



BERMUDA

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

BR 101 / 2015

TABLE OF CONTENTS

1	Citation
2	Interpretation
3	Manner and time for submitting petition for review proceedings
4	Petition for review proceedings
5	Appointment of the Review Panel
6	Grounds of petition and supporting documents
7	Supplementary grounds of petition
8	Amending grounds of petition, or supplementary grounds of petition
9	Interim relief
10	Filing of response by opposing party
11	Amending response
12	Withdrawal of petition or opposition
13	Preliminary hearing
14	Procedure during hearing
15	Review Panel may require attendance and evidence
16	Publication of determination and confidentiality of information or person
17	Costs or expenses
18	Time and miscellaneous powers
19	Review Panel to determine its procedure
20	Absence of a member of the Review Panel
21	Service of notices and other documents
22	Irregularities
23	Consolidation of petitions
	SCHEDULE
	Documents to be Filed by Petitioner

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

The Minister of Finance, in exercise of the power conferred by section 34(6) of the Bermuda Public Accountability Act 2011, makes the following Regulations:

Citation

1 These Regulations may be cited as the Bermuda Public Accountability (Review Proceedings) Regulations 2015.

Interpretation

2 In these Regulations, unless the context otherwise requires—

“the Act” means the Bermuda Public Accountability Act 2011;

“chairman” means the chairman of the Review Panel appointed by the Board under section 34 of the Act, and includes the deputy chairman appointed to act in the absence of the chairman;

“the law” means the Bermuda Public Accountability Act 2011 and the Regulations and Rules made under it;

“party” means a party to the review proceedings as provided for under section 33(2) of the Act;

“petitioner” means the Committee or any PIE public accountant who petitions for review proceedings under regulation 3;

“Review Panel” means the chairman and the three members appointed by the BPAB under section 34 of the Act;

“Rules” means the Bermuda Public Accountability (General) Rules 2015.

Manner and time for submitting petition for review proceedings

3 (1) The Committee shall issue an order for review proceedings where a petition for review proceedings is made in terms of section 33 of the Act, and the petition for review proceedings shall be filed with the Secretary as follows—

(a) in the case of review proceedings brought under section 33(1)(a) of the Act by the Committee following an inspection or investigation or in the case of non-compliance by a PIE public accountant with the provisions of the law, not later than 28 days from the date on which the Committee received the report on the inspection or investigation or the date by which the PIE public accountant received a violation event notice from the Committee for non-compliance with the law;

(b) in the case of review proceedings brought by a public accountant or public accounting firm aggrieved by a decision of the BPAB not to register him or the firm as a PIE public accountant or PIE public accountant firm under rule 6 of the Rules, not later than 10 days from the date on which the firm received the decision of the BPAB, and the petition shall be accompanied by a statement giving details of the reasons the petitioner should be registered;

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

- (c) in the case of review proceedings brought by a PIE public accountant under rule 15(3) of the Rules contesting the publication by the Committee on its website of the relevant portions of the final inspection report where the PIE public accountant failed to address to the satisfaction of the Committee the weaknesses, deficiencies or recommendations identified following an inspection conducted by the Committee under rule 13 of the Rules, not later than 15 days from the date on which the PIE public accountant received a notification of the Committee's intention to publish the final inspection report;
- (d) in the case of review proceedings brought under rule 25 of the Rules by a PIE public accountant or any individual specifically identified in the requirements, restrictions or penalties contained in a violation event notice issued by the Committee under rule 24 of the Rules, not later than 15 days from the date on which the PIE public accountant received Committee's violation event notice;
- (e) in the case of an petition under the Bermuda Public Accountability (General) Regulations 2015 brought by a PIE public accountant aggrieved by a decision of the Committee to impose a penalty pursuant to regulation 10 of the Regulations for failure to comply with any requirements, restrictions or penalties imposed by the Committee under rule 24 of the Rules, not later than 28 days from the date on which the PIE public accountant received the decision of the Committee with respect to the matter.

(2) When filing the petition for review proceedings, the petitioner shall serve a copy of the petition on the other party, and on any person or firm concerned.

Petition for review proceedings

4 A petition for review proceedings shall be signed by the petitioner, or on behalf of the petitioner by his representative, and shall contain the following information—

- (a) the petitioner's name;
- (b) the street, postal and e-mail addresses, and the facsimile number of the petitioner at which notices and other documents may be served; or where the petitioner is a corporate body, the address of the body's registered office;
- (c) the street, postal and e-mail addresses, and the facsimile number, if different from that referred to in subparagraph (b), at which notices and other documents may be served on the petitioner in Bermuda;
- (d) the name, street, postal and e-mail addresses, and the facsimile number of any person appointed by the petitioner to represent him or it in connection with the petition;
- (e) the name, street, postal and e-mail address, and the facsimile number of the Secretary; and

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

- (f) a statement on the decision of the BPAB against which the petition is being made.

Appointment of the Review Panel

5 The Review Panel shall be appointed by the BPAB in terms of section 34(3) of the Act, in connection with one or more petitions for a fixed period.

Grounds of petition and supporting documents

6 (1) The petitioner shall, within 14 days from the date of filing the petition, file with the secretary a notice setting out the grounds of the petition.

(2) The notice of grounds of petition shall contain—

(a) in the case of a petition brought by the Committee under regulation 3(1)(a), sufficient particulars setting out—

- (i) the PIE public accountant's failure to meet inspection requirements;
- (ii) the findings of investigations of the PIE public accountant's non-compliance with the law; or

(iii) the PIE public accountant's failure to comply with the law;

(b) in the case of a petition under regulation 3(1)(b) brought by a public accountant or public accountant firm, sufficient particulars setting out the petitioner's reasons for petitioning against the decision of the BPAB;

(c) in the case of a petition under regulation 3(1)(c) to (e) brought by a PIE public accountant, the reasons that the decision of the Committee was unlawful or not justified by the evidence on which it was based.

(3) The petitioner shall, when filing the notice of grounds of petition—

(a) serve a copy of the notice on the opposing party and on any other person concerned;

(b) file with the secretary the documents listed in the Schedule; and

(c) serve on the opposing party and any person concerned—

(i) a list of the documents filed with the secretary under subparagraph (b);  
or

(ii) a copy of the documents referred to in subparagraph (b) not in the possession of any person concerned.

Supplementary grounds of petition

7 (1) A petitioner may omit from the notice of grounds of petition any information which has been given in confidence or is commercially sensitive, and shall file with the secretary a notice of supplementary grounds of petition.

(2) The notice of supplementary grounds of petition shall be filed with the secretary at the time the notice of grounds of petition is filed and shall—

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

- (a) contain such information which has been given in confidence or is commercially sensitive; and
- (b) give the reason for the confidential or commercially sensitive information being omitted from the notice of grounds of petition.

Amending grounds of petition, or supplementary grounds of petition

8 (1) A petitioner may amend the grounds of petition or supplementary grounds of petition—

- (a) at any time before the hearing by filing with the secretary notice of the amendment;
- (b) during the preliminary hearing with the leave of the chairman;
- (c) at any time after the preliminary hearing with the leave of the Review Panel.

(2) Leave to amend under paragraph (1)(b) and (c) shall not be granted unless the opposing party to proceedings has been given an opportunity to make representations on the proposed amendment.

(3) Leave to amend may be granted on such terms, including terms as to costs or expenses, as the chairman or the Review Panel thinks fit.

(4) The opposing party may file an amended response with the secretary where grounds of petition have been amended, and shall at the same time serve a copy of the amended response on the petitioner and on any other person concerned.

Interim relief

9 (1) A petitioner who is a PIE public accountant may file an application with the secretary requesting the Review Panel to suspend operation of the Committee's direction or decision, or variation of the Committee's direction or decision, pending the determination of the petition.

(2) The Review Panel may determine the application on the basis of written representations, if the parties agree in writing, or it may direct the parties to appear before it.

(3) The Review Panel shall notify the parties of its determination of the application, and shall give a statement of its reasons, and unless the Review Panel otherwise directs, the determination shall come into operation when the notice is served on the petitioner and the Committee.

Filing of response by opposing party

10 (1) Within 28 days of being served a copy of a notice of grounds of petition, the opposing party shall file with the secretary a response to the particulars set out in the notice.

(2) When filing a response, the opposing party shall serve a copy of the response on the petitioner, and on any other person concerned.

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

Amending response

- 11 (1) The opposing party may amend its response—
- (a) at any time before the hearing by filing with the secretary notice of the amendment;
  - (b) during the preliminary hearing with the leave of the chairman;
  - (c) at any time after the preliminary hearing with the leave of the Review Panel.
- (2) Leave to amend under paragraph (1)(b) and (c) shall not be granted unless the petitioner has been given an opportunity to make representations on the proposed amendment.
- (3) Leave to amend may be granted on such terms, including terms as to costs or expenses, as the chairman or the Review Panel thinks fit.
- (4) The petitioner may file a notice of amended grounds of petition with the secretary where a response has been amended, and shall at the same time, serve a copy of the notice on the opposing party and on any other person concerned.

Withdrawal of petition or opposition

- 12 (1) An petitioner may withdraw his petition or the opposing party may withdraw its opposition to a petition—
- (a) at any time before any preliminary hearing or before the hearing by filing a notice with the secretary;
  - (b) during any preliminary hearing by giving notice to the chairman; or
  - (c) during or after the hearing by giving notice to the Review Panel.
- (2) Where a petition is withdrawn, the Review Panel may give directions as to the payment of costs or expenses by any party to the petition, and shall bring the hearing to a close.
- (3) Where an opposition is withdrawn, the Review Panel shall make a determination as it thinks fit, give directions as to the payment of costs or expenses by any party to the petition, and bring the hearing to a close.
- (4) Where an petition is withdrawn, the petition is deemed dismissed and the Review Panel shall formally notify each party.

Preliminary hearing

- 13 (1) A preliminary hearing may be held, and the chairman shall serve on the parties to a petition any notice appointing the date, time and place of the preliminary hearing as follows—
- (a) not earlier than 21 days after receipt by the secretary of the response by the opposing party;
  - (b) not later than 35 days after receipt by the secretary of the response by the opposing party; and

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

- (c) not less than 10 days before the day appointed for the preliminary hearing.
- (2) At the preliminary hearing—
  - (a) the chairman shall give such directions as he considers necessary or desirable for the conduct of the petition, and shall appoint the date, time and place of the hearing of the petition; and
  - (b) the parties to the petition may seek clarification regarding the conduct of the petition.
- (3) The parties to the petition may agree—
  - (a) to the notice being served by the chairman at times other than those provided under paragraph (1); or
  - (b) to the hearing being held as a matter of urgency as directed by the chairman or as agreed to by the parties.
- (4) The preliminary hearing shall be in private and shall be heard by the chairman.
- (5) The parties may appear and be heard in person at the preliminary hearing, or be represented by a barrister and attorney, or by any other person.
- (6) Notwithstanding that the preliminary hearing is in private, any person concerned is entitled to appear in person at the preliminary hearing, or be represented by a barrister and attorney, or by any other person.
- (7) The chairman shall consider whether any matters contained in any supplementary grounds of petition, or any amended supplementary grounds of petition, should be disclosed to any other person, and may direct that such matters be disclosed accordingly.

Procedure during hearing

- 14
- (1) The hearing shall be in private.
  - (2) The parties to the petition may appear and be heard in person at the hearing, or be represented by a barrister and attorney, or by any other person.
  - (3) At the hearing, the parties are each entitled to make an opening statement, call witnesses to give evidence, cross-examine witnesses called by the other party, and make a final statement.
  - (4) Notwithstanding that the hearing is in private, any person concerned is entitled to appear at the hearing, or be represented by a barrister and attorney, or by any other person.
  - (5) Where the Review Panel requires any witness to give evidence, such evidence shall be given on oath or affirmation; and the chairman shall administer the oath or affirmation.
  - (6) Subject to regulation 15(2)(b), evidence may be admitted by the Review Panel whether or not it would be admissible in a court of law.

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

(7) If the parties fail to appear or be represented on the date, time and place appointed for the hearing, the Review Panel may proceed with the hearing or adjourn it to a later date.

(8) Where the Review Panel proceeds with the hearing pursuant to paragraph (7), it may take into consideration any written representations which may have been submitted by either party, whether the written representations were submitted in accordance with these Regulations or otherwise.

(9) The Review Panel may from time to time adjourn the hearing, and if the date, time and place of the adjourned hearing are announced before the adjournment, no further notice is required.

Review Panel may require attendance and evidence

15 (1) At the hearing, the chairman may, on the application of a party to the petition or on his own motion, by direction given at the hearing or by notice in writing, require the parties or any other person, at a time and place given in the direction or notice, to attend and give evidence or to produce any document in that person's custody or under his control which relates to any matter in question at the hearing.

(2) Notwithstanding paragraph (1)—

- (a) no person other than the parties shall be required, in obedience to such direction or notice, to attend and give evidence or to produce any document unless the necessary expenses of his attendance are paid or tendered to him;
- (b) no person shall be compelled to give any evidence or to produce any document which he could not be compelled to give or produce if the hearing were a proceeding in a court of law; and
- (c) except where the chairman otherwise directs, a witness shall not be obliged to attend and give evidence or to produce any document in obedience to a direction or notice given by the chairman unless that direction was given or notice has been served on him not less than 5 days before the day appointed for the hearing.

(3) The Chairman may direct that a copy of any document obtained under this regulation be supplied to any party to the petition if that party does not already have a copy of the document, and it shall be a condition of such supply that the document so supplied shall be used only for the purposes of the petition.

(4) The chairman may set aside any direction or notice given under paragraph (1) on his own motion or on the application of the person to whom the direction or notice was given, but shall not do so without first notifying any person who applied for the direction or notice and considering any representations made by that person.

Publication of determination and confidentiality of information or person

16 (1) The Review Panel shall, after the close of a hearing, notify the parties of its determination.



BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

(2) The Review Panel may arrange for the publication of its determination and statement of its reasons, but in doing so shall have regard to the desirability of safeguarding confidential or commercially sensitive information given to the parties, or information which was communicated or obtained in confidence, or the identity of or information relating to any person who is not a party to the petition, and for that purpose may make any necessary amendments to the text of its determination and statement of reasons.

Costs or expenses

17 (1) Any costs or expenses which the Review Panel directs to be paid and are required to be taxed under these Regulations shall be taxed by the Registrar of the Supreme Court.

(2) A direction by the Review Panel in respect of the payment of costs or expenses shall, on application being made to the Supreme Court by the party to whom such costs or expenses have been directed to be paid, be enforceable as if the party had obtained a judgment of that Court in his favour.

Time and miscellaneous powers

18 (1) Where the time prescribed by these Regulations for doing any act expires on a Saturday, Sunday or public holiday, the act shall be in time if done on the next working day.

(2) A party to a petition may file with the secretary an application requesting the chairman to extend the time referred to in regulation 6, 10 or 13, and the chairman may, after consulting with the other party, grant such extension; and the chairman may grant the extension on such terms, including terms as to costs or expenses, as he thinks fit.

(3) An application may be granted after the time specified in regulation 6, 10 or 13 has expired.

(4) The chairman may, after consulting with the parties, postpone the date appointed for any hearing, or alter the place appointed for any hearing.

(5) Where any hearing is postponed, or the place for any hearing is altered under paragraph (4), the secretary shall notify the parties to the petition and any person concerned of the revised arrangement.

Review Panel to determine its procedure

19 Subject to the Act and these Regulations, the Review Panel has power to determine its own procedure.

Absence of a member of the Review Panel

20 A petition hearing may, with the written consent of all the parties, continue to be heard in the absence of any one member of the Review Panel, other than the chairman, and in that event the Review Panel is deemed properly constituted.

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

Service of notices and other documents

21 (1) Any notice or other document to be filed or served on any person for the purposes of a petition may be filed or served—

- (a) by registered mail—
  - (i) in the case of the secretary, at the address set out in regulation 4(e);
  - (ii) in the case of the petitioner or the petitioner's representative, at the street or postal addresses provided in the notice of petition, or such other street or postal address as may subsequently be notified to the secretary by the petitioner;
  - (iii) in the case of the BPAB, at the street or postal addresses provided in the notice of petition, or such other street or postal address as may subsequently be notified to the secretary by the BPAB;
  - (iv) in the case of any other person, at the last known address of the person, or the person's representative; or
- (b) by electronic means at the e-mail address or facsimile number provided in the notice of petition.

(2) Where a notice or document is served on the representative of the petitioner, the notice or document is deemed served on the petitioner.

Irregularities

22 (1) Any irregularity resulting from failure to comply with any provision of these Regulations before the Review Panel has reached its decision shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Review Panel before making its determination, the Review Panel may, and shall if it considers that any person may have been prejudiced, take such steps as it thinks fit before making its determination to cure the irregularity.

(3) Clerical mistakes in any document recording a decision of the chairman or Review Panel, or errors arising in such a document from an accidental slip or omission, may be corrected by the chairman under his hand.

Consolidation of petitions

23 (1) At a preliminary hearing or at some other time, the chairman may direct that the petitions brought by PIE public accountants under regulation 3(1)(c) to (e) be consolidated.

(2) A direction shall not be given under paragraph (1) unless the parties to the petition and the person concerned or the PIE public accountant concerned has been given an opportunity to show cause as to why such a direction should not be given.

(3) Where petitions have been consolidated, the chairman shall consider whether any matters contained in any supplementary grounds of petition or any amended

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

supplementary grounds of petition should be disclosed to the person concerned or the PIE public accountant concerned, and may direct that such matters be disclosed accordingly.

(4) The chairman shall not direct that any supplementary grounds of petition or any amended supplementary grounds of petition be disclosed under paragraph (3) where—

- (a) all of the matters contained in any such supplementary or amended supplementary grounds of petition have been disclosed to the person concerned or the PIE public accountant concerned at the preliminary hearing; or
- (b) the petitioner, when showing cause why a direction to consolidate should not be made, represented that he did not wish copies of such notices to be disclosed, and any person concerned or any PIE public accountant concerned consented to the notices not being disclosed to him.

BERMUDA PUBLIC ACCOUNTABILITY (REVIEW PROCEEDINGS)  
REGULATIONS 2015

---

SCHEDULE

(regulation 6(3))

DOCUMENTS TO BE FILED BY PETITIONER

1 In the case of a petition brought by the Committee under regulation 3(1)(a), the petitioner shall file with the secretary—

- (a) four copies of a violation event notice or other notice issued to the petitioner by the Committee under the Rules;
- (b) four copies of any representations made by the PIE public accountant to the Committee; and
- (c) four copies of the decision of the Committee under the Rules.

2 In the case of a petition brought by a public accountant or public accounting firm under regulation 3(1)(b), the petitioner shall file with the secretary—

- (a) four copies of the petitioner's application to the BPAB for registration as a PIE public accountant, and the accompanying documents;
- (b) four copies of the decision of the BPAB on the matter; and
- (c) four copies of the petitioner's grounds of appeal.

3 In the case of a petition brought by a public accountant under regulation 3(1)(c) and (e), or brought by a public accountant or individual under regulation 3(1)(d), the petitioner shall file with the secretary—

- (a) four copies of the violation event notice issued to the petitioner by the Committee under the Rules or decision of the Committee under regulation 10 of the Bermuda Public Accountability (General) Regulations 2015;
- (b) four copies of any representations made by the PIE public accountant to the Committee; and
- (c) four copies of the decision of the Committee under the Rules.

Made this 15th day of December 2015

Minister of Finance