
Professional Accountants (Amendment) Ordinance 2022

Contents

Section	Page
Part 1	
Preliminary	
1.	Short title and commencement A441
Part 2	
Amendments to Professional Accountants Ordinance	
2.	Professional Accountants Ordinance amended..... A443
3.	Section 2 amended (interpretation)..... A443
4.	Section 4 amended (appointment of President and Vice-President) A445
5.	Section 8 amended (power of Institute to make by-laws) A445
6.	Section 9 amended (general meetings) A447
7.	Section 10 amended (establishment and composition of the Council) A447
8.	Section 12 amended (compulsory retirement of elected members) A451
9.	Section 13 substituted A451
13.	Election of certified public accountants as elected members A451
10.	Section 13A added A455

Section	Page
13A. Transitional arrangements in relation to Professional Accountants (Amendment) Ordinance 2022 (9 of 2022).....	A457
11. Section 15 amended (vacation of office by Council members)	A459
12. Section 54 and Schedule 1 added.....	A459
54. Secretary for Financial Services and the Treasury may amend Schedule 1	A459
Schedule 1 Candidates.....	A461

Part 3

Amendments to Professional Accountants By-laws

13. Professional Accountants By-laws amended.....	A465
14. Part IA heading added.....	A465

Part IA

Preliminary

15. By-law 1A added.....	A465
1A. Interpretation	A465
16. By-law 2 amended (nominations of members of Council)	A465
17. By-law 3 amended (ballot for elected members of Council)	A469
18. By-law 9 amended (adjournment of meetings of Council)	A471
19. By-law 12 substituted.....	A473

Section	Page
12. Procedure for election of President and Vice- Presidents	A473
20. By-law 13 amended (general meetings of Institute).....	A473
21. By-law 13A added.....	A473
13A. Mode of general meetings of Institute.....	A475
22. By-law 14 substituted.....	A475
14. Notice of general meetings of Institute	A475
23. By-law 16 amended (quorum of general meetings of Institute)	A477
24. By-law 18 amended (procedure at meetings of Institute).....	A479
25. By-laws 18A and 18B added	A483
18A. Adjournment of general meetings of Institute.....	A483
18B. Postponement of general meetings of Institute.....	A485
26. Part XII added.....	A489

Part XII

Communication

49. Giving or issuing notices and documents.....	A489
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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 9 OF 2022



John LEE Ka-chiu
Chief Executive
21 July 2022

An Ordinance to amend the Professional Accountants Ordinance to provide for the nomination of candidates for the election of the President and Vice-Presidents of the Hong Kong Institute of Certified Public Accountants and elected members of the Council of the Institute; to change the election cycle of the elected members; and to make related and miscellaneous amendments (including amendments to the Professional Accountants By-laws).

[1 November 2022]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Professional Accountants (Amendment) Ordinance 2022.
 - (2) This Ordinance comes into operation on 1 November 2022.
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Part 2

Amendments to Professional Accountants Ordinance

2. Professional Accountants Ordinance amended

The Professional Accountants Ordinance (Cap. 50) is amended as set out in this Part.

3. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *elected member*—

Repeal

“member of the Council elected under section 10(2)(c)”

Substitute

“certified public accountant who becomes an elected member of the Council under section 13”.

- (2) Section 2(1), English text, definition of *Vice-President*—

Repeal

“the Vice-President”

Substitute

“a Vice-President”.

- (3) Section 2(1)—

Repeal the definition of *appointed day*.

- (4) Section 2(1)—

Add in alphabetical order

“*election AGM* (選舉周年大會) means an annual general meeting of the Institute at which an election of elected members is held;”.

4. Section 4 amended (appointment of President and Vice-President)

(1) Section 4, heading—

Repeal

“**Appointment of President and Vice-President**”

Substitute

“**President and Vice-Presidents**”.

(2) Section 4—

Repeal subsection (1)

Substitute

“(1) There are to be a President and 2 Vice-Presidents of the Institute, who are to be elected by the Council from elected members who become candidates as described in section 1 of Schedule 1.”.

(3) Section 4(5)—

Repeal

“shall be deemed to occur when a person is temporarily absent from Hong Kong or”

Substitute

“is deemed to occur when a person”.

5. Section 8 amended (power of Institute to make by-laws)

Section 8(1)—

Repeal paragraph (n)

Substitute

“(n) subject to sections 4(1) and 13(2), providing for the procedure for the nomination and election of the President, Vice-Presidents and elected members;”.

6. Section 9 amended (general meetings)

(1) Section 9(1), Chinese text—

Repeal

“週”

Substitute

“周”.

(2) Section 9(2)—

Repeal

“shall be held not less than once in every calendar year, and not more than 15 months after the holding of the last preceding”

Substitute

“is to be held once in every calendar year, and not more than 15 months after the holding of the last”.

(3) Section 9(3), Chinese text—

Repeal

“週”

Substitute

“周”.

7. Section 10 amended (establishment and composition of the Council)

(1) Section 10(2)(c)—

Repeal

“elected at an annual general meeting of the Institute, each of whom shall on the day of the meeting”

Substitute

“who become elected members under section 13, each of whom must on the day of the relevant election AGM”.

- (2) Section 10(2)—

Repeal paragraph (d)

Substitute

“(d) a person who is the immediate past President, but is not an elected member; and”.

- (3) After section 10(2A)—

Add

“(2B) A person who becomes a member of the Council pursuant to subsection (2)(d) is to hold office as a member of the Council from the time when the person so becomes a member of the Council until the conclusion of the next annual general meeting of the Institute.”.

- (4) Section 10(4), Chinese text—

Repeal

“週”

Substitute

“周”.

- (5) After section 10(5)—

Add

“(6) In subsection (2)(d)—

immediate past President (去屆會長) means a person who ceases to be President at the conclusion of the last annual general meeting of the Institute in accordance with section 4(2).”.

8. Section 12 amended (compulsory retirement of elected members)

(1) Section 12—

Repeal subsection (1)

Substitute

“(1) An elected member is to retire from office immediately before the conclusion of the first election AGM held after the elected member becomes such a member.”.

(2) Section 12—

Repeal subsection (1A).

9. Section 13 substituted

Section 13—

Repeal the section

Substitute

“13. Election of certified public accountants as elected members

- (1) An election of elected members (*general election*) is to be held every other calendar year at an election AGM.
- (2) Subject to subsections (3) and (5), elected members are to be elected from certified public accountants who are on the day of the election AGM ordinarily resident in Hong Kong and who become candidates as described in section 2 of Schedule 1.
- (3) Each candidate who is an eligible past Vice-President (if any) is deemed to have been elected and becomes an elected member at the conclusion of the election AGM.

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- (4) Subsection (3) does not apply to a candidate if the candidate became an elected member at the conclusion of the last election AGM under that subsection.
- (5) If the number of candidates who are not an eligible past Vice-President—
- (a) exceeds the number of vacancies for elected members that are not filled under subsection (3), the election for those vacancies must be determined by ballot, and the candidates so elected become elected members at the conclusion of the election AGM;
 - (b) equals the number of vacancies for elected members that are not filled under subsection (3), those candidates are deemed to have been elected and become elected members at the conclusion of the election AGM; or
 - (c) is less than the number of vacancies for elected members that are not filled under subsection (3)—
 - (i) those candidates are deemed to have been elected and become elected members at the conclusion of the election AGM; and
 - (ii) the Chief Executive may appoint a certified public accountant to fill such a vacancy remaining unfilled at the conclusion of the election AGM, and the accountant becomes an elected member on the appointment.

(6) In this section—

eligible past Vice-President (合資格前副會長), in relation to the general election held at an election AGM, means—

(a) a candidate who—

- (i) was elected as a Vice-President at the first meeting of the Council held after the last annual general meeting of the Institute; and
- (ii) has held that office for the whole period from the date of the election as a Vice-President until immediately before the general election; or

(b) a candidate who—

- (i) was elected as a Vice-President at the first meeting of the Council held after the last election AGM;
- (ii) has held that office for the whole period from the date of the election as a Vice-President until the conclusion of the last annual general meeting of the Institute; and
- (iii) is still an elected member immediately before the general election.”.

10. Section 13A added

After section 13—

Add

“13A. Transitional arrangements in relation to Professional Accountants (Amendment) Ordinance 2022 (9 of 2022)

- (1) For the purposes of section 13(1), the first election of elected members after 1 November 2022 (*first general election*) is to be held at the annual general meeting of the Institute held in 2023 (*2023 AGM*).
- (2) A certified public accountant who holds office as an elected member at the beginning of 1 November 2022 is to retire from office immediately before the conclusion of the 2023 AGM, unless the accountant is deemed by virtue of section 15(1) to have vacated office as a member of the Council.
- (3) If, but for this subsection, the President and Vice-Presidents would have held office until the conclusion of the annual general meeting of the Institute held in 2022 in accordance with section 4(2), they are to hold office until the conclusion of the 2023 AGM, unless they—
 - (a) resign their offices by notice in writing delivered to the Registrar; or
 - (b) are deemed by virtue of section 15(1) to have vacated their offices as members of the Council.
- (4) Despite the definition of *eligible past Vice-President* in section 13(6), in relation to the first general election, the reference to eligible past Vice-President in section 13 is a reference to a candidate who—
 - (a) was elected as a Vice-President at the first meeting of the Council held after the annual general meeting of the Institute held in 2021; and

(b) has held that office for the whole period from the date of the election as a Vice-President until immediately before the first general election.”.

11. Section 15 amended (vacation of office by Council members)

Section 15—

Repeal subsection (2)

Substitute

“(2) A person who becomes a member of the Council pursuant to section 10(2)(d) is deemed to have vacated office as a member of the Council under a circumstance set out in subsection (1)(a), (b), (c), (d) or (e), but no vacancy is to arise on the vacation of office.”.

12. Section 54 and Schedule 1 added

After section 53—

Add

“54. Secretary for Financial Services and the Treasury may amend Schedule 1

The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend Schedule 1.

Schedule 1

[ss. 4, 13 & 54]

Candidates

1. Candidates for election as President and Vice-Presidents

An elected member only becomes a candidate for election as President or a Vice-President of the Institute if—

- (a) the elected member is nominated in the following way—
 - (i) the elected member is proposed by 1 member of the Council; and
 - (ii) the proposal is seconded by another member of the Council; and
- (b) the elected member is willing to serve as President or a Vice-President if elected.

2. Candidates for election as elected members

A certified public accountant only becomes a candidate for election as an elected member of the Council if—

- (a) the accountant is nominated in the following way—
 - (i) the accountant is proposed by 1 certified public accountant; and
 - (ii) the proposal is seconded by another 9 certified public accountants and 2 members of the Advisory Committee referred to in section 13A(1)(d) of Schedule 2 to the Accounting and Financial Reporting Council Ordinance (Cap. 588); and

- (b) the accountant is willing to serve as an elected member if elected.”.

Part 3

Amendments to Professional Accountants By-laws

13. Professional Accountants By-laws amended

The Professional Accountants By-laws (Cap. 50 sub. leg. A) are amended as set out in this Part.

14. Part IA heading added

Before by-law 1—

Add

“Part IA

Preliminary”.

15. By-law 1A added

Part IA, after by-law 1—

Add

“1A. Interpretation

In these by-laws—

present (出席) means present in person, whether physically or by electronic means.”.

16. By-law 2 amended (nominations of members of Council)

(1) By-law 2, heading—

Repeal

“Nominations of members of Council”

Substitute

“**Procedure for nomination of candidates for election as elected members**”.

- (2) By-law 2—

Repeal paragraphs (1A) and (1).

- (3) By-law 2(2)—

Repeal

“referred to in paragraph (1) shall”

Substitute

“of a certified public accountant as a candidate for election as an elected member of the Council, in accordance with section 2 of Schedule 1 to the Ordinance, must”.

- (4) By-law 2(2)(a), after the semicolon—

Add

“and”.

- (5) By-law 2(2)—

Repeal subparagraph (b).

- (6) By-law 2(3)—

Repeal

everything after “(2)”

Substitute

“must be lodged with the Registrar not less than 31 days before the election AGM.”.

- (7) By-law 2(5)—

Repeal

“shall, not less than 17 days prior to the annual general meeting”

Substitute

“must, not less than 17 days before the election AGM”.

- (8) By-law 2—

Repeal paragraph (6).

17. By-law 3 amended (ballot for elected members of Council)

- (1) By-law 3(1)—

Repeal

“13(1)(b) of the Ordinance, the Registrar shall, not less than 17 days prior to the annual general meeting”

Substitute

“13(5)(a) of the Ordinance, the Registrar must, not less than 17 days before the election AGM”.

- (2) By-law 3(4)—

Repeal

everything after “papers”

Substitute

“must be returned to the Registrar not less than 72 hours before the election AGM.”.

- (3) By-law 3—

Repeal paragraph (5)

Substitute

“(5) The Council is to meet before the election AGM to receive from the auditor of the Institute the confidential report referred to in paragraph (4A) and to eliminate the candidates receiving the lowest number of votes until the number of candidates left equals the number of vacancies, and those candidates left are elected.”.

(4) By-law 3(6)—

Repeal

“shall have a casting vote to determine which of such candidates shall be deemed to have been”

Substitute

“has a casting vote to determine which of the candidates is”.

18. By-law 9 amended (adjournment of meetings of Council)

(1) By-law 9(1)—

Repeal

“shall be transacted at an adjourned”

Substitute

“may be transacted at a resumed”.

(2) By-law 9(2)—

Repeal

“shall not be necessary to give notice of an adjourned”

Substitute

“is not necessary to give notice of a resumed”.

19. By-law 12 substituted

By-law 12—

Repeal the by-law

Substitute

“12. Procedure for election of President and Vice-Presidents

(1) No debate is allowed for the nomination of an elected member as a candidate for election as President or a Vice-President in accordance with section 1 of Schedule 1 to the Ordinance.

(2) If there is more than one candidate for election as President or there are more than 2 candidates for election as Vice-Presidents, the election must be determined by ballot.”.

20. By-law 13 amended (general meetings of Institute)

By-law 13(3)—

Repeal

everything after “paragraph”

Substitute

“(2) must be issued by the Registrar within 35 days of the receipt of the request.”.

21. By-law 13A added

After by-law 13—

Add

“13A. Mode of general meetings of Institute

- (1) The Council may resolve to enable certified public accountants to attend a general meeting of the Institute, whether physically or by electronic means, by simultaneous attendance.
- (2) The proceedings of a general meeting are valid if the chairman of the meeting is satisfied that members of the Council and certified public accountants attending the meeting as a whole have a reasonable opportunity to participate in the business for which the meeting is called.”.

22. By-law 14 substituted

By-law 14—

Repeal the by-law
Substitute

“14. Notice of general meetings of Institute

- (1) The Registrar must give notice of a general meeting of the Institute to each certified public accountant in a form and way that the Council may determine, specifying—
 - (a) the date and time of the meeting;
 - (b) the general nature of the business to be transacted at the meeting; and
 - (c) the place at which, or electronic means by which, the meeting is to be held, or both.
- (2) The notice must be given not less than 35 days before the general meeting, unless the meeting is—
 - (a) a resumed general meeting referred to in by-law 16 or 18A; or

(b) a postponed general meeting referred to in by-law 18B.”.

23. By-law 16 amended (quorum of general meetings of Institute)

(1) By-law 16(1)—

Repeal

“shall”

Substitute

“present in person or by proxy”.

(2) By-law 16(2)—

Repeal

everything after “no”

Substitute

“quorum—

(a) the meeting must be adjourned; and

(b) the adjournment is for not less than 1 week and not more than 4 weeks.”.

(3) After by-law 16(2)—

Add

“(2A) Subject to paragraph (2)(b), the resumed general meeting is to be held on a date, at a time, and at a place or by electronic means (or both), that the Council may determine.”.

(4) By-law 16—

Repeal paragraph (3)

Substitute

“(3) At the resumed general meeting, the certified public accountants present in person or by proxy constitute a quorum and have full power to transact the proposed business of the meeting that was adjourned.”.

(5) By-law 16(4)—

Repeal

“Paragraph (2) shall”

Substitute

“Paragraph (2)(b) does”.

(6) After by-law 16(4)—

Add

“(5) A certified public accountant may appoint a proxy for the resumed general meeting by an instrument in accordance with by-law 18(9) and (10).

(6) For the purposes of this by-law, a certified public accountant is present in person or by proxy at a general meeting if the accountant or the accountant’s proxy attends the meeting at a place or by electronic means (or both) determined by the Council.”.

24. By-law 18 amended (procedure at meetings of Institute)

(1) By-law 18(1)—

Repeal

everything after “resolution” and before “be decided”

Substitute

“(or an amendment to the resolution) proposed and seconded at a general meeting of the Institute must be put to the meeting by the chairman and, subject to paragraphs (2) and (3), must”.

(2) By-law 18—

Repeal paragraph (3)

Substitute

- “(3) Subject to paragraph (7), a poll must be taken on a resolution (or an amendment to the resolution) proposed and seconded at a general meeting—
- (a) if a poll is requested by not less than 10 certified public accountants present immediately after the declaration by the chairman of the result of a show of hands under paragraph (1);
 - (b) if a request for a poll in writing is signed and submitted to the chairman before the dissolution or adjournment of the meeting by not less than 10 certified public accountants present;
 - (c) if a poll is requested by the chairman; or
 - (d) if the meeting is held by electronic means, or both physically and by electronic means.”.

(3) By-law 18—

Repeal paragraphs (7) and (8)

Substitute

- “(7) No poll may be taken for the election of the chairman or the adjournment of a general meeting, unless the meeting is held by electronic means, or both physically and by electronic means.
- (8) A certified public accountant may vote on a show of hands or, if a poll must be taken under paragraph (3), on a poll, whether physically or by electronic means—
- (a) in person; or

(b) by proxy, but only on the business specified in the notice of the general meeting.”.

(4) By-law 18(10)—

Repeal

everything after “a proxy” and before “may”

Substitute

“has no effect unless the instrument appointing the proxy, and the power of attorney or other authority (if any) under which it is signed, is lodged with the Registrar not less than 48 hours before the time for holding the meeting at which the proxy proposes to vote, or within a shorter time that the Council”.

25. By-laws 18A and 18B added

Part III, after by-law 18—

Add

“18A. Adjournment of general meetings of Institute

- (1) The chairman of a general meeting of the Institute may adjourn the meeting at which a quorum (*original quorum*) is constituted if—
- (a) a majority of certified public accountants present and voting consents to the adjournment; or
 - (b) it appears to the chairman that the adjournment is necessary for—
 - (i) protecting the health or safety of any person attending the meeting; or
 - (ii) ensuring that the business of the meeting is conducted in an orderly manner.

- (2) The resumed general meeting is to be held on a date, at a time, and at a place or by electronic means (or both), that the Council may determine.
- (3) The quorum for the resumed general meeting is the same as the original quorum.
- (4) The only business that may be transacted at the resumed general meeting is the business left unfinished at the meeting that was adjourned.
- (5) A certified public accountant may appoint a proxy for the resumed general meeting by an instrument in accordance with by-law 18(9) and (10).

18B. Postponement of general meetings of Institute

- (1) The Council may postpone a general meeting of the Institute if the Council considers that the postponement is necessary for—
 - (a) protecting the health or safety of any person attending the meeting; or
 - (b) ensuring that the business of the meeting is conducted in an orderly manner.
- (2) In considering whether the postponement is necessary, the Council may take into account any factor including whether, on the day of the meeting—
 - (a) a gale warning, a rainstorm warning or any other similar warning is or will be in force at any time; and
 - (b) any restriction of movement or other similar mandatory measure imposed by the Government is in force.

- (3) The postponed general meeting is to be held on a date, at a time, and at a place or by electronic means (or both), that the Council may determine.
- (4) The quorum for the postponed general meeting is the same as the quorum for the general meeting, or resumed general meeting, that was postponed.
- (5) The only business that may be transacted at the postponed general meeting is—
 - (a) for a postponed general meeting—the business specified in the notice of the general meeting; or
 - (b) for a postponed resumed general meeting—the business left unfinished at the meeting that was adjourned.
- (6) A certified public accountant may appoint a proxy for the postponed general meeting by an instrument in accordance with by-law 18(9) and (10).
- (7) In this by-law—

gale warning (烈風警告) has the meaning given by section 2 of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62);

rainstorm warning (暴雨警告) has the meaning given by section 2 of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62).”.

26. Part XII added

After Part XI—

Add

“Part XII

Communication

49. Giving or issuing notices and documents

- (1) Except as otherwise provided in the Ordinance or these by-laws, a notice or document to be given or issued under the Ordinance or these by-laws by the Institute, Council or Registrar to a certified public accountant may be given or issued—
 - (a) by delivering it by hand to the recipient at the recipient’s registered address or any other address designated by the recipient for the purpose of receiving notices and documents;
 - (b) by sending it by post to the recipient at the recipient’s registered address or any other address designated by the recipient for that purpose;
 - (c) by sending it by electronic mail to the recipient at the electronic mail address designated by the recipient for that purpose; or
 - (d) (other than a notice of a general meeting of the Institute to be given under by-law 14) by publishing it on the Institute’s website.
- (2) Unless the contrary is proved, a notice or document is deemed to be received by the relevant recipient—

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- (a) if delivered by hand—when it is delivered to the recipient at the recipient’s registered address or the address designated under paragraph (1)(a);
 - (b) if sent by post—on the second business day after the day on which it is sent to the recipient at the recipient’s registered address or the address designated under paragraph (1)(b);
 - (c) if sent by electronic mail—when it is sent to the recipient at the electronic mail address designated under paragraph (1)(c), unless the sender receives a delivery failure notification indicating that the electronic mail has not been sent to that electronic mail address; or
 - (d) if published on the Institute’s website—when it is made available on the Institute’s website in a form that enables the recipient to read and keep a copy of it.
 - (3) In proving delivery, sending or publication in accordance with this by-law, a certificate in writing signed by the Registrar certifying the actions taken for, and the time of, the delivery, sending or publication is conclusive evidence of the facts stated in it.
 - (4) Except as otherwise provided in the Ordinance or these by-laws, a notice or document required to be given under the Ordinance or these by-laws by a certified public accountant to the Council or Registrar must be—
 - (a) in a form;
 - (b) signed in a way; and

(c) given within a period,
that the Council may determine.

(5) In this by-law—

business day (業務日) means a day other than—

- (a) a Saturday;
- (b) a public holiday; or
- (c) a gale warning day or black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).”.