

Regulations governing the Use of the Description 'Chartered Accountants' and General Affiliates of the Institute of Chartered Accountants in England and Wales

1. These regulations were made by the Council under Clauses 12A and 16 of the Supplemental Charter and Bye-law 55 on the fifth day of April 2000 and came into effect on the first day of May 2000.
2. In these regulations the term 'Chartered Accountant' means a member of the Institute of Chartered Accountants in England and Wales (the Institute) or a member of one of the following bodies:

The Institute of Chartered Accountants of Scotland;
The Institute of Chartered Accountants in Ireland;
The Institute of Chartered Accountants in Australia;
The Canadian Institute of Chartered Accountants;
The South African Institute of Chartered Accountants;
The Institute of Chartered Accountants of Zimbabwe;
The Institute of Chartered Accountants of New Zealand.
3. Words and phrases used in these regulations have the same meanings as in the Disciplinary Bye-laws unless otherwise stated or the context otherwise requires.
4. 'Member Firm' means:
 - (a) a body corporate engaged in public practice of which 50 per cent or more of the directors are Chartered Accountants and more than 50 per cent of the aggregate in nominal value of the voting and of the non-voting shares are held by Chartered Accountants;
 - (b) a partnership engaged in public practice of which 50 per cent or more of the partners are Chartered Accountants and in which more than 50 per cent of the rights to vote on all, or substantially all, matters at meetings of the partnership are held by Chartered Accountants; or
 - (c) a member engaged in public practice as a sole practitioner.
5. The Interpretation Act 1978 applies to these regulations in the same way as it applies to an enactment.

6. In these regulations, unless the context otherwise requires:
 - (a) words importing the masculine gender include the neuter (as well as, by virtue of the Interpretation Act 1978 as applied by regulation 5, the feminine);
 - (b) words importing the neuter gender include both the masculine and the feminine.
7. A member firm which engages in public practice is entitled to describe itself as 'Chartered Accountants' provided that any partner or director who is not a chartered accountant holds affiliate status from the Institute under its Investment Business Regulations, Audit Regulations, Insolvency Licensing Regulations or these Regulations.
8. A member firm entitled under these regulations to use the description 'Chartered Accountants' shall not cease to be so entitled notwithstanding that the requirements of regulation 7 have not been met provided that it can demonstrate its intention of meeting the requirements of that regulation and that it has not failed to meet those requirements for a period in excess of 3 months.
9. An applicant for recognition as a general affiliate under these regulations shall submit an application and provide an undertaking in the form prescribed in the Schedule to these regulations.
10. A person recognised as a general affiliate shall not have any right or entitlement under the Institute's Royal Charter, Supplemental Charter, Bye-laws and Regulations save as expressly conferred by these regulations and in particular, shall have no right to use the designatory letters ACA or FCA.
11. A general affiliate who makes any representation that he has any right or entitlement other than as conferred on him by these regulations shall render himself liable to disciplinary action.
12. The Disciplinary Bye-laws shall apply to a complaint against a general affiliate as they apply to complaints against members and without prejudice to the generality of the foregoing the term 'defendant' shall be read and construed as including a general affiliate.
13. Where a formal complaint against a general affiliate is found proved in whole or in part a tribunal may make against him such one or more of the following orders as it considers appropriate having regard to his past disciplinary record, its view as to the nature and seriousness of the formal complaint (so far as proved); and any other circumstances which the tribunal considers relevant:
 - (i) that he cease to be a general affiliate

- (ii) that he be reprimanded
 - (iii) that he be severely reprimanded
 - (iv) that he be fined a specified sum
 - (v) that he pay the whole or part of the costs incurred by the Institute in investigating a complaint and bringing disciplinary proceedings in respect of any complaint found proved.
14. In addition to making an order against a general affiliate a tribunal shall be entitled to order that a member firm cease to be entitled to describe itself as 'Chartered Accountants' for so long as the person concerned remains a partner in or a director of the member firm.
15. These regulations may be amended or repealed by the Professional Standards Board (PSB)
16. The PSB shall be responsible for determining applications for general affiliate status. Such status may be granted if the PSB is satisfied that:
- (i) the applicant is a principal, or has been offered the position of a principal, in a member firm;
 - (ii) the applicant is a fit and proper person to be granted general affiliate status and is certified to be such by at least two other members. Without prejudice to the generality of the foregoing the following shall be regarded as events giving rise to a presumption that an applicant is not fit and proper and therefore unsuitable to be granted general affiliate status:
 - (a) that he is or has been bankrupt or entered into an individual voluntary arrangement;
 - (b) that he has, individually or as a partner, made an assignment by reason of insolvency of some or all of his assets for the benefit of his creditors;
 - (c) that he has made any arrangement or entered into a composition with his creditors to satisfy his debts, whether by resolution of his creditors or court order or under any deed or other document by reason of insolvency;
 - (d) that he is a partner in a firm which:
 - (i) has had a winding-up order made against it on grounds of insolvency; or

- (ii) has made a proposal to enter into a voluntary arrangement on grounds of insolvency, or has entered into such a voluntary arrangement; or
 - (iii) has had an administration order made against it on grounds of insolvency; or
 - (iv) has had a receiver appointed by a creditor or by a court on the application of a creditor;
- (e) that he is a director of a body corporate engaged in public practice which:
 - (i) has been the subject of an effective resolution passed by the shareholders for it to be wound up or has had a winding-up order made against it on grounds of insolvency; or
 - (ii) has made a proposal to enter into a voluntary arrangement on grounds of insolvency, or has entered into such a voluntary arrangement; or
 - (iii) has had an administration order made against it on grounds of insolvency; or
 - (iv) has had a receiver appointed by a creditor or by a court on the application of a creditor.
- (f) that he has had an adverse finding of a disciplinary nature made against him by any professional or regulatory body;
- (g) that he has been removed on the ground of misconduct from the office of liquidator, trustee, receiver, receiver and manager, administrative receiver, administrator or supervisor of a voluntary arrangement;
- (h) that he has been the subject of a Disqualification Order under the Company Directors Disqualification Act 1986 or under the Insolvency Act 1985 or 1986;
- (i) that he has been found to have knowingly and wilfully in relation to the conduct of insolvency as an Office Holder or potential Office Holder infringed the requirements of the Companies Act 1985 or the Insolvency Act 1986, or the Bankruptcy (Scotland) Act 1985 or any equivalent predecessor legislation, and/or any subordinate legislation including any Rules, Regulations or Orders, as from time-to-time re-enacted or amended and equivalent legislation in Northern Ireland (i.e. the Insolvency (Northern Ireland) Order 1989 and its subordinate legislation);

- (j) that he has pleaded guilty to or been found guilty of any indictable offence in England and Wales or to any comparable offence elsewhere.
 - (iii) the applicant has completed a form of undertaking in the terms set out in the Schedule to these regulations.
 - (iv) the applicant is able to demonstrate appropriate and relevant experience of accountancy or of a related discipline or has one or more of the following qualifications:
 - (a) Membership of the Association of Chartered Certified Accountants
 - (b) Membership of the Chartered Institute of Management Accountants.
 - (c) Membership of the Chartered Institute of Public Finance and Accountancy
 - (d) Membership of the Chartered Institute of Taxation
 - (e) Membership of the Institute of Management Consultants.
 - (f) Membership of the Association of Accounting Technicians.
17. Sub-paragraph (iv) of Regulation 16 shall not apply to an applicant for general affiliate status who is a director of a member firm engaged in public practice which has been incorporated in the Isle of Man or Singapore and which has only two directors, provided that one director is a Chartered Accountant and holds more than 50 per cent of the voting rights in the Board of Directors, committee or other management body. For the avoidance of doubt all other requirements of these Regulations apply to Isle of Man and Singapore incorporated bodies in the same way as they apply to bodies incorporated elsewhere.
18. A general affiliate shall pay such annual subscription as the PSB may determine from time-to-time.
19. The PSB may delegate to any member of the Institute's staff or to any committee or sub-committee of the Institute power to take any decision under these regulations which it is empowered to take other than the power to amend or repeal them. A committee to which authority is delegated by the PSB may delegate any decision which it is empowered to take to a sub committee or any member of staff.
20. The PSB may at any time withdraw general affiliate status from an individual if:

- (i) it considers that he is no longer a fit and proper person;
 - (ii) he has ceased to be engaged, or to be entitled to engage in accountancy or a discipline relevant to the profession of Accountancy;
 - (iii) the firm of which he is a principal has ceased to be a member firm;
 - (iv) he has ceased to be a principal in the member firm to which his affiliate status related;
 - (v) he has failed to comply with any restriction or condition imposed on him with the authority of the Institute;
 - (vi) he has failed to pay the annual subscription within 30 days of the due date;
 - (vii) he has breached or not complied with any applicable requirement of the Royal Charter, Supplemental Charter, Bye-laws or Regulations of the Institute;
 - (viii) it is satisfied that any information provided in support of an application for general affiliate status was false or misleading whether or not knowingly so.
21. A general affiliate may tender his resignation by notice in writing to the Chief Executive and on its acceptance by the PSB, but not until then, he shall cease to be a general affiliate.
22. The PSB may impose restrictions or conditions at the time of grant of general affiliate status, or at any time thereafter, if it considers it appropriate to do so.
23. A general affiliate or an applicant for general affiliate status must provide details in writing within 14 days of any change to information provided by him in an application for general affiliate status.
24. Any notice or other document required to be served on a general affiliate may be sent by pre-paid post to him at his registered address or at his last known or usual place of residence or business.
25. Any notice or other document required under these regulations to be served by a general affiliate may be sent to the ICAEW, Metropolitan House, 321 Avebury Boulevard, Milton Keynes, MK9 2FZ.
26. The regulations made by the Council on 2 October 1991 and subsequently amended and entitled 'Regulations Governing the Use of the Description Chartered Accountants' (the 1991 Regulations) shall cease to have effect save to the extent necessary for any disciplinary purpose from the date that these regulations take effect.

27. These regulations shall not affect the validity of any dispensation previously granted to a firm under the authority given by the Council on 3 December 1997 (allowing a lesser percentage than 50 per cent of Chartered Accountant directors), subject to such a firm otherwise complying fully with these regulations.
28. These regulations shall apply to any person who immediately prior to these regulations taking effect was an affiliate by virtue of the 1991 regulations and who shall while he is subject to these regulations be referred to as a general affiliate.

2 August 2000

SCHEDULE

Part I

Form of Application

1. Firm name:

Address:

Telephone:

Fax:

Email:

This Schedule
is under
review

2. Name of Applicant:

Surname:

Forenames:

Date of Birth:

Address

3. Has the Applicant been granted affiliate status by the Institute on a previous occasion, e.g. for Audit, Investment Business or Insolvency (if so, give details).

4. Professional Qualifications held by applicant		
Title of Qualification	Awarding Body	Date of Award
UNDER REVIEW		

5. Experience of Accountancy		
Names & addresses of companies/firms/organisations with whom experience acquired	Status in company/firm/organisation	Date
Summary of relevant experience		

6. Experience of a discipline related to accountancy

Names of company/firm/organisation with whom experience acquired.	Status in company/firm/organisation	Date
Summary of relevant experience		

7. I enclose a cheque for £314 being the fee payable for consideration of this application.

22 March 2000

Part II

Undertaking

1. I, the undersigned hereby apply to the Institute of Chartered Accountants in England and Wales to be accepted as a general affiliate under the Regulations Relating to the Use of the Description 'Chartered Accountants' and to General Affiliates of the Institute of Chartered Accountants in England and Wales
2. I certify that the information given in this application is correct and I confirm as follows:
 - (a) that I have never been declared bankrupt or, subject to an individual voluntary arrangement under the Insolvency Act 1986 or any other arrangement or composition with creditors nor to a Deed of Arrangement or an assignment by reason of insolvency of my assets for the benefit of my creditors, nor have I been a partner in a firm or director of a corporate body which has been the subject of insolvency proceedings;
 - (b) that I have not been the subject of an adverse disciplinary finding made against me by any professional or regulatory body;
 - (c) that I have not been removed for misconduct from the Office of Liquidator, Trustee, Receiver, Receiver and Manager, Administrative Receiver, Administrator or Supervisor of a voluntary arrangement;
 - (d) that I have not been the subject of a Disqualification Order under the Companies Directors Disqualification Act 1986 or under the Insolvency Act 1985 or 1986;
 - (e) that I have not been found to have knowingly and wilfully in relation to the conduct of an Insolvency, or as an office holder or potential office holder, infringed the requirements of the Companies Act 1985 or the Insolvency Act 1986 or the Bankruptcy (Scotland) Act 1985 or any equivalent predecessor legislation, including any subordinate legislation including any Rules, Regulations or Orders, as from time-to-time re-enacted or amended, and equivalent legislation in Northern Ireland (i.e. the Insolvency (Northern Ireland) Order 1989 and its subordinate legislation);
 - (f) that I have not pleaded guilty to or been found guilty of any indictable offence in England or Wales nor have I have pleaded guilty to or been found guilty of a comparable offence elsewhere.
2. I undertake that if accepted as a general affiliate, I will comply with the Charter, Supplemental Charter, the Principal Bye-laws and the Disciplinary Bye-laws and Regulations which at the time of acceptance or thereafter are in force. In particular, I will:

- (a) observe and uphold the ethical and professional standards of the Institute;
 - (b) perform faithfully and promptly any service that I am retained or employed to undertake in my professional capacity;
 - (c) provide promptly and willingly all such information and assistance as I am able, if asked to do so by the Institute in pursuance of its duties;
 - (d) pay any fee required by the Institute of general affiliates.
4. I understand that I shall not be entitled to call myself a Chartered Accountant and that general affiliate status does not confer any rights, acknowledgements, status or designatory letters on a general affiliate nor entitle a general affiliate to be publicly represented as having such.
5. I acknowledge and agree that if I am accepted as a general affiliate, I shall be subject to the disciplinary procedures of the Institute for any failure to comply with its bye-laws or regulations or to fulfil the undertakings in this application or any false or misleading statement made in this application.

Signed

Full name

6. **To be completed in the case of a Sole Practitioner who intends to take the applicant into partnership**

I am a Chartered Accountant and Sole Practitioner. I confirm that the applicant for general affiliate status will, subject to his application being approved, become my partner and I confirm that the information provided by him in this form is true to the best of my knowledge and belief and that he is a fit and proper person to become a general affiliate of the Institute.

Signed

Full name

Firm name

Address

N.B. A sole practitioner taking a non-member into partnership will need to obtain confirmation from another member who should give the confirmation immediately below that the prospective general affiliate is 'fit and proper'.

I am a Chartered Accountant and confirm that the applicant is known to me and that to the best of my knowledge and belief the information provided by him in the form of application is true and that he is a fit and proper person to become a general affiliate of the Institute.

Signed

Full name

Address

7. **For completion in the case of a firm or company other than a sole practitioner**

We are Chartered Accountants and are partners in/directors of the firm/company referred to in the application above and confirm that the applicant for general affiliate status is a partner in or director of or, subject to the successful grant of general affiliate status, will be admitted to partnership or become a director of the above firm/company.

We confirm that the information given in the form of application is true to the best of our knowledge and belief and that the applicant is a fit and proper person to become a general affiliate of the Institute.

.....
(signature) Partner/Director 1
Full Name:

.....
(signature) Partner/Director 2
Full Name:

22 March 2000