doing of anything that can only be done by a public accountant as an individual.

(3) A public accountant who provides public accountancy services as a partner or as an employee of an accounting Limited Liability Partnership shall be subject to the same standards of professional conduct and competence in respect of such services as if he were personally providing the public accountancy services as a public accountant in an accounting firm.

(4) The fact that a public accountant personally provides public accountancy services as a partner or as an employee of an accounting Limited Liability Partnership shall not affect the personal liability of that public accountant at law.

Relationship between client and accounting corporation or accounting Limited Liability Partnership.

29. An accounting corporation and an accounting Limited Liability Partnership shall have the same rights and be subject to the same fiduciary, confidential and ethical requirements with respect to each client of the accounting corporation or accounting Limited Liability Partnership, as the case may be, in respect of the provision of public accountancy services that exist at law with respect to a public accountant and his client.

Professional misconduct.

30. (1) An act of a public accountant may constitute improper or dishonourable conduct in the discharge of his professional duty even though it is only done or occurs while the public accountant provides public accountancy services through an accounting corporation, an accounting firm or an accounting Limited Liability Partnership.

(2) The directors of an accounting corporation or the partners of an accounting firm or of an accounting Limited Liability Partnership who are public accountants shall be jointly liable to disciplinary proceedings under this Order if the business of the accounting corporation, accounting firm or accounting Limited Liability Partnership is conducted in a manner which would warrant disciplinary proceedings against it and where such conduct cannot be attributed to the act of any particular public accountant or public accountants.

Requirements relating to memorandum and articles of association and annual reports of accounting corporations.

31. (1) The memorandum and articles of association of an accounting corporation shall at all times comply with all the requirements specified in sections 20(3)(a) and (c) and the rules relating thereto.

(2) An accounting corporation shall, within 30 days of the occurrence of —

(a) any amendment to its memorandum or articles of association;

(b) any change in the composition of its board of directors who are public accountants;

(c) any change in the proportion of its voting shares owned by corporate practitioners; or

(d) any change in the number of its corporate practitioners,

furnish the Registrar with a report in writing giving full particulars of the amendment or change.

(3) In addition to the requirements of subsection (2), every accounting corporation shall in every year, not later than a date specified by the Authority, send to the Registrar an annual report relating to the accounting corporation in such form as the Authority may require.

Shares of accounting corporation.

32. (1) Subject to this Order, the voting shares in an accounting corporation shall at all times be owned by corporate practitioners in the proportions referred to in section 20(3)(c)(ii) and shall comply with the prescribed requirements.

(2) The share capital of an accounting corporation which is paid up shall at all times be not less than \$20,000 or such other sum as may be prescribed.

(3) No share in an accounting corporation shall be held by any person as nominee for another person and no security may be created over any share in an accounting corporation.

(4) Any purchase or acquisition of a share of an accounting corporation, and any security created over any such share, in contravention of subsection (3) shall be void.

(5) A public accountant whose registration has been cancelled under Parts VI or VII shall not —

(a) hold any shares in any accounting corporation; or

(b) directly or indirectly take part or be concerned in the management or practice of any accounting corporation without the permission of the Authority,

unless and until he is subsequently reinstated as a registered public accountant.

(6) A public accountant whose registration has been suspended under Parts VI or VII shall not, during the period of suspension —

(a) exercise any voting rights attached to his shares in any accounting corporation; or

(b) take part or be concerned in the management or practice of any accounting corporation without the permission of the Authority.

(7) Notwithstanding subsections (1) and (5), where any person who is a member of an accounting corporation by virtue of being a corporate practitioner has, for any reason other than one of those mentioned in subsection (8), ceased to be —

(a) a public accountant; or

(b) a director or an employee of the accounting corporation,

the Authority may, upon an application made by that person or by the accounting corporation concerned, grant him a grace period of not more than 2 years to transfer his voting shares in the accounting corporation.

(8) Notwithstanding subsection (1), where any person who is a member of an accounting corporation by virtue of being a corporate practitioner has, by reason of death, bankruptcy or incapacity due to mental or physical disability —

(a) ceased to be a public accountant; or

(b) ceased to be a director or an employee of the accounting corporation,

the Authority may, upon the application of the accounting corporation concerned, allow the administrator or executor of that person's estate, the trustee in bankruptcy or the committee of that estate, as the case may be, to hold that person's voting shares in the accounting corporation for a grace period.

(9) The grace period referred to in subsection (8) shall be a period not exceeding 2 years commencing —

(a) in the case of death, from the date the administrator or executor is appointed by the court;

(b) in the case of bankruptcy, from the date the person is adjudged a bankrupt; or

(c) in the case of incapacity by reason of mental or physical disability, from the date the person becomes incapable to act.

(10) The person or persons who are allowed under subsections (7) and (8), respectively, a grace period to transfer or hold voting shares in an accounting corporation shall be treated as corporate practitioners for the purposes of computing the proportion of any voting shares in the accounting corporation which is required by section 20(3)(c)(ii) to be owned by corporate practitioners.

(11) The person or persons who are allowed under subsections (7) and (8), respectively, a grace period to transfer or hold voting shares in an accounting corporation shall not during the grace period exercise any voting rights attached to his or their voting shares in the accounting corporation or take part or be concerned in the management or practice of the accounting corporation.

Professional indemnity insurance.

33. (1) Every accounting corporation and every accounting Limited Liability Partnership registered under this Order shall be covered by professional

indemnity insurance of not less than one of the following amounts, whichever is the highest —

(a) \$250,000;

(b) a sum equal to the total of \$150,000 for every corporate practitioner in the accounting corporation or accounting Limited Liability Partnership; or

(c) where applicable, a sum equal to two and one-half times the gross income of the accounting corporation or accounting Limited Liability Partnership in the last completed financial year of the accounting corporation or accounting Limited Liability Partnership, subject to a maximum of \$10,000,000.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by regulations vary the amount of coverage under a professional indemnity insurance required by subsection (1).

Management of accounting corporation.

34. (1) Only members of an accounting corporation may be appointed as directors of an accounting corporation.

(2) The business of an accounting corporation, so far as it relates to the provision of public accountancy services, shall be under the control and management of one or more directors who are public accountants.

(3) Where, for any reason, the office of director required to be held by a public accountant under section 20(3)(c)(i) is vacated, the accounting corporation shall, as soon as practicable but no later than one month after the date of vacation of office, appoint another public accountant to fill the vacancy.

(4) The directors of an accounting corporation shall ensure that every invoice or official correspondence of the accounting corporation bears the statement that it is incorporated with limited liability.

Application of Chapter 39 and other written laws to accounting corporations.

35. (1) Nothing in this Part, with the exception of section 23(2), shall affect the operation of the Companies Act (Chapter 39) in relation to its application to a company that is an accounting corporation.

(2) An accounting corporation shall not be treated for the purposes of the Companies Act as a public company merely because it has more than 50 members.

(3) Such provisions of any written law having effect in relation to public accountants or accounting firms as may be prescribed shall have effect in relation to accounting corporations with such prescribed modifications as may be necessary or expedient.

Application of Limited Liability Partnerships Order, 2010 and other written laws to accounting Limited Liability Partnerships.

36. (1) Nothing in this Part shall affect the operation of the Limited Liability Partnerships Order, 2010 in relation to its application to a Limited Liability Partnership that is an accounting Limited Liability Partnership.

(2) Such provisions of any written law having effect in relation to public accountants or accounting firms as may be prescribed shall have effect in relation to accounting Limited Liability Partnerships with such prescribed modifications as may be necessary or expedient.

Removal from Register of Public Accounting Corporations, Register of Public Accounting Firms and Register of Public Accounting Limited Liability Partnerships.

37. (1) The Registrar shall remove from the Register of Public Accounting Corporations the name and relevant particulars of any accounting corporation if —

(a) the accounting corporation has been wound-up;

(b) the approval of the accounting corporation under this Part has been revoked under Part VII; or

(c) the accounting corporation has applied for its approval under this Part to be revoked.

(2) The Registrar shall remove from the Register of Public Accounting Firms the name and relevant particulars of any accounting firm if —

(a) the accounting firm has been dissolved;

(b) the approval of the accounting firm under this Part has been revoked under Part VII; or

(c) the accounting firm has applied for its approval under this Part to be revoked.

(3) The Registrar shall remove from the Register of Public Accounting Limited Liability Partnerships the name and relevant particulars of any accounting Limited Liability Partnership if —

(a) the accounting Limited Liability Partnership has been dissolved;

(b) the approval of the accounting Limited Liability Partnership under this Part has been revoked under Part VII; or

(c) the accounting Limited Liability Partnership has applied for its approval under this Part to be revoked.

(4) The Authority shall not grant an application by an accounting corporation, an accounting firm or an accounting Limited Liability Partnership for the revocation of its approval under subsections (1)*(c)*, (2)*(c)* or (3), as the case may be, if —

(a) he has received any complaint or information under Part VII against the accounting corporation, accounting firm or accounting Limited Liability Partnership or any public accountant practising therein;

(b) disciplinary proceedings under Part VII are pending against the accounting corporation, accounting firm or accounting Limited Liability Partnership or any public accountant practising therein; or

(c) the conduct of business of the accounting corporation, accounting firm or accounting Limited Liability Partnership is the subject of an inquiry or investigation by the Oversight Committee or a Disciplinary Committee under Part VII.

(5) The Authority may also revoke its approval of an accounting corporation or an accounting firm and order the removal of its name and relevant particulars from the appropriate Register if he is satisfied that —

(a) the approval of the accounting corporation, accounting firm or accounting Limited Liability Partnership under this Part was obtained by fraud or misrepresentation;

(b) the accounting corporation, the sole proprietor or any partner of the accounting firm, or any partner of the accounting Limited Liability Partnership, as the case may be, has made an arrangement with its or his creditors;

(c) the accounting corporation, accounting firm or accounting Limited Liability Partnership has ceased to provide public accountancy services in Brunei Darussalam; or

(d) the accounting corporation, accounting firm or accounting Limited Liability Partnership is no longer in a position to provide public accountancy services effectively.

(6) The Authority shall, before exercising his powers under subsection (5), notify the accounting corporation, accounting firm or accounting Limited Liability Partnership concerned of its intention to take such action and shall give the accounting corporation, accounting firm or accounting Limited Liability Partnership an opportunity to submit reasons, within such period as the Authority may determine, as to why its approval under this Part should not be revoked.

(7) Any person who is aggrieved by an order under subsection (5) may, within 30 days of being notified of the order, appeal to the Minister whose decision shall be final.

PART VI

PRACTICE MONITORING PROGRAMME

Interpretation of this Part.

38. In this Part —

"practice monitoring programme" means a programme designed to ascertain whether a public accountant has complied with the prescribed standards, methods, procedures and other requirements when providing public accountancy services;

"Practice Monitoring Sub-committee" means the Practice Monitoring Sub-committee appointed under section 40(1);

"practice review" means a study, appraisal or review of one or more aspects of the professional work of a public accountant that is carried out under a practice monitoring programme;

"reviewer" means any person who is appointed by the Oversight Committee under section 41 to carry out a practice review.

Practice monitoring programme for public accountants.

39. (1) The Authority, upon the advice of the Oversight Committee, may require, as a condition for a public accountant to be allowed to remain in practice, that the public accountant should undergo, at such periods as the Oversight Committee may determine, a practice monitoring programme and successfully pass the practice reviews carried out under such programme.

(2) The Oversight Committee, with the approval of the Authority, may require a public accountant undergoing a practice monitoring programme to pay such fee as it may specify in connection with the administration of the programme.

Appointment of Practice Monitoring Sub-committee.

40. (1) The Oversight Committee may, with the approval of the Authority, appoint a Practice Monitoring Sub-committee to assist the Oversight Committee in designing and implementing practice monitoring programmes.

(2) The Oversight Committee shall designate one of the members of the Practice Monitoring Sub-committee to be its chairman.

(3) The term of office of a member of the Practice Monitoring Sub-committee shall be determined by the Oversight Committee.

(4) Subject to this Part and to any general or special direction of the Authority or the Oversight Committee, the Practice Monitoring Sub-committee may regulate its own procedure.

Appointment of reviewers.

41. The Oversight Committee may appoint any suitably qualified person, not being a member of the Oversight Committee, as a reviewer to carry out any practice review under this Part.

Practice reviews.

42. (1) A reviewer shall carry out a practice review in accordance with —

(a) the relevant provisions of this Part;

(b) the practice and procedure determined by the Oversight Committee; and

(c) such instructions as may be issued by the Authority or the Oversight Committee.

(2) The following provisions apply in respect of any practice review —

(a) any public accountant under review shall, if required by the reviewer —

(i) produce to the reviewer or afford the reviewer access to, any record or document specified by the reviewer or any record or other document which is of a class or description so specified and which is in his possession or under his control, being in either case a record or other document which the reviewer reasonably believes is or may be relevant to the practice review, within such time and at such place as the reviewer may reasonably require;

accountant, accounting corporation or accounting firm or accounting Limited Liability Partnership –

(a) copies of the complaint or information against him or it and any statutory declaration or affidavit that has been made in support of the complaint or information; and

(b) a notice inviting the public accountant, accounting corporation accounting firm or accounting Limited Liability Partnership, within such period (not being less than 14 days) as may be specified in the notice, to give to the Oversight Committee any written explanation he or it may wish to offer.

(4) The public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership shall not have the right to be heard by the Oversight Committee, whether in person or by counsel, unless the Oversight Committee otherwise allows.

(5) The Oversight Committee shall inquire into the complaint or information and complete its inquiry not later than 90 days from the date the complaint or information is referred to it.

(6) Where the Oversight Committee is of the opinion that it will not be able to complete its inquiry within the period specified in subsection (8), it may apply in writing to the Authority for an extension of time to complete its inquiry and the Authority may grant such extension of time to the Oversight Committee as he thinks fit.

(7) All information, including such books, documents, papers and other records used by the Oversight Committee in the course of its deliberations shall be confidential and shall not be disclosed to any person including the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership unless the Oversight Committee decides otherwise.

(8) The chairman of the Oversight Committee shall record its proceedings in writing and in sufficient detail to enable the Authority to follow the course of the proceedings.

Powers of Oversight Committee.

51. (1) For the purposes of any inquiry, the Oversight Committee may –

(a) call upon or appoint any person the Oversight Committee considers necessary to assist it in its inquiry;

(b) require any person —

- (i) to produce any book, document, paper or other record which may be related to or be connected with the subject-matter of the inquiry for inspection by the Oversight Committee or the person appointed under paragraph *(a)* and for making copies thereof; or
- (ii) to give all information in relation to any such book, document, paper or other record which may be reasonably required by the Oversight Committee or the person so appointed; and

(c) require any person to attend at a specified time and place and give evidence or produce any such book, document, paper or record.

(2) Any person who, without lawful excuse, refuses or fails to comply with any requirement of the Oversight Committee under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding one year or both and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction.

(3) Where in the course of its inquiry the Oversight Committee receives any information or evidence relating to the conduct of the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership concerned which may give rise to further proceedings under this Part, the Oversight Committee may, after giving notice to the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership concerned, decide on its own motion to inquire into that matter and report its findings to the Oversight Committee.

(4) Where in the course of its inquiry the Oversight Committee receives any information or evidence relating to the conduct of the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership which discloses an offence under any written law, the Oversight Committee shall record that information in its report to the Authority.

(5) The Authority may appoint counsel to advise the Oversight Committee on any matter of law arising in the course of its inquiry.

Findings of Oversight Committee.

52. Upon due inquiry into the complaint or information referred to it under this Part, the Oversight Committee shall —

(a) if it is of the view that no further action should be taken on the complaint or information, dismiss the complaint or information and notify the Authority, the complainant (if any) and the public accountant, accounting

corporation, accounting firm or accounting Limited Liability Partnership concerned of the dismissal;

(b) if it is of the view that the complaint or information is valid but that no formal inquiry is necessary, recommend to the Authority to —

- (i) order that the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership be issued with a letter of advice;
- (ii) order that the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership be warned; or
- (iii) make such other order as the Oversight Committee considers appropriate; and

(c) if it is of the view that a formal inquiry is necessary, recommend to the Authority to constitute a Disciplinary Committee to hold the formal inquiry.

Decision of Authority.

53. (1) Upon receipt of the findings and recommendations of the Oversight Committee under section 52(b) or (c), the Authority may either —

- (a) accept the recommendation and make the recommended order;
- (b) refer the matter back to the Oversight Committee for further inquiry; or
- (c) make such other order as the Authority thinks fit.

(2) The Authority shall notify the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership and the person who made the complaint of his decision.

(3) Any public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership aggrieved by any order of the Authority, being an order referred to in subsection (1)(c) or section 52(b), may, within 30 days of being notified of the determination of the Authority, appeal to the Minister whose decision shall be final.

(4) The Minister may make —

- (a) an order affirming the decision of the Authority;

(b) an order directing the Authority to constitute a Disciplinary Committee for a formal inquiry into the matter; or

(c) such other order as he thinks fit.

(5) Where —

(a) the Authority accepts the recommendation of the Oversight Committee under section 52*(c)*; or

(b) the Minister makes an order under subsection (4)*(b)*,

the Authority shall appoint a Disciplinary Committee to conduct the formal inquiry.

Constitution of Disciplinary Committee.

54. (1) A Disciplinary Committee shall consist of 5 persons, of whom 2 shall be public accountants.

(2) A Disciplinary Committee may be appointed in connection with one or more matters or for a fixed period of time, as the Authority thinks fit.

(3) The chairman or a member of the Oversight Committee which inquired into any complaint or information shall not be a member of a Disciplinary Committee conducting the formal inquiry into the same complaint or information.

(4) The Authority shall appoint a member of a Disciplinary Committee who is a public accountant to be the chairman thereof.

(5) The Authority may at any time revoke the appointment of any Disciplinary Committee or remove any member of a Disciplinary Committee or fill any vacancy in a Disciplinary Committee.

(6) No act done by or under the authority of a Disciplinary Committee shall be invalid in consequence of any defect that is subsequently discovered in the appointment or qualification of the members or any of them.

(7) A member of a Disciplinary Committee shall, notwithstanding that he has ceased to be a member of the Disciplinary Panel on the expiry of his term of office, continue to be a member of the Disciplinary Committee until such time as the Disciplinary Committee has completed its work.

Notice of formal inquiry.

55. (1) Before a Disciplinary Committee commences a formal inquiry into any complaint or information referred to it, the Registrar shall serve on the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership concerned a written notice of the formal inquiry.

(2) A formal inquiry shall not be fixed on a date earlier than 14 days after the date of the notice of formal inquiry, except with the agreement of the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership concerned.

(3) On application to the Disciplinary Committee, the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership may request postponement of the formal inquiry, and the Disciplinary Committee may grant the application and postpone the formal inquiry to such date as it may determine, or refuse the application.

Procedure of Disciplinary Committee.

56. (1) A Disciplinary Committee shall meet at such times and places as its chairman may appoint.

(2) All the members of a Disciplinary Committee shall be personally present to constitute a *quorum* for a meeting.

(3) A Disciplinary Committee shall not be bound to act in any formal manner and shall not be bound by the provisions of the Evidence Act (Chapter 108) or by any other written law relating to evidence, but may inform itself on any matter in such manner as it thinks fit.

(4) The Authority may appoint counsel for the purpose of a formal inquiry (whether to prosecute the complaint or to act as a legal adviser to the Disciplinary Committee) and pay to him, as part of the expenses of the Authority, such remuneration as the Authority may determine.

(5) At the formal inquiry —

(a) a public accountant against whom the complaint has been made may appear in person or be represented by counsel; and

(b) the accounting corporation, accounting firm or accounting Limited Liability Partnership against which the complaint has been made may be represented by any of its corporate practitioners or partners or by counsel.

(6) If the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership does not appear, the Disciplinary

Committee may proceed with the formal inquiry after satisfying itself that the notice referred to in section 55 was duly served.

(7) A Disciplinary Committee may, for the purposes of its formal inquiry, administer an oath to any person giving evidence before it, and any party to the proceedings may apply for subpoenas to testify or to produce documents.

(8) The subpoenas referred to in subsection (7) shall be served and may be enforced as if they were subpoenas issued in connection with a civil action in the High Court.

(9) Any person giving evidence before a Disciplinary Committee shall be legally bound to tell the truth.

(10) Persons giving evidence in a formal inquiry shall have the same privileges and immunities in relation to an inquiry as if it was a proceeding in a court of law.

(11) The hearing of a formal inquiry shall not be open to the public.

(12) A Disciplinary Committee shall carry out its work expeditiously and may apply to the Authority for an extension of time and for directions to be given to the Disciplinary Committee if it fails to make its finding and order within 6 months from the date of its appointment.

(13) When an application for an extension of time has been made under subsection (12), the Authority may grant an extension of time for such period as it thinks fit.

(14) The Authority may, where it thinks fit, require a Disciplinary Committee to consider further evidence and meet for that purpose, except that the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership shall be given not less than 14 days' notice of such further meeting of the Disciplinary Committee.

(15) The chairman of the Disciplinary Committee shall record its proceedings in writing and in sufficient detail to enable the Oversight Committee to follow the course of the proceedings.

(16) For the purposes of sections 172, 173, 174, 175, 177, 179, 182 and 228 of the Penal Code (Chapter 22), "public servant" shall be deemed to include a member of a Disciplinary Committee holding a formal inquiry, and for the purpose of sections 193 and 228 of the Penal Code, "judicial proceeding" shall be deemed to include such a formal inquiry.

Cancellation of registration, suspension etc. of public accountants.

57. (1) If, at the conclusion of a formal inquiry, the Disciplinary Committee is satisfied that a public accountant —

(a) has been convicted in Brunei Darussalam or elsewhere of any offence involving fraud, dishonesty or moral turpitude;

(b) has been convicted in Brunei Darussalam or elsewhere of any offence implying a defect in character which makes him unfit for his profession;

(c) has been guilty of such improper or dishonourable conduct in the discharge of his professional duty or such improper or dishonourable conduct which, in the opinion of the Disciplinary Committee, renders him unfit to be a public accountant or would bring the profession of public accountancy into disrepute;

(d) has carried on by himself or by any of his employees any trade, business or calling that detracts from the profession of public accountancy or is in any way incompatible with it, or is employed in any such trade, business or calling;

(e) has, while being a director of an accounting corporation or a partner of an accounting Limited Liability Partnership, failed to take reasonable steps to prevent the accounting corporation or accounting Limited Liability Partnership from acting in a manner which would warrant the Authority imposing any order on the accounting corporation or accounting Limited Liability Partnership under section 58(2);

(f) has rendered public accountancy services as, or purporting to be —

(i) a director of a company which was not an accounting corporation; or

(ii) a partner of a limited liability partnership which was not an accounting Limited Liability Partnership,

when the services were rendered;

(g) has, while being a director of an accounting corporation or partner of an accounting Limited Liability Partnership, practised public accountancy at such a time when the accounting corporation or accounting Limited Liability Partnership was not covered by any professional indemnity insurance to the extent required by section 33; or

(h) has, while being a director of an accounting corporation, failed to comply with section 34(4),

the Disciplinary Committee shall report its findings to the Authority and recommend to the Oversight Committee to take any of the steps referred to in subsections (2)(a) to (f).

(2) Upon receiving the report and recommendation of the Disciplinary Committee under subsection (1), the Authority may —

(a) by order, cancel the registration of the public accountant;

(b) by order, suspend the public accountant from practice for such period not exceeding 2 years as may be specified in the order;

(c) by order, impose such conditions as are necessary to restrict the practice of the public accountant in such manner as the Authority thinks fit for a period not exceeding 2 years;

(d) by order, impose on the public accountant a penalty not exceeding \$10,000;

(e) in writing censure the public accountant;

(f) by order, require the public accountant to give such undertaking as the Authority thinks fit; or

(g) make such other order as it thinks just and expedient in the circumstances of the case.

(3) In addition to his powers under subsection (2), the Authority may order the public accountant to pay to the Authority such sum as he thinks fit in respect of the costs and expenses of and incidental to any proceedings against him under this Part, and the High Court shall have jurisdiction to tax such costs and any such order for costs shall be enforceable as if it had been ordered in connection with a civil action in the High Court.

(4) Where a public accountant in respect of whom an order referred to in subsection (2)(c), (d) or (f) has been made fails to comply with any of the requirements imposed on him by the order or breaches any undertaking given by him pursuant to such order, the Authority may order —

(a) that his name be removed from the Register of Public Accountants;
or

(b) that he be suspended from practice for a period not exceeding one year.

(5) Where the Authority has made an order referred to in subsection (2)(c), the Authority may, if it thinks fit having regard to any change in circumstances, by another order revoke the original order or revoke or vary any of the conditions imposed by the original order.

(6) Where the Authority has, under subsection (5), varied the conditions imposed by an order referred to in subsection (2)(c), the Registrar shall immediately serve on the public accountant a notice of the variation.

(7) Any penalty referred to in subsection (2)(d) shall be recoverable as a debt due to the Authority from the public accountant.

(8) A decision of the Authority under subsections (2), (3), (4) or (5) shall not take effect —

(a) until the expiration of one month from the date on which the decision has been communicated to the public accountant; or

(b) where an appeal against the decision is made to the Minister under section 59, until the appeal has been determined or withdrawn.

(9) While any public accountant remains suspended, he shall be deemed not to be registered as a public accountant under this Order, but immediately upon the expiry of his period of suspension, his rights and privileges as a public accountant shall immediately be revived.

(10) For the purposes of subsection (1)(e), a public accountant shall be deemed to have taken reasonable steps to prevent the doing of any act by any accounting corporation or accounting Limited Liability Partnership if he satisfies the Disciplinary Committee that the act was done without his knowledge and that —

(a) he was not in a position to influence the conduct of the accounting corporation or accounting Limited Liability Partnership in relation to that act; or

(b) being a director of the accounting corporation or a partner of the accounting Limited Liability Partnership, he exercised all due diligence to prevent the accounting corporation or accounting Limited Liability Partnership from so acting.

(11) In this section, references to acts done by an accounting corporation or an accounting Limited Liability Partnership include a series of acts.

Revocation of approval etc. of accounting corporations, accounting firms and accounting Limited Liability Partnerships.

58. (1) If, at the conclusion of a formal inquiry, the Disciplinary Committee is satisfied that —

(a) an accounting corporation or any of its directors, an accounting firm or any of the partners therein, or an accounting Limited Liability Partnership or any of the partners therein, has falsified or caused to be falsified any document, or has made or caused to be made any statement which is material and which the accounting corporation, accounting firm, accounting Limited Liability Partnership, director or partner (as the case may be) knows is false or does not believe to be true in relation to any document;

(b) an accounting corporation, accounting firm or accounting Limited Liability Partnership has done or omitted to do something which, if done or omitted to be done by a public accountant, would be regarded as being improper or dishonourable conduct that would bring the profession of public accountancy into disrepute;

(c) an accounting corporation, accounting firm or accounting Limited Liability Partnership has carried on by itself or by any of its employees any trade, business or calling that detracts from the profession of public accountancy or is in any way incompatible with it, or is employed in any such trade, business or calling;

(d) an accounting corporation, accounting firm or accounting Limited Liability Partnership has rendered any public accountancy services under a name other than the name approved under section 23;

(e) an accounting corporation or accounting Limited Liability Partnership has provided public accountancy services without being covered by professional indemnity insurance to the extent required by section 33; or

(f) an accounting corporation has contravened or failed to comply with any of the requirements for accounting corporations in sections 31, 32 or 34 or in any of the rules,

the Disciplinary Committee shall report its findings to the Authority and recommend to the Authority to take any of the steps referred to in subsections (2)(a) to (f).

(2) Upon receiving the report and recommendation of the Disciplinary Committee under subsection (1), the Authority may —

(a) by order, revoke the approval granted to the accounting corporation, accounting firm or accounting Limited Liability Partnership under Part V;

(b) by order, suspend the accounting corporation, accounting firm or accounting Limited Liability Partnership from providing public accountancy services for such period not exceeding 2 years as may be specified in the order;

(c) by order, impose such conditions as are necessary to restrict the provision of public accountancy services by the accounting corporation, accounting firm or accounting Limited Liability Partnership in such manner as the Authority thinks fit for a period not exceeding 2 years;

(d) by order, impose on the accounting corporation, accounting firm or accounting Limited Liability Partnership a penalty not exceeding \$100,000;

(e) in writing censure the accounting corporation, accounting firm or accounting Limited Liability Partnership;

(f) by order, require the accounting corporation, accounting firm or accounting Limited Liability Partnership to give such undertaking as the Authority thinks fit; or

(g) make such other order as it thinks just and expedient in the circumstances of the case.

(3) In addition to his powers under subsection (2), the Authority may order the accounting corporation, accounting firm or accounting Limited Liability Partnership to pay to the Authority such sum as he thinks fit in respect of the costs and expenses of and incidental to any proceedings against the accounting corporation, accounting firm or accounting Limited Liability Partnership under this Part, and the High Court shall have jurisdiction to tax such costs and any such order for costs shall be enforceable as if it had been ordered in connection with a civil action in the High Court.

(4) Where an accounting corporation, accounting firm or accounting Limited Liability Partnership in respect of which an order referred to in subsection (2)(c), (d) or (f) has been made fails to comply with any of the requirements imposed by the order or breaches any undertaking given by it pursuant to such order, the Authority may –

(a) by order, revoke the approval granted to the accounting corporation, accounting firm or accounting Limited Liability Partnership under Part V; or

(b) by order, suspend the accounting corporation, accounting firm or accounting Limited Liability Partnership from providing public accountancy services for a period not exceeding one year.

(5) Where the Authority has made an order referred to in subsection (2)(c), the Authority may, if it thinks fit having regard to any change in circumstances, by another order revoke the original order or revoke or vary any of the conditions imposed by the original order.

(6) Where the Authority has, under subsection (5), varied the conditions imposed by an order referred to in subsection (2)(c), the Registrar shall immediately serve on the accounting corporation, accounting firm or accounting Limited Liability Partnership a notice of the variation.

(7) Any penalty referred to in subsection (2)(d) shall be recoverable as a debt due to the Authority from the accounting corporation, accounting firm or accounting Limited Liability Partnership.

(8) A decision by the Authority under subsections (2), (3), (4) or (5) shall not take effect —

(a) until the expiration of one month from the date on which the decision has been communicated to the accounting corporation, accounting firm or accounting Limited Liability Partnership; or

(b) where an appeal against the decision is made to the Minister under section 59, until the appeal has been determined or withdrawn.

(9) While any accounting corporation, accounting firm or accounting Limited Liability Partnership remains suspended from providing public accountancy services, it shall be deemed not to be approved as an accounting corporation, accounting firm or accounting Limited Liability Partnership under this Order, but immediately upon the expiry of the period of suspension, its rights and privileges as an accounting corporation, accounting firm or accounting Limited Liability Partnership shall be revived.

Appeal against disciplinary orders of Authority.

59. (1) Any public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership aggrieved by any decision made by the Authority under sections 57 or 58 may appeal to the Minister within a period of 30 days (or such further period as the Authority may allow on application in any particular case) after the service of the decision of the Authority on the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership, as the case may be.

(2) The decision of the Minister on an appeal under subsection (1) shall be final.

PART VIII

GENERAL

Reinstatement to Registers.

60. (1) Where —

(a) the registration of a public accountant has been cancelled under Parts VI or VII and his name and particulars removed from the Register of Public Accountants; or

(b) the approval granted to an accounting corporation, accounting firm or accounting Limited Liability Partnership under Part V is revoked under Part VII and its name and particulars removed from the Register of Public Accounting Corporations, the Register of Public Accounting Firms or the Register of Public Accounting Limited Liability Partnerships,

the public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership shall, if an appeal to the Minister is allowed, be immediately reinstated to the Register of Public Accountants, the Register of Public Accounting Corporations, the Register of Public Accounting Firms or the Register of Public Accounting Limited Liability Partnerships, as the case may be, without payment of any fee.

(2) The Authority may, in its discretion, after the expiration of not less than 2 years from the cancellation of the registration of any public accountant or the revocation of the approval granted under Part V to an accounting corporation, accounting firm or accounting Limited Liability Partnership, consider any fresh application for registration or approval by such public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership.

Holding out as public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership.

61. (1) A person who is not registered as a public accountant under this Order shall not —

(a) practise as a public accountant;

(b) hold himself out to be a public accountant; or

(c) use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is

a public accountant registered under this Order, or that he is otherwise authorised to provide public accountancy services in Brunei Darussalam.

(2) Subject to subsection (5), a body corporate which is not approved as an accounting corporation under this Order shall not —

(a) provide public accountancy services in Brunei Darussalam;

(b) advertise or hold itself out or describe itself in any way to be an accounting corporation or to be authorised to provide public accountancy services in Brunei Darussalam; or

(c) use in connection with its name, or with the name under which it carries on business, the words "Public Accounting Corporation", or any abbreviation or derivative thereof, or use at the end of such name the acronym "PAC", or any combination of such words, abbreviation, derivative or acronym.

(3) A partnership or any other unincorporated body which is not approved as an accounting firm under this Order shall not —

(a) provide public accountancy services in Brunei Darussalam; or

(b) advertise or hold itself out or describe itself in any way to be an accounting firm or to be authorised to provide public accountancy services in Brunei Darussalam.

(4) A limited liability partnership which is not approved as an accounting Limited Liability Partnership under this Order shall not —

(a) provide public accountancy services in Brunei Darussalam; or

(b) advertise or hold itself out or describe itself in any way to be an accounting Limited Liability Partnership or to be authorised to provide public accountancy services in Brunei Darussalam.

(5) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, exempt any person from all or any of the provisions of subsections (1), (2), (3) and (4).

(6) Any person who contravenes subsections (1), (2), (3) or (4) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding one year or both and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000, imprisonment for a term not exceeding 2 years or both.

Remuneration for services rendered.

62. (1) Subject to this Order, no person shall be entitled to recover any expenses or remuneration for or in respect of any public accountancy services rendered or provided unless the person rendering or providing such services is —

- (a) a public accountant;
- (b) an accounting corporation;
- (c) an accounting firm; or
- (d) an accounting Limited Liability Partnership.

(2) Subsection (1) does not apply to —

- (a) the Auditor General or any public officer authorised by him; and
- (b) any public officer or any officer of any statutory authority authorised by the Minister in the exercise of their powers or in the performance of their official duties.

(3) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding one year or both and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000, imprisonment for a term not exceeding 2 years or both.

Fraudulent practices in relation to registration.

63. Any person who —

- (a) procures or attempts to procure —
 - (i) registration or a certificate of registration as a public accountant under this Order; or
 - (ii) approval as an accounting corporation, accounting firm or accounting Limited Liability Partnership under this Order,

by knowingly making or producing or causing to be made or produced any false or fraudulent declaration, certificate, application or representation, whether in writing or otherwise;

(b) wilfully makes or causes to be made any falsification in the Register of Public Accountants, the Register of Public Accounting Corporations, the Register

of Public Accounting Firms or the Register of Public Accounting Limited Liability Partnerships;

(c) forges, alters or counterfeits any certificate of registration as a public accountant issued under this Order;

(d) uses any forged, altered or counterfeit certificate of registration as a public accountant under this Order, knowing the certificate to have been forged, altered or counterfeited; or

(e) personates or falsely represents himself to be a public accountant or who buys, sells or fraudulently obtains a certificate of registration as a public accountant issued under this Order,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

Restrictions on employing disqualified persons.

64. (1) No public accountant shall in connection with his practice as such, and no accounting corporation, accounting firm or accounting Limited Liability Partnership shall in connection with its business of providing public accountancy services, without the consent of the Authority, employ, engage or remunerate any person who to his or its knowledge —

(a) is an undischarged bankrupt;

(b) has had his registration as a public accountant suspended or cancelled under Parts VI or VII;

(c) has been convicted of an offence by a court of law and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$5,000; or

(d) has not been approved by the Authority.

(2) On application made by any person, the Authority may make an order directing that, as from the date to be specified in the order, no public accountant shall in connection with his practice as such, or no accounting corporation, accounting firm or accounting Limited Liability Partnership shall in connection with its provision of public accountancy services, as the case may be, employ or remunerate any person the subject of the application who —

(a) has been a party to any act or default of a public accountant in respect of which a complaint has been or might properly have been made against that public accountant under the provisions of this Order; or

(b) has so conducted himself while employed by a public accountant that, had he himself been a public accountant, his conduct might have formed the subject of a complaint under the provisions of this Order against him.

(3) Every application under subsection (2) shall be served upon the person in respect of whom it is made and upon his employer or previous employer, if his employer or previous employer is a public accountant, an accounting corporation, an accounting firm or an accounting Limited Liability Partnership, not less than 10 days before the application is to be heard.

(4) Every order made under subsection (2) shall be filed in a file kept for this purpose by the Registrar and such file may be inspected by any public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership without fee.

(5) Disciplinary proceedings may be taken against any public accountant, accounting corporation, accounting firm or accounting Limited Liability Partnership who or which contravenes subsection (1) or fails to comply with an order made under subsection (2).

Offences committed by bodies corporate etc.

65. (1) Where an offence under this Order which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or any similar officer of the body corporate, or of any person purporting to act in any such capacity, he, as well as the body corporate, is also guilty of that offence and liable to be proceeded against and punished accordingly.

(2) In relation to a body corporate whose affairs are managed by its members, "director", in subsection (1), means any member of that body corporate.

(3) Proceedings for an offence under this Order alleged to have been committed by a partnership shall be brought in the name of the partnership and not in that of the partners; but without prejudice to any liability of the partners under subsection (5).

(4) A fine imposed on a partnership on its conviction in such proceedings shall be paid out of the partnership assets.

(5) Where a partnership is guilty of an offence under this Order, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, is also guilty of the offence and liable to be proceeded against and punished accordingly.

Jurisdiction of Court.

66. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Chapter 7), a Court of a Magistrate shall have jurisdiction to try any offence under this Order and shall have power to impose the full penalty or punishment in respect of the offence.

Composition of offences.

67. (1) The Authority or any officer authorised by the Authority in writing in that behalf may compound any offence against this Order which is prescribed as a compoundable offence by collecting from the person reasonably suspected of having committed that offence a sum of money not exceeding \$1,000.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of that offence.

Protection from personal liability.

68. No suit or other legal proceedings shall lie personally against any person who is a member of the Oversight Committee or of a Disciplinary Committee for anything which is in good faith done or intended to be done in the execution or purported execution of this Order.

Power to exempt.

69. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, exempt any person or class of person from all or any provisions of this Order.

Amendment of Schedules.

70. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan and by order published in the *Gazette*, amend the Schedules.

Regulations.

71. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are necessary or expedient for giving effect to and carrying out the provisions of this Order and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations —

(a) to provide for the manner in which applications for registration or approval may be made under this Order;

- (b)* to prescribe the fees payable for the purposes of this Order;
- (c)* to prescribe the qualifications and other requirements for the registration of public accountants under this Order;
- (d)* to provide for the classification of public accountants;
- (e)* to prescribe the standards, methods, procedures and other requirements to be applied by public accountants when providing public accountancy services;
- (f)* to prescribe the code of professional conduct and ethics of public accountants, accounting corporations, accounting firms and accounting Limited Liability Partnerships;
- (g)* to provide for matters relating to the discipline of public accountants;
- (h)* to impose restrictions on persons or classes of persons who may become officers of an accounting corporation, accounting firm or accounting Limited Liability Partnership;
- (i)* to provide for the exemption of any persons or classes of persons from any provision of Parts IV or V;
- (j)* to prescribe the offences which may be compounded and the method and procedure thereof; and
- (k)* to prescribe anything required to be or which may be prescribed under this Order.

(3) In making rules for the purposes of subsection (2)(e) and (f), the Minister may adopt any standard, method, procedure or code of professional conduct or ethics issued or applied by any professional accountancy body or organisation, whether in Brunei Darussalam or elsewhere.

Transitionals and savings.

72. (1) Any person who was authorised under section 131(3) of the Companies Act (Chapter 39) immediately before the date of commencement of this Order to perform the duties required by that Act to be performed by an auditor shall be deemed to be a public accountant under this Order for a period of 6 months from that date if he applies to the Authority for registration under this Order not later than one month from that date.

(2) This Order does not apply to any misconduct committed before the date of commencement of this Order.

FIRST SCHEDULE

(section 5(4))

CONSTITUTION AND PROCEEDINGS OF OVERSIGHT COMMITTEE

Appointment of chairman.

1. The chairman of the Oversight Committee shall be appointed by the Authority from among its members.

Temporary Chairman.

2. The Authority may appoint any member of the Oversight Committee to be a temporary chairman whenever the chairman is unable to discharge his functions due to absence from Brunei Darussalam or incapacity from illness or otherwise.

Revocation of appointment.

3. The Authority may, at any time, revoke the appointment of any member of the Oversight Committee and, in exercising its power under this paragraph, the Authority shall not be required to assign any reason for such revocation.

Tenure of office of member.

4. A member of the Oversight Committee, unless he resigns during his term of office, shall hold office for a period not exceeding 3 years and shall be eligible for reappointment on completion of that period.

Filling of vacancies.

5. If a member resigns, dies or has his appointment revoked before the expiry of the term for which he has been appointed, the Authority may appoint a person to fill the vacancy and every person so appointed shall hold office for the residue of the term for which his predecessor had been appointed.

Oversight Committee may act notwithstanding vacancy.

6. The Oversight Committee may act notwithstanding any vacancy in its membership.

Meetings of Oversight Committee.

7. (1) The Oversight Committee shall meet for the despatch of business at such times and places as the chairman may appoint.

(2) At any meeting of the Oversight Committee, 3 members shall form a *quorum*.

(3) The chairman shall preside at all meetings of the Oversight Committee and in his absence, the temporary chairman shall preside at the meeting.

(4) Subject to this Order, the Oversight Committee may regulate its own procedure.

SECOND SCHEDULE

(section 13(1))

RECOGNISED ACCOUNTANCY BODIES OR ORGANISATIONS

CPA Australia

The Association of Chartered Certified Accountants

The Institute of Chartered Accountants of Australia

The Institute of Chartered Accountants of Canada

The Institute of Chartered Accountants of England and Wales

The Institute of Chartered Accountants of Ireland

The Institute of Chartered Accountants of New Zealand

The Institute of Chartered Accountants of Scotland.

Made this 25th. day of Muharram, 1432 Hijriah corresponding to the 31st. day of December, 2010 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM