

Accounting and Corporate Regulatory Authority Bill

Bill No. 1/2004.

Read the first time on 5th January 2004.

THE ACCOUNTING AND CORPORATE REGULATORY AUTHORITY ACT 2004

(No. of 2004)

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF AUTHORITY

3. Establishment and incorporation of Accounting and Corporate Regulatory Authority
4. Common seal
5. Constitution of Authority

PART III

FUNCTIONS AND POWERS OF AUTHORITY

6. Functions of Authority
7. Powers of Authority
8. Directions by Minister
9. Appointment of committees and delegation of powers

PART IV

PROVISIONS RELATING TO STAFF

Section

10. Appointment of Chief Executive, officers and employees, etc.
11. Protection from personal liability
12. Public servants

PART V

FINANCIAL PROVISIONS

13. Funds and property of Authority
14. Application of moneys
15. Bank accounts
16. Annual estimates
17. Investments
18. Grants-in-aids
19. Power to borrow
20. Issue of shares, etc.
21. Financial provisions

PART VI

TRANSFER OF PROPERTY, ASSETS, LIABILITIES AND EMPLOYEES

22. Transfer to Authority of property, assets and liabilities
23. Transfer of employees
24. Service rights, etc., of transferred employees to be preserved
25. Existing contracts
26. Pending proceedings
27. Continuation and completion of disciplinary proceedings
28. Misconduct or neglect of duty by employee before transfer

PART VII

MISCELLANEOUS

29. Annual report
30. Name, symbol or representation of Authority
31. Powers of enforcement
32. Offences committed by bodies corporate, etc.
33. Proceedings conducted by officers of Authority
34. Preservation of secrecy
35. Jurisdiction of District Court
36. Composition of offences
37. Amendment of Schedules
38. Rules
39. Consequential amendments to other written laws

Section

First Schedule — Constitution and proceedings of Authority

Second Schedule — Written laws administered and enforced by Authority

Third Schedule — Financial provisions

Fourth Schedule — Consequential amendments to other written laws



A BILL

i n t i t u l e d

An Act to establish and incorporate the Accounting and Corporate Regulatory Authority, to provide for its functions and powers, and for matters connected therewith, and to make consequential amendments to certain other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Accounting and Corporate Regulatory
5 Authority Act 2004 and shall come into operation on such date as the
Minister may, by notification in the *Gazette*, appoint.

Interpretation

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

“appointed day” means the date of commencement of this Act;

10 “Authority” means the Accounting and Corporate Regulatory
Authority established under section 3;

“Chairman” means the Chairman of the Authority appointed under
section 5(1)(a) and includes any temporary Chairman of the
Authority;

15 “Chief Executive” means the Chief Executive of the Authority
appointed under section 10 and includes any person acting in that
capacity;

“debenture” includes debenture stock;

20 “Deputy Chairman” means any person who is appointed under section
5(3)(a) to be the Deputy Chairman of the Authority;

“member” means a member of the Authority;

“Public Accountants Board” means the Public Accountants Board
established under section 3 of the Accountants Act (Cap. 2)
repealed by the Accountants Act 2004;

25 “Registry of Companies and Businesses” means the Government
department known as the Registry of Companies and Businesses;

“securities”, in relation to a company, includes shares, debentures,
bonds and other securities of the company, whether or not
constituting a charge on the assets of the company;

30 “shares” includes stocks.

PART II

ESTABLISHMENT, INCORPORATION AND
CONSTITUTION OF AUTHORITY**Establishment and incorporation of Accounting and Corporate
Regulatory Authority**

3. There is hereby established a body to be known as the Accounting and Corporate Regulatory Authority which shall be a body corporate with perpetual succession and shall, by that name, be capable of —

(a) suing and being sued;

(b) acquiring, owning, holding and developing or disposing of property, both movable and immovable; and

(c) doing and suffering such other acts or things as bodies corporate may lawfully do and suffer.

Common seal

4.—(1) The Authority shall have a common seal and such seal may from time to time be broken, changed, altered or made anew as the Authority thinks fit.

(2) All deeds and other documents requiring the seal of the Authority shall be sealed with the common seal of the Authority.

(3) All instruments to which the common seal is affixed shall be signed by any 2 members generally or specially authorised by the Authority for the purpose or by one member and the Chief Executive.

(4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to any document and shall presume that it was duly affixed.

Constitution of Authority

5.—(1) The Authority shall consist of the following members, all of whom shall be appointed by the Minister:

(a) a Chairman; and

(b) not less than 10 but not more than 15 other members.

(2) The members appointed under subsection (1)(b) shall include —

(a) one public accountant to be selected by the Minister from a list of at least 2 public accountants nominated by the designated professional accountancy body; and

5 (b) one non-practising accountant to be selected by the Minister from a list of at least 2 non-practising accountants nominated by the designated professional accountancy body.

(3) The Minister may, if he thinks fit, appoint —

(a) a member of the Authority to be its Deputy Chairman; and

10 (b) the Chief Executive to be a member.

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

15 (5) For the purpose of subsection (2), the designated professional accountancy body shall be the registered society designated by the Minister under section 70 of the Accountants Act 2004 to be the successor society of the former Institute of Certified Public Accountants of Singapore established under Part VI of the Accountants Act (Cap. 2) repealed by the Accountants Act 2004.

PART III

20 FUNCTIONS AND POWERS OF AUTHORITY

Functions of Authority

6.—(1) Subject to the provisions of this Act, the functions of the Authority shall be —

(a) to administer the written laws specified in the Second Schedule;

25 (b) to report and make recommendations to, and advise the Government on, matters relating to the registration and regulation of business entities and public accountants;

30 (c) to establish and administer a repository of documents and information relating to business entities and public accountants and to provide access to the public to such documents and information;

- (d) to represent the Government internationally in respect of matters relating to the registration and regulation of business entities and public accountants;
- 5 (e) to promote public awareness about new business structures, compliance requirements, corporate governance practices and any other matters under the purview of the Authority;
- (f) to provide a responsive and forward-looking regulatory environment for business entities and public accountants conducive to enterprise in Singapore; and
- 10 (g) to carry out such other functions as may be conferred on the Authority by this Act or any other written law.

(2) The Authority may undertake such other functions as the Minister may from time to time, by notification in the *Gazette*, assign to the Authority and in so doing, the Authority shall be deemed to be fulfilling
15 the purposes of this Act, and the provisions of this Act shall apply to the Authority in respect of such functions.

(3) Nothing in this section shall be construed as imposing on the Authority, directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be
20 subject.

(4) In subsection (1), the reference to public accountants includes accounting firms and accounting corporations.

Powers of Authority

7.—(1) The Authority shall have power to do anything for the purpose
25 of discharging its functions under this Act or any other written law, or which is incidental or conducive to the discharge of those functions.

(2) Without prejudice to the generality of subsection (1) but subject to this Act, the powers of the Authority shall include the power —

- 30 (a) to enter into such contracts as may be necessary or expedient for the purpose of discharging its functions;
- (b) with the approval of the Minister, to form or participate in the formation of any company or in any joint venture as a shareholder or partner or in any other capacity, with any firm, body corporate, society or institution for purposes that are

necessary or expedient for the purpose of discharging its functions;

- 5 (c) to become a member or an affiliate of any international body, the functions or objects of which are similar to or connected with those of the Authority;
- (d) to use all property of the Authority, whether movable or immovable, in such manner as the Authority may think expedient, including the raising of loans by mortgaging such property;
- 10 (e) to establish and administer such systems or schemes as the Authority may consider necessary or expedient for the discharge of its functions;
- (f) to prescribe, regulate or implement measures and standards on any matter relating to or connected with its functions;
- 15 (g) to engage in any activity, either alone or in conjunction with any other organisation or agency, whether local or international, that is connected with or that is conducive to the discharge of its functions;
- (h) to levy such charges or fees as may be reasonable for services and facilities provided by the Authority;
- 20 (i) to receive donations, gifts, grants, subsidies and contributions from any source and raise funds by all lawful means;
- (j) to publish or sponsor the publication of periodicals, booklets and other written materials, or to produce or sponsor the production of documentary films and other audio-visual materials on any matter relating to or connected with its functions;
- 25 (k) to organise courses and award certificates of proficiency, and provide bursaries, scholarships and training grants in the fields related to the functions of the Authority;
- 30 (l) to provide advisory, consultancy and informational services on any matter related to its functions;
- (m) to promote or undertake publicity in any form;
- (n) to grant or guarantee loans to officers or employees of the Authority for any purpose specifically approved by the Authority;

(o) to provide recreational facilities and to promote recreational activities for, and activities conducive to, the welfare of officers and employees of the Authority and members of their families;

5 (p) to make provision for gratuities, pensions, allowances or other benefits for officers or employees, or former officers or employees, of the Authority; and

(q) to do such other acts as are incidental or necessary to any of its functions and powers.

10 (3) This section shall not be construed as limiting any power of the Authority conferred by or under any other written law.

Directions by Minister

15 **8.**—(1) The Minister may give to the Authority such directions, not inconsistent with the provisions of this Act, as he thinks fit as to the performance of its functions and the exercise of its powers, and the Authority shall give effect to such directions.

(2) The Authority shall furnish the Minister with such information in respect of its property and activities in such manner and at such times as the Minister may require.

Appointment of committees and delegation of powers

20 **9.**—(1) The Authority may, in its discretion, appoint from among its own members or from among other persons such number of committees as it thinks fit for purposes which, in the opinion of the Authority, would be more expediently carried out or managed by means of such committees.

25 (2) The Authority may, subject to such conditions or restrictions as it thinks fit, delegate —

(a) to any of its members;

(b) to its Chief Executive or any of its officers or employees;

(c) to any committee appointed by it under subsection (1); or

(d) to any other person as the Authority thinks fit,

30 any of the functions or powers of the Authority under this Act or any other written law, except the power of delegation conferred by this section and

the power to make subsidiary legislation under this Act or such other written law.

(3) Any function or power delegated under subsection (2) to any person or committee may be performed or exercised by that person or committee
5 in the name and on behalf of the Authority.

(4) No delegation under this section shall prevent the performance or exercise of any function or power by the Authority.

PART IV

PROVISIONS RELATING TO STAFF

10 **Appointment of Chief Executive, officers and employees, etc.**

10.—(1) The Authority shall, with the approval of the Minister, appoint a Chief Executive on such terms and conditions as the Authority may determine.

(2) The Chief Executive —

15 (a) shall be known by such designation as the Authority may determine;

(b) shall be responsible to the Authority for the proper administration and management of the functions and affairs of the Authority in accordance with the policy laid down by the Authority; and

20 (c) shall not be removed from office without the consent of the Minister.

(3) The Authority may appoint any other person to act in the place of the Chief Executive whenever the Chief Executive is unable to perform his duties for any period because of absence from Singapore, illness or any
25 other reason.

(4) The Authority may, from time to time, appoint and employ, on such terms and conditions as it may determine, such other officers, employees, consultants and agents as may be necessary for the effective performance of its functions.

Protection from personal liability

11.—(1) No suit or other legal proceedings shall lie personally against any member, officer or employee of the Authority or any other person acting under the direction of the Authority for anything which is in good faith done or intended to be done in the execution or purported execution of this Act or any other written law.

(2) Where the Authority provides a service to the public whereby information is supplied to the public pursuant to any written law, neither the Authority nor any of its members, officers or employees involved in the supply of such information shall be liable for any loss or damage suffered by any member of the public by reason of any error or omission of whatever nature appearing therein or however caused if made in good faith and in the ordinary course of the discharge of the duties of such member, officer or employee.

Public servants

12. All members, officers and employees of the Authority shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224).

PART V

FINANCIAL PROVISIONS

Funds and property of Authority

13. The funds and property of the Authority shall consist of —

- (a) all grants-in-aid made under section 18;
- (b) all fees, financial penalties and sums for the composition of offences collected by the Authority or its officers under any written law, unless such written law provides otherwise;
- (c) all moneys paid to the Authority for the purposes of the Authority;
- (d) all moneys paid to the Authority by way of grants, subsidies, donations, gifts and contributions;

- (e) all moneys received by the Authority by way of charges and fees for services rendered by the Authority to any person;
- (f) all moneys, dividends, royalties, interest or income received from any transaction made pursuant to the powers conferred on the Authority under this Act or any other written law;
- (g) all moneys borrowed by the Authority under this Act;
- (h) all other moneys and property lawfully received by the Authority for the purposes of the Authority; and
- (i) all accumulations of income derived from any such property or money.

Application of moneys

14. The moneys of the Authority shall be applied only in payment of expenses incurred by it in the discharge of its functions, obligations and liabilities and in making any payment that it is authorised or required to make.

Bank accounts

15.—(1) The Authority shall open and maintain one or more accounts with such bank or banks as the Authority thinks fit.

(2) Every such account shall be operated by such person or persons as may, from time to time, be authorised in that behalf by the Authority.

Annual estimates

16.—(1) The Authority shall, in every financial year, prepare or cause to be prepared and shall adopt annual estimates of income and expenditure of the Authority for the ensuing financial year.

(2) Supplementary estimates may be adopted by the Authority at any of its meetings.

(3) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Authority, be sent as soon as possible to the Minister.

(4) A summary of the annual estimates and supplementary estimates adopted by the Authority shall be published in the *Gazette*.

Investments

17. The Authority may, with the approval of the Minister —

- (a) invest its moneys in such manner as it thinks fit; and
- (b) engage in any financial activity or participate in any financial arrangement for the purpose of managing or hedging against any financial risk that arises or is likely to arise from such investment.

Grants-in-aids

18. For the purpose of enabling the Authority to carry out its functions under this Act, the Minister may, from time to time, make grants-in-aids to the Authority of such sums of money, as the Minister may determine, out of moneys to be provided by Parliament.

Power to borrow

19. For the discharge of its functions under this Act or any other written law, the Authority may, from time to time, raise loans from the Government or, with the approval of the Minister for Finance, raise loans from banks or other financial institutions (whether in Singapore or elsewhere) by —

- (a) mortgage, overdraft or otherwise;
- (b) charge, whether legal or equitable, on any property vested in the Authority or on any other revenue receivable by the Authority under this Act or any other written law; or
- (c) the creation and issue of debentures or bonds.

Issue of shares, etc.

20. As a consequence of the vesting of any property, rights or liabilities of the Government in the Authority under this Act, or of any capital injection or other investment by the Government in the Authority in accordance with any written law, the Authority shall issue such shares or other securities to the Minister for Finance as that Minister may from time to time direct.

Financial provisions

21. The financial provisions specified in the Third Schedule shall have effect with respect to the Authority.

PART VI

TRANSFER OF PROPERTY, ASSETS, LIABILITIES AND EMPLOYEES

Transfer to Authority of property, assets and liabilities

22.—(1) As from the appointed day —

(a) such movable and immovable property vested in the Government as may be determined by the Minister for Finance and used or managed by the Registry of Companies and Businesses and all assets, interests, rights, privileges, liabilities and obligations of the Government relating to the Registry of Companies and Businesses; and

(b) such movable and immovable property vested in the Public Accountants Board and all assets, interests, rights, privileges, liabilities and obligations of the Public Accountants Board,

shall, without further assurance, act or deed, be transferred to and shall vest in the Authority.

(2) If any question arises as to whether any particular property, asset, interest, right, privilege, liability or obligation has been transferred to or vested in the Authority under subsection (1), a certificate under the hand of the Minister for Finance shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.

(3) Any immovable property to be transferred to and vested in the Authority under subsection (1) shall be held by the Authority upon such tenure and subject to such terms and conditions as the President may determine.

Transfer of employees

23.—(1) As from the appointed day —

(a) such persons or categories of persons as the Minister may determine who, immediately before that day, were employed by the Government in the Registry of Companies and Businesses; and

(b) every person employed immediately before that day by the Public Accountants Board,

shall be transferred to the service of the Authority on terms no less favourable than those enjoyed by them immediately prior to their transfer.

(2) If any question arises as to whether any person or any category of persons has been transferred to the service of the Authority under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the person or category of persons was or was not so transferred.

(3) Until such time as terms and conditions of service are drawn up by the Authority, the scheme and terms and conditions of service in the Government or in the Public Accountants Board, as the case may be, shall continue to apply to every person transferred to the service of the Authority under subsection (1) as if he were still in the service of the Government or the Public Accountants Board, as the case may be.

(4) Notwithstanding the provisions of the Pensions Act (Cap. 225), no person who is transferred to the service of the Authority under this section shall be entitled to claim any benefit under that Act on the ground that he has been retired from the public service on account of abolition or reorganisation of office in consequence of the establishment of the Authority.

Service rights, etc., of transferred employees to be preserved

24.—(1) The terms and conditions to be drawn up by the Authority shall take into account the salaries and terms and conditions of service, including any accrued rights to leave, enjoyed by the persons transferred to the service of the Authority under section 23 while in the employment of the Government or the Public Accountants Board, as the case may be.

(2) Any term or condition relating to the length of service with the Authority shall recognise the length of service of the persons so transferred while in the employment of the Government or the Public Accountants Board, as the case may be, to be service with the Authority.

5 (3) Nothing in the terms and conditions of service to be drawn up by the Authority shall adversely affect the conditions that would have been applicable to persons transferred to the service of the Authority as regards any pension, gratuity or allowance payable under the Pensions Act (Cap. 225).

10 (4) Where a person has been transferred to the service of the Authority under section 23, the Government shall be liable to pay to the Authority such portion of any pension, gratuity or allowance payable to the person on his retirement as the same shall bear to the proportion which the aggregate amount of his pensionable emoluments during his service with
15 the Government bears to the aggregate amount of his pensionable emoluments during his service under both the Government and the Authority.

(5) Where any person in the service of the Authority, whose case does not fall within the scope of any pension or other scheme established under
20 this section, retires or dies in the service of the Authority or is discharged from such service, the Authority may grant to him or to such other person or persons wholly or partly dependent on him, as the Authority thinks fit, such allowance or gratuity as the Authority may determine.

Existing contracts

25 **25.**—(1) All deeds, contracts, schemes, bonds, agreements, instruments and arrangements subsisting immediately before the appointed day to which the Government is a party and relating to the Registry of Companies and Businesses or to any person transferred to the service of the Authority under section 23(1)(a) shall continue in force on and after
30 that day and shall be enforceable by or against the Authority as if the Authority had been named therein or had been a party thereto instead of the Government.

(2) All deeds, contracts, schemes, bonds, agreements, instruments and arrangements subsisting immediately before the appointed day to which
35 the Public Accountants Board is a party shall continue in force on and after that day and shall be enforceable by or against the Authority as if the

Authority had been named therein or had been a party thereto instead of the Public Accountants Board.

Pending proceedings

26.—(1) Any proceedings or cause of action pending or existing immediately before the appointed day by or against the Government or any person acting on its behalf in respect of the Registry of Companies and Businesses may be continued, completed and enforced by or against the Authority.

(2) Any proceedings or cause of action pending or existing immediately before the appointed day by or against the Public Accountants Board or any person acting on its behalf may be continued, completed and enforced by or against the Authority.

Continuation and completion of disciplinary proceedings

27.—(1) Where, on the appointed day, any disciplinary proceedings were pending against any employee of the Government or the Public Accountants Board, as the case may be, transferred to the service of the Authority under section 23, the proceedings shall be carried on and completed by the Authority.

(2) Where, on the appointed day, any matter was in the course of being heard or investigated or had been heard or investigated by a committee acting under due authority but no order, ruling or direction had been made thereon, the committee shall complete the hearing or investigation and shall make such order, ruling or direction as it could have made under the authority vested in it before that day.

(3) Any order, ruling or direction made by a committee under this section shall be treated as an order, a ruling or a direction of the Authority and have the same force or effect as if it had been made by the Authority pursuant to the authority vested in the Authority under this Act.

Misconduct or neglect of duty by employee before transfer

28. The Authority may reprimand, reduce in rank, retire, dismiss or punish in some other manner a person who had, whilst he was in the service of the Government or the Public Accountants Board, as the case may be, been guilty of any misconduct or neglect of duty which would have rendered him liable to be reprimanded, reduced in rank, retired,

dismissed or punished in some other manner if he had continued to be in the service of the Government or the Public Accountants Board, as the case may be, and if this Act had not been enacted.

PART VII

MISCELLANEOUS

5

Annual report

29.—(1) The Authority shall, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Authority during the preceding financial year and containing such information relating to the proceedings and policy of the Authority as the Minister may, from time to time, direct.

(2) The Minister shall, as soon as practicable, cause a copy of every such report to be presented to Parliament.

Name, symbol or representation of Authority

30.—(1) The Authority shall have the exclusive right to the use of such name, symbol or representation as the Authority may select or devise and thereafter display or exhibit such name, symbol or representation in connection with its activities or affairs.

(2) Any person who uses a name, symbol or representation identical with that of the Authority, or which so resembles the Authority's name, symbol or representation as to deceive or cause confusion, or to be likely to deceive or cause confusion, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.

Powers of enforcement

31.—(1) In addition to the powers conferred on him by this Act or any other written law, an officer or employee of the Authority may, in relation to any offence under this Act or any written law specified in the Second Schedule, on declaration of his office and production to the person against whom he is acting such identification card as the Chief Executive may direct to be carried by officers or employees of the Authority —

- (a) require any person whom he reasonably believes to have committed that offence to furnish evidence of the person's identity;
- 5 (b) require any person to furnish any information or produce any book, document or copy thereof in the possession of that person, and may, without fee or reward, inspect, make copies of or take extracts from such book or document; or
- 10 (c) require, by order in writing, the attendance before the officer or employee of any person within the limits of Singapore who, from any information given or otherwise obtained by the officer or employee, appears to be acquainted with the circumstances of the case.
- (2) Any person who —
- 15 (a) refuses to give access to, or assaults, obstructs, hinders or delays, an officer or employee of the Authority in the discharge of the duties by such officer or employee of the Authority under this Act or that written law;
- 20 (b) wilfully mis-states or without lawful excuse refuses to give any information or produce any book, document or copy thereof required of him by an officer or employee of the Authority under subsection (1); or
- (c) fails to comply with a lawful demand of an officer or employee of the Authority in the discharge by such officer or employee of his duties under this Act or that written law,
- 25 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

Offences committed by bodies corporate, etc.

- 30 **32.—**(1) Where an offence under this Act 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 any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to
- 35 be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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

10 (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 Act, 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, shall also be guilty of the offence and shall be liable to be proceeded against and
15 punished accordingly.

Proceedings conducted by officers of Authority

20 **33.**—(1) Proceedings in respect of an offence under this Act or under any written law specified in the Second Schedule may be conducted by an officer of the Authority who is authorised in writing in that behalf by the Chief Executive.

(2) Notwithstanding the provisions of any written law, a legal officer of the Authority who has been admitted as an advocate and solicitor under the Legal Profession Act (Cap. 161) may —

25 (a) appear in any civil proceedings involving the Authority or any Registrar in the performance of his functions or duties under any written law specified in the Second Schedule; and

(b) make and do all acts and applications in respect of such proceedings on behalf of the Authority or any Registrar.

(3) In this section, “Registrar” means —

30 (a) the Registrar of Public Accountants and any Deputy or Assistant Registrar of Public Accountants appointed under the Accountants Act 2004;

(b) the Registrar of Businesses and any Deputy or Assistant Registrar of Businesses appointed under the Business Registration Act (Cap. 32); and

5 (c) the Registrar of Companies and any Deputy or Assistant Registrar of Companies appointed under the Companies Act (Cap. 50).

Preservation of secrecy

34.—(1) No person who is or has been —

10 (a) a member, an officer, an employee or an agent of the Authority;
or

(b) a member of a committee of the Authority,

shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions unless such disclosure is
15 made —

(i) with the permission of the person from whom the information was obtained or, where the information is the confidential information of a third person, with the permission of that third person;

20 (ii) for the purpose of the administration or enforcement of this Act or any written law specified in the Second Schedule;

(iii) in compliance with the requirement of any court or the provisions of any written law; or

25 (iv) for the purpose of assisting any public officer or officer of any other statutory board in the investigation or prosecution of any offence under any written law.

(2) No person who is or has been —

(a) a member, an officer, an employee or an agent of the Authority;
or

30 (b) a member of a committee of the Authority,

shall, for his own personal benefit or for the personal benefit of any other person, make use of any information, whether directly or indirectly, which

has been obtained by him in the performance of his duties or the exercise of his functions.

(3) For the purpose of this section, the reference to a person disclosing or making use of any information includes his permitting any other person to have any access to any record, document or other thing which is in his possession or under his control by virtue of his being or having been a member, an officer, an employee or an agent of the Authority or a member of a committee of the Authority.

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) The provisions of this section are in addition to, and not in derogation of, any provision in any written law specified in the Second Schedule that regulates or restricts the disclosure of information by any member, officer, employee, agent or member of a committee of the Authority.

Jurisdiction of District Court

35. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Composition of offences

36.—(1) The Chief Executive or any officer of the Authority who is authorised by the Chief Executive may, in his discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$1,000.

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

Amendment of Schedules

37. The Minister may, by order in the *Gazette*, amend the First or Second Schedule.

Rules

38.—(1) The Authority may, with the approval of the Minister, make rules for carrying out the purposes and provisions of this Act.

5 (2) Without prejudice to the generality of subsection (1), the Authority may, with the approval of the Minister, make rules for or with respect to all or any of the following matters:

- (a) the manner of appointment, conduct and discipline and the terms and conditions of service of the officers and employees of the Authority;
- 10 (b) the establishment of funds for the payment of gratuities and other benefits to officers and employees of the Authority;
- (c) the fees to be charged in respect of anything done or any service rendered by the Authority under or by virtue of this Act or any other written law; and
- 15 (d) the offences which may be compounded under section 36.

Consequential amendments to other written laws

39.—(1) The provisions of the Acts specified in the first column of the Fourth Schedule are amended in the manner set out in the second column thereof.

20 (2) The Minister may, by order in the *Gazette*, repeal or amend any written law which appears to him to be unnecessary having regard to the provisions of this Act, or to be inconsistent with any provision of this Act.

FIRST SCHEDULE

Sections 5(4) and 37

CONSTITUTION AND PROCEEDINGS OF AUTHORITY

Terms of office of Chairman and members

- 5 1. The Chairman and other members shall hold office for such period and on such terms and conditions as the Minister may determine, and shall be eligible for re-appointment.

Role of Deputy Chairman

- 10 2. Where the Minister has appointed a Deputy Chairman under section 5(3)(a), the Deputy Chairman so appointed may, subject to such direction as may be given by the Chairman, exercise all or any of the powers exercisable by the Chairman under this Act.

Temporary Chairman

- 15 3. The Minister may appoint any person to be a temporary Chairman during the temporary incapacity from illness or otherwise, or during the temporary absence from Singapore, of the Chairman.

Revocation of appointment

- 20 4. The Minister may, at any time, revoke the appointment of the Chairman, Deputy Chairman (if any) or any member if he considers such revocation necessary in the interest of the effective and economical performance of the functions of the Authority under this Act or in the public interest.

Resignation

5. A member may resign from his office at any time by giving not less than one month's notice in writing to the Minister.

Chairman may delegate functions

- 25 6. The Chairman may, in writing, authorise any member to exercise any power or perform any function conferred on the Chairman by or under this Act.

Vacation of office

- 30 7. The office of a member shall become vacant —
 (a) on his death;

- (b) if he fails to attend 3 consecutive meetings of the Authority without sufficient cause (the sufficiency thereof to be decided by the Authority);
- (c) if he becomes in any manner disqualified from membership of the Authority;
- (d) if he is adjudicated a bankrupt;
- 5 (e) if he resigns from his office; or
- (f) if his appointment is revoked.

Filling of vacancies

8. If a vacancy occurs in the membership of the Authority, the Minister may, subject to paragraphs 1 and 9, appoint any person to fill the vacancy, and the person so
10 appointed shall hold office for the remainder of the term for which the vacating member was appointed.

Disqualification from membership

9. No person shall be appointed or shall continue to hold office as a member if he —

- 15 (a) is incapacitated by physical or mental illness;
- (b) is an undischarged bankrupt or has made any arrangement or composition with his creditors;
- (c) is convicted of an offence involving dishonesty, fraud or moral turpitude and has not received a free pardon;
- 20 (d) has been sentenced to imprisonment for a term of 6 months or more and has not received a free pardon; or
- (e) is otherwise unable or unfit to discharge the functions of a member.

Disclosure of interest by members

10.—(1) Subject to sub-paragraph (2), if a member has a pecuniary interest, direct or
25 indirect, in any contract, proposed contract or other matter which is before any meeting of the Authority, he shall at that meeting declare the nature of his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, that contract or other matter, and if the Chairman or the person presiding at that meeting so directs, he shall withdraw from the meeting during the consideration or
30 discussion.

(2) For the purposes of sub-paragraph (1), a general notice given to the members by a member to the effect that he is an officer or a member of a specified corporation or a member of a specified firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that corporation or firm shall be deemed
35 to be a sufficient declaration of interest in relation to any contract so made if it specifies the nature and extent of his interest in the specified corporation or firm and

his interest is not different in nature or greater in extent than the nature or extent so specified in the general notice at the time any contract is so made.

5 (3) No notice under sub-paragraph (2) shall be of effect unless either it is given at a meeting of the Authority or the member takes reasonable steps to ensure that it is brought up and read at the next meeting of the Authority after it is given.

(4) For the purpose of this paragraph, a pecuniary interest of any spouse, parent, son or adopted son, or daughter or adopted daughter, of a member shall be presumed to be a pecuniary interest of the member.

10 (5) For the purpose of determining whether there is a quorum, a member shall be treated as being present notwithstanding that, under this paragraph, he cannot vote or has withdrawn from the meeting.

Salaries, fees and allowances payable to members of Authority

15 11. There shall be paid to the members of the Authority, out of the funds of the Authority, such salaries, fees and allowances as the Minister may from time to time determine.

Meetings and proceedings of Authority

12.—(1) The Authority shall meet for the despatch of business at such times and places as the Chairman may from time to time appoint.

20 (2) At every meeting of the Authority, one half of the number of members shall constitute a quorum.

(3) The Chairman shall preside at all meetings of the Authority, but if the Chairman is absent from a meeting —

(a) the Deputy Chairman; or

25 (b) if there is no Deputy Chairman, such member as the members present may elect,

shall preside at that meeting.

(4) Decisions at meetings of the Authority shall be adopted by a simple majority of the members present and voting and, in the case of an equality of votes, the Chairman or, in his absence, the member presiding shall have a casting vote.

30 (5) Where not less than 4 members request the Chairman by notice in writing signed by them to convene a meeting of the Authority for any purpose specified in the notice, the Chairman shall, within 7 days from the receipt of the notice, convene a meeting for that purpose.

35 (6) The validity of any proceedings of the Authority shall not be affected by any vacancy amongst its members or by any defect in the appointment of any member.

(7) Subject to the provisions of this Act, the Authority may regulate its own proceedings generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes, and the opening, keeping, closing and auditing of accounts.

SECOND SCHEDULE

Sections 6(1), 31(1), 33(1) and (2),
34(1) and (5) and 37

WRITTEN LAWS ADMINISTERED AND ENFORCED BY AUTHORITY

1. Accountants Act 2004.
2. Business Registration Act (Cap. 32).
3. Companies Act (Cap. 50).
4. Trust Companies Act (Cap. 336).

THIRD SCHEDULE

Section 21

FINANCIAL PROVISIONS

Financial year

1. The financial year of the Authority shall begin on 1st April of each year and end on 31st March of the succeeding year, except that the first financial year of the Authority shall begin on the appointed day and end on 31st March of the succeeding year.

Accounts of Authority

2. The Authority shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Authority and over the expenditure incurred by the Authority.

Auditor

3. The accounts of the Authority shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Minister in consultation with the Auditor-General.

Appointment of auditor

4. A person shall not be qualified for appointment as an auditor under paragraph 3 unless he is a public accountant registered under the Accountants Act 2004.

Remuneration of auditor

5 5. The remuneration of the auditor shall be paid out of the funds of the Authority.

Annual financial statements

6. The Authority shall, as soon as practicable after the close of the financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

Duties of auditor

- 10 7. The auditor shall in his report state —
- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Authority;
 - 15 (b) whether proper accounting and other records have been kept, including records of all assets of the Authority whether purchased, donated or otherwise;
 - (c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Authority during the year were in accordance with the provisions of this Act; and
 - 20 (d) such other matters arising from the audit as he considers necessary.

Auditor's report

8.—(1) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Authority.

25 (2) The auditor shall submit such periodical and special reports to the Minister and to the Authority as may appear to him to be necessary or as the Minister or the Authority may require.

Powers of auditor

30 9.—(1) The auditor or any person authorised by him is entitled at any reasonable time to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Authority.

(2) The auditor or any person authorised by him may make copies of, or take extracts from, any such accounting and other records.

(3) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has

access as the auditor or any duly authorised person considers necessary for the purposes of his functions under this Act.

Penalty for obstructing auditor

5 10. Any person who fails, without reasonable cause, to comply with any requirement of the auditor or any person authorised by him under paragraph 9 or who otherwise hinders, obstructs or delays the auditor or person authorised by him in the performance of his functions under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence
10 continues after conviction.

Presentation of audited financial statements and auditor's report

11. As soon as the accounts of the Authority and the financial statements have been audited in accordance with this Act, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be
15 submitted to the Minister.

Copy of auditor's report for Auditor-General

12. Where the Auditor-General is not appointed as the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Authority.

20 Presentation to Parliament

13. The Minister shall as soon as practicable cause a copy of the audited financial statements and any report made by the auditor to be presented to Parliament.

FOURTH SCHEDULE

Section 39(1)

CONSEQUENTIAL AMENDMENTS TO
OTHER WRITTEN LAWS*First column**Second column*(1) Business Registration Act
(Chapter 32, 2001 Ed.)

(a) Section 2(1)

Insert, immediately before the definition of
“business”, the following definition:

““Authority” means the Accounting and
Corporate Regulatory Authority
established under the Accounting and
Corporate Regulatory Authority Act
2004;”.

(b) Section 3

Repeal and substitute the following section:

**“Administration of Act and
appointment of Registrar of Businesses,
etc.**

3.—(1) The Authority shall be
responsible for the administration of this
Act, subject to the general or special
directions of the Minister.

(2) The Minister may, after consultation
with the Authority —

(a) appoint an officer of the
Authority to be the Registrar of
Businesses; and

(b) from among the officers of the
Authority, public officers and
the officers of any other
statutory board, appoint such
number of Deputy Registrars and
Assistant Registrars of
Businesses as he considers
necessary,

for the proper administration of this Act.

(3) The Registrar shall be responsible generally for the carrying out of the provisions of this Act and for the collection of the fees thereunder and shall pay all amounts so collected into the funds of the Authority.

(4) The Authority may give to the Registrar such directions, not inconsistent with the provisions of this Act, as to the exercise of his powers, functions or duties under this Act, and the Registrar shall give effect to such directions.

(5) The Registrar may, subject to such conditions or restrictions as he thinks fit, for the purposes of the administration of this Act, delegate to any person all or any of the powers, functions and duties vested in him by this Act.”.

(2) Central Provident Fund Act
(Chapter 36, 2001 Ed.)

First Schedule, paragraph 6

Delete sub-paragraph (47) and substitute the following sub-paragraph:

“(47) Accounting and Corporate Regulatory Authority.”.

(3) Companies Act
(Chapter 50, 1994 Ed.)

(a) Section 4(1)

Insert, immediately after the definition of “audit requirements”, the following definition:

““Authority” means the Accounting and Corporate Regulatory Authority established under the Accounting and Corporate Regulatory Authority Act 2004;”.

<i>First column</i>	<i>Second column</i>
(b) Section 8	<p>(i) Delete subsection (1) and substitute the following subsections:</p> <p style="padding-left: 40px;">“(1) The Authority shall be responsible for the administration of this Act, subject to the general or special directions of the Minister.</p> <p style="padding-left: 40px;">(1A) The Minister may, after consultation with the Authority —</p> <p style="padding-left: 80px;">(a) appoint an officer of the Authority to be the Registrar of Companies; and</p> <p style="padding-left: 80px;">(b) from among the officers of the Authority, public officers and the officers of any other statutory board, appoint such number of Deputy Registrars and Assistant Registrars of Companies as he considers necessary,</p> <p style="padding-left: 40px;">for the proper administration of this Act.</p> <p style="padding-left: 40px;">(1B) The Authority may give to the Registrar such directions, not inconsistent with the provisions of this Act, as to the exercise of his powers, functions or duties under this Act, and the Registrar shall give effect to such directions.”.</p> <p>(ii) Insert, immediately after subsection (6), the following subsection:</p> <p style="padding-left: 40px;">“(6A) All fees collected by the Registrar under this Act shall be paid into the funds of the Authority.”.</p> <p>(iii) Delete the marginal note and insert the following section heading:</p> <p style="padding-left: 40px;">“Administration of Act and appointment of Registrar of Companies, etc.”.</p>

*First column**Second column*

	(2) The Authority may give to the Registrar such directions, not inconsistent with the provisions of this Act, as to the exercise of his powers, functions or duties under this Act, and the Registrar shall give effect to such directions.”.
(c) Section 37	Delete subsection (2) and substitute the following subsection: “(2) All fees collected by the Registrar under this Act shall be paid into the funds of the Authority.”.

EXPLANATORY STATEMENT

This Bill seeks to establish and incorporate the Accounting and Corporate Regulatory Authority (the Authority), to provide for its functions and powers, and for matters connected therewith, and to make consequential amendments to certain other written laws.

PART I

PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

PART II

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF AUTHORITY

Clause 3 establishes the Authority and provides that it will be a body corporate with perpetual succession.

Clause 4 provides for the Authority to have a common seal.

Clause 5 (to be read with the First Schedule) sets out the constitution and proceedings of the Authority.

PART III

FUNCTIONS AND POWERS OF AUTHORITY

Clause 6 (to be read with the Second Schedule) spells out the functions of the Authority.

Clause 7 spells out the powers of the Authority.

Clause 8 empowers the Minister to give to the Authority such directions as he thinks fit as to the performance of its functions and the exercise of its powers.

Clause 9 empowers the Authority to appoint committees and to delegate certain of its functions and powers.

PART IV

PROVISIONS RELATING TO STAFF

Clause 10 provides for the appointment of the Chief Executive and the officers and employees of the Authority.

Clause 11 confers on members, officers and employees of the Authority and other persons acting under the direction of the Authority protection from personal liability for anything which is in good faith done or intended to be done in the execution or purported execution of the Bill.

Clause 12 deems all members, officers and employees of the Authority to be public servants for the purposes of the Penal Code (Cap. 224).

PART V

FINANCIAL PROVISIONS

Clause 13 provides for what the funds and property of the Authority will consist of.

Clause 14 provides for how the moneys of the Authority are to be applied.

Clause 15 provides for the Authority to open and maintain bank accounts.

Clause 16 requires the Authority, in every financial year, to prepare and adopt annual estimates of its income and expenditure for the ensuing financial year.

Clause 17 sets out the powers of investment of the Authority.

Clause 18 empowers the Minister to make grants-in-aids to the Authority of such sums of money, as the Minister may determine, out of moneys to be provided by Parliament.

Clause 19 empowers the Authority to raise loans.

Clause 20 empowers the Authority to issue shares and other securities to the Minister for Finance as a consequence of property, rights or liabilities of the Government being vested in the Authority or as a consequence of capital injection or other investment by the Government in the Authority.

Clause 21 (to be read with the Third Schedule) sets out further financial provisions applicable to the Authority.

PART VI

TRANSFER OF PROPERTY, ASSETS, LIABILITIES AND EMPLOYEES

Clauses 22 to 28 deal with —

- (a) the transfer of employees from the Registry of Companies and Businesses and the Public Accountants Board to the Authority and the protection of their terms and conditions of service upon such transfer;
- (b) the transfer of property, assets and liabilities from the Registry of Companies and Businesses and the Public Accountants Board to the Authority; and
- (c) certain other transitional matters connected with such transfers.

PART VII

MISCELLANEOUS

Clause 29 requires the Authority to prepare and submit an annual report to the Minister.

Clause 30 relates to the name, symbol and representation that may be used by the Authority.

Clause 31 confers certain powers of enforcement on officers and employees of the Authority in addition to the powers already conferred on them by any other written law administered by the Authority.

Clause 32 relates to the liability of directors and partners for any offence under the Bill committed by a company or firm.

Clause 33 allows for proceedings in respect of an offence under the Bill or under any written law specified in the Second Schedule to be conducted by an officer of the Authority who is authorised in writing in that behalf by the Chief Executive.

Clause 34 protects the secrecy of certain information that has been obtained by an officer or employee of the Authority in the performance of his duties or the exercise of his functions, and allows for disclosure of such information only in certain specified circumstances.

Clause 35 empowers a District Court to try any offence under the Bill and to impose the full penalty or punishment in respect of the offence.

Clause 36 provides for the composition of offences under the Bill.

Clause 37 empowers the Minister, by order in the *Gazette*, to amend the First or Second Schedule.

Clause 38 empowers the Authority, with the approval of the Minister, to make rules for carrying out the purposes and provisions of the Bill.

Clause 39 (to be read with the Fourth Schedule) makes consequential amendments to certain other written laws arising from the enactment of the Bill.

The First Schedule (which is related to clauses 5 and 37) sets out certain provisions relating to the constitution and proceedings of the Authority.

The Second Schedule (which is related to clauses 6, 31, 33, 34 and 37) lists the Acts to be administered and enforced by the Authority.

The Third Schedule (which is related to clause 21) sets out certain financial provisions applicable to the Authority.

The Fourth Schedule (which is related to clause 39) sets out the consequential amendments to be made to certain other written laws arising from the enactment of the Bill.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
