

COMMENCEMENT OF THE APPEALS PROCEDURE BEFORE THE GRAND COURT OF THE CAYMAN ISLANDS

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DISCLAIMER

The information provided in this Helpsheet is for general guidance only and is not a substitute for professional advice. Any intending appellant should thoroughly familiarise themselves with the appeals procedure outlined in the Accountants Law (the “AL”) and in particular in the Second Schedule of the AL (the “Second Schedule”), and should seek professional advice. Neither CIIPA nor any of its officers, council members, members, employees, agents or consultants assumes any responsibility to any intended appellant or any other party for the completeness or accuracy of the information contained in this Helpsheet.

INTRODUCTION

Section 27 of the AL provides a right of appeal to the Grand Court of the Cayman Islands in the following circumstances:

1. Where a person has been refused membership or renewal of membership of CIIPA;
2. Where a person has been refused a licence to engage in public practice or renewal of a licence; or
3. Where a person is aggrieved by a disciplinary or other order made by the Disciplinary Tribunal or CIIPA Council under section 21 of the AL.

Under section 27 of the AL an appeal must be made within three months of the date of the decision, unless an extension is granted by the Grand Court of the Cayman Islands, and the provisions of the Second Schedule set out details of the appeals procedure.

Under section 2 of the Second Schedule, if requested by an intending appellant, the Secretary of CIIPA is required to provide him or her with the necessary form of notice of appeal and appeal recognisance and explain to him or her the procedure to be followed. The purpose of this Helpsheet is to provide an explanation of the procedure to be followed. It outlines the initial steps that an intending appellant needs to take but does not outline the full appeals procedure. If an intending applicant requires further information, he or she should consult with their legal adviser and carefully review the Second Schedule. CIIPA strongly recommends that any intending applicant engages a legal adviser to assist them with the appeal because of the technical nature of the appeals procedure and the legal issues involved.

PROCEDURE

1. If you are an intending appellant you must file your appeal with the Grand Court within three months of the date of the decision which you wish to appeal unless the Grand Court grants an extension.

2. To file an appeal, you must deliver a written notice of appeal, signed by you or your legal representative, to the Chief Clerk of the Grand Court of the Cayman Islands and to the Secretary of CIIPA within the three-month period mentioned in paragraph 1 above unless the Grand Court grants an extension.

In accordance with the Grand Court Rules, the notice of appeal must take the form of a Notice of Originating Motion. A template of the form to be used is set out at Appendix 1 to this Helpsheets. Your legal adviser will be able to guide you as to how the form should be completed or will be able to complete the form on your behalf.

3. Within three months plus seven days after the date of the decision which you wish to appeal, unless the Grand Court grants an extension, you must deliver to the Chief Clerk of the Grand Court of the Cayman Islands and to the Secretary of CIIPA:
 - a. a statement in writing, signed by you or your legal representative, setting out the grounds on which you wish to appeal the decision; and
 - b. an appeal recognisance.

A template of the form of appeal recognisance to be used is set out at Appendix 2 to this Helpsheets. Your legal adviser will be able to guide you as to how the form should be completed or will be able to complete the form on your behalf. You will note that in signing the recognisance you will be undertaking, amongst other things, to provide security for costs of up to CI\$1,000 and to meet any order for costs made against you by the Grand Court if the appeal is unsuccessful.

4. If you fail to serve notice and grounds of appeal and or fail to enter into an appeal recognisance within the periods specified in paragraphs 2 and 3 above, you will lose your right of appeal.

APPENDIX 1: FORM OF NOTICE OF APPEAL

Notice of Originating Motion (0.8, r3)

IN THE GRAND COURT OF THE CAYMAN ISLANDS CAUSE NO: OF 20____

In the Matter of [state statute or rule pursuant to which application or appeal is made]

And in the Matter of [state subject matter of motion]

NOTICE OF ORIGINATING MOTION

TAKE NOTICE that the Court [or, if appropriate, a named Judge of the Court] at the Law Courts, George Town, Grand Cayman will be moved on [date] at [time] or as soon thereafter as counsel can be heard, by counsel on behalf of [state full name of applicant] for an order that [state details] [or for the following relief, namely [state relief]].

And for an order that the costs of and incidental to this [application] [appeal] may be paid by [state name]

AND FURTHER TAKE NOTICE that the grounds of this [application] [appeal] are: [state grounds].

Dated the day of 20____

[Signature of Plaintiff or his Attorney]

TO: The Clerk of the Court

AND TO: [name and address of Defendant(s) or attorneys]

This Notice of Originating Motion was issued by *[name Of Plaintiff or his Attorney]* whose address for service is *[state address within the jurisdiction]*.

1. GCR 1995 (Revised)

APPENDIX 2: FORM OF APPEAL RECOGNISANCE

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 20__

In the Matter of [the Accountants Law 2016]

And in the Matter of [state subject matter of action]

APPEAL RECOGNISANCE

I, [state name of Appellant] of [state full address of Appellant] having filed a Notice of Originating Motion in the above Cause No. for the hearing of an appeal of a decision of the Cayman Islands Institute of Professional Accountants, hereby enter into a recognisance, in such sum, not exceeding One Thousand Cayman Islands Dollars (CI\$1,000) in respect of the costs of such appeal, as the Court shall direct, for the due prosecution of such appeal and compliance by me, as appellant, with all judgments, orders or other decisions of the Court in the matter and if such appeal is not allowed the payment of any costs of the proceedings in the appeal, if the Court shall direct.

Dated the day of 20__

[Signature of Appellant or his Attorney]

TO: The Clerk of the Court

AND TO:

Cayman Islands Institute of Professional Accountants, 45 Market Street, Camana Bay, PO Box 1577, Grand Cayman KY1-1110, Cayman Islands