

CHARTERED INSTITUTE OF BANKERS (GHANA) BILL, 2018

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ENTITLED

**CHARTERED INSTITUTE OF BANKERS (GHANA)
ACT, 2018**

An Act to establish the Chartered Institute of Bankers (Ghana) to promote the study of banking; to regulate the practice of the banking profession and to provide for related purposes.

PASSED by Parliament and assented to by the President:

Establishment of the Chartered Institute of Bankers, (Ghana)

Establishment of the Institute

1. (1) There is established by this Act a body corporate with perpetual succession to be known as the Chartered Institute of Bankers, (Ghana).

(2) The Institute may, for the performance of its functions, acquire and hold movable and immovable property, dispose of property and enter into any contract or any other transaction relating to the object of the Institute.

(3) Where there is a hindrance to the acquisition of immovable property, the immovable property may be acquired for the Institute under the State Lands Act, 1962 (Act 125) and the cost shall be borne by the Institute.

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Object of the Institute

2. The object of the Institute is to promote the study of banking and regulate the practice of the banking profession in the country.

Functions of the Institute

3. To achieve the object under section 2, the Institute shall
- (a) determine the standard of knowledge and skill required for a person who intends to practise banking;
 - (b) establish, keep and maintain a register containing details of
 - (i) members of the banking profession; and
 - (ii) persons that provide tuition for professional examinations in banking in accordance with the provisions of this Act;
 - (c) conduct and provide for the conduct of professional examinations for the registration of bankers and award certificates in respect of the qualification acquired;
 - (d) set standards and ensure the observance of ethical standards and professional conduct among members of the banking profession in the country;
 - (e) determine the academic equivalent of the certificates awarded in respect of the professional examination that the Institute conducts; and
 - (f) perform any other function that is necessary for the attainment of the object of the Institute.

Governance of the Institute

Governing body of the Institute

4. (1) The governing body of the Institute is a Council consisting of
- (a) a chairperson who is the President of the Institute elected by members of the Institute at an Annual General Meeting of the Institute;
 - (b) the Vice-President of the Institute elected by members of the Institute at an Annual General Meeting of the Institute;
 - (c) the Governor of the Bank of Ghana or a representative of the Governor not below the rank of a Director;
 - (d) one representative of the Ministry responsible for Education not below the rank of a Director;

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- (e) one representative of the Ministry responsible for Finance, not below the rank of a Director;
- (f) one representative of the Ghana Association of Bankers;
- (g) an immediate past President of the Institute;
- (h) the Treasurer of the Institute;
- (i) the Chief Executive Officer of the Institute; and
- (j) four members of the Institute elected by the members at an Annual General Meeting of the Institute.

(2) The members of the Council shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The Council shall ensure the proper and effective performance of the functions of the Institute.

Tenure of office of members

5. (1) A member of the Council shall hold office for a period of not more than two years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the Chief Executive Officer.

(3) A member of the Council may, at any time, resign from office in writing addressed to the President through the Minister.

(4) A member of the Council who is absent from four consecutive meetings of the Council without a sufficient reason ceases to be a member of the Council.

(5) The President may, by letter addressed to a member, revoke the appointment of that member.

(6) Where a member of the Council is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy

- (a) under subsection (3) or (4) or subsection (2) of section 7;
- (b) as a result of a declaration under subsection (6); or
- (c) by reason of the death of a member;

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy in accordance with this Act.

Meetings of the Council

6. (1) The Council shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than one-third of the membership of the Council, convene an extraordinary meeting of the Council at the place and time determined by the chairperson.

(3) The quorum for a meeting of the Council is seven members.

(4) The chairperson shall preside at meetings of the Council and in the absence of the chairperson, the Vice-President of the Institute shall preside and in the absence of the chairperson and Vice-President, a member of the Council elected by the members present from among their number shall preside.

(5) Matters before the Council shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Council may co-opt a person to attend a Council meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Council shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Council may determine the procedure for its meetings.

(9) Meetings of the Council shall be convened after giving members at least fourteen days notice in writing together with the agenda for the meeting.

Disclosure of interest

7. (1) A member of the Council who has an interest in a matter for consideration

(a) shall disclose in writing the nature of that interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not participate in the deliberations of the Council in respect of that matter.

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(2) A member ceases to be a member of the Council, if that member has an interest in a matter before the Council and

- (a) fails to disclose that interest, or
- (b) participates in the deliberations of the matter.

Establishment of committees

8. (1) The Council may establish committees consisting of members of the Council and non-members to perform a function.

(2) A committee of the Council consisting of members and non-members shall be chaired by a member of the Council.

(3) Section 7 applies to members of committees of the Council.

Disciplinary Committee

9. (1) Without limiting subsection (1) of section 8, the Council shall have a Disciplinary Committee.

(2) The composition of the Disciplinary Committee, the procedures for the conduct of inquiries by the Disciplinary Committee and the powers of the Disciplinary Committee shall be as set out in the First Schedule.

Executive Committee

10. (1) Without limiting subsection (1) of section 8, the Council shall have an Executive Committee.

(2) The composition of the Executive Committee and the functions of the Committee shall be as set out in the Second Schedule.

Allowances

11. Members of the Council and members of a committee of the Council shall be paid the allowances determined by the Council.

Meetings of the Institute

12. The meetings of the Institute shall be held in accordance with the provisions of the Third Schedule.

Ministerial directives

13. The Minister may give directives in writing to the Council on matters of policy and the Council shall comply.

Membership and Qualification

Categories of membership

14. The membership of the Institute consists of the following:

- (a) ordinary members;
- (b) student members;

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- (c) associate members;
- (d) fellows;
- (e) honorary fellows; and
- (f) corporate members.

Qualification for enrolment

15. (1) A person is qualified to be enrolled as an ordinary member of the Institute if that person

- (a) works in a financial institution and has
 - (i) a bachelor's degree from an accredited institution or the equivalent qualification; or
 - (ii) the minimum qualification prescribed by the Council; and
- (b) satisfies any other condition that the Council may determine.

(2) A person is qualified to be enrolled as a student member of the Institute if that person

- (a) has the basic qualification approved by the Council for registration as a student; and
- (b) has registered to write an examination conducted by the Institute in respect of the award of a certificate in banking.

(3) A person is qualified to be enrolled as an associate member of the Institute and recognised as a chartered banker if that person

- (a) has passed the associateship examination conducted by the Institute; and
- (b) has worked with a financial institution for a period prescribed by the Council.

(4) A person who qualifies under subsection (3) may use the title "ACIB".

(5) Despite subsection (3), a person may qualify to be enrolled as an associate member of the Institute if that person

- (a) has passed the qualifying examination of an Institute of Bankers in a country approved by the Council; or
- (b) has been elected by a recognised foreign Institute as an associate member.

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(6) A person is qualified to be enrolled as a fellow of the Institute if that person

- (a) satisfies the Council that that person has passed the final associateship examination conducted by the Institute;
- (b) has been a member of the Institute for a period of not less than ten years from the date of qualification as a member of the Institute;
- (c) has made significant contributions to banking and finance as determined by the Council;
- (d) has actively participated in the continuing professional development of the Institute; and
- (e) has satisfied any other condition determined by the Council.

(7) A person who qualifies under subsection (6) may use the title “FCIB”.

(8) A person is qualified to be enrolled as an honorary fellow of the Institute if that person

- (a) is a distinguished member of the Institute on account of significant contributions that person has made to the profession of banking;
- (b) holds a university degree or an equivalent qualification recognised by the Council; and
- (c) holds a senior management position in a financial institution and has made continuous significant contributions to the practice of banking and finance or the promotion of the object of the Institute.

(9) A person who qualifies under subsection (8) may use the title “FCIB (Hon.)”.

Restriction on use of the title “Chartered Banker”

16. A person who is not a chartered banker recognised under this Act shall not accept or use the title “Chartered Banker”.

Registration

Qualification for registration as a chartered banker

17. A person qualifies for registration as a Chartered Banker if that person

- (a) has undergone the requisite training in banking determined by the Council in an institution or organisation recognised by the Council;

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- (b) maintains professional skills and values in accordance with the continuing education requirements; and
- (c) is not disqualified under subsection (2) of section 18.

Qualification for registration as a member of the Institute

18. (1) A person qualifies for registration as a member of the Institute if that person is

- (a) qualified to be registered as
 - (i) a chartered banker under section 17;
 - (ii) a student member under subsection (2) of section 15;
 - (iii) an associate member under subsection (3) of section 15;
 - (iv) a fellow of the Institute under subsection (6) of section 15; or
 - (v) an honorary fellow under subsection (8) of section 15.

(2) A person is not qualified to be registered as a chartered banker or a member of the Institute if that person has been

- (a) convicted by a court of competent jurisdiction of an offence involving fraud or dishonesty;
- (b) declared by a certified psychiatrist and adjudged by a court of competent jurisdiction to be of unsound mind;
- (c) adjudged insolvent or bankrupt by a court of competent jurisdiction and is not discharged; or
- (d) whilst a member of another professional body found by the disciplinary committee of that body to be guilty of professional misconduct as specified in the Fourth Schedule.

Application for registration

19. (1) A person who qualifies to be registered as a chartered banker or a member of the Institute under this Act shall apply to the Institute.

(2) An application for registration shall be in written form with supporting documents including evidence of the qualification of the applicant.

(3) The application shall be submitted together with the registration fee prescribed by the Council.

(4) An applicant shall be registered as a chartered banker or a member of the Institute where the Council is satisfied with the due diligence conducted on the applicant pursuant to subsection (2) of section 18.

Certificate of registration

20. (1) The Council shall, on the successful registration of a person under section 19 and on the payment of the required registration fee, issue that person with a registration certificate that indicates the class of membership of that person.

(2) A registration certificate is the property of the Institute.

Suspension of registration

21. The Council may suspend the registration of a member of the Institute where

- (a) an offence in relation to that member is being investigated;
- (b) allegations of misconduct have been made against the member;
- (c) a false declaration was made in an application for registration as a member of the Institute; or
- (d) the member has contravened a provision of this Act.

Cancellation of registration

22. (1) The Council shall cancel the registration of a member where

- (a) the Council has reasonable grounds to believe that the registration was obtained by fraud, misrepresentation or concealment of a material fact;
- (b) the member is convicted of an offence under this Act or the Regulations;
- (c) the member breaches the Code of Conduct;
- (d) the member is convicted of an offence involving dishonesty; or
- (e) the member is sentenced to a term of imprisonment for a criminal offence.

(2) The Council shall before cancelling a registration, give the affected member

- (a) thirty days notice in writing of the intention to cancel the registration; and
- (b) an opportunity to make a representation to the Council.

(3) The Council may before cancelling a registration, suspend the member for a period and on the terms and conditions that the Council may determine.

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(4) Where the Council cancels a registration, the name of the person whose registration has been cancelled shall be removed from the register.

(5) The Council may

(a) on conditions prescribed by the Council, and

(b) on the payment of the prescribed fee,

restore the name of a person whose registration has been cancelled.

Register

23. (1) The Institute shall establish, keep and maintain a register of members of the Institute.

(2) The register referred to under subsection (1) shall contain

(a) a list of the names of members of the Institute; and

(b) any other particulars that the Institute may determine.

(3) The Institute may effect any corrections or alterations to the register.

(4) The Institute shall keep the register at the office of the Institute.

(5) The register shall be open to the public.

(6) A person may during business hours and on the payment of the prescribed fee

(a) inspect the register; or

(b) obtain an extract from the register.

(7) The Council shall publish annually the list of members of the Institute in the *Gazette* and in at least two daily newspapers of national circulation.

Striking off name from register

24. (1) The Council may strike off the name of a person from the register if the Council is satisfied that that person

(a) is unfit to practise the profession of banking because that person has been found guilty of professional misconduct;

(b) has failed to pay the prescribed fees for a period determined by the Council; or

(c) is disqualified under this Act.

(2) A person whose name has been struck off the register may have the name restored if the Council is satisfied that that person has subsequently become a fit and proper person to practise the profession of banking.

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(3) Subject to subsection (2), a person whose name has been struck off the register shall have the name restored upon payment of the prescribed fee and any penalty levied against that person.

(4) The name of a member shall not be struck off the register on grounds of professional misconduct unless the Disciplinary Committee has made a recommendation to the Council that the member concerned has been found guilty of professional misconduct after due inquiry.

Representation to the Council and appeal

25. (1) The Council shall, before suspending a member or cancelling the membership of a member

- (a) give that member at least thirty days notice in writing of the intention to suspend or cancel the membership; and
- (b) provide the member with an opportunity to make a representation to the Council.

(2) The Council shall communicate its decision in writing to the member within twenty-one days of taking the decision.

(3) A person dissatisfied with a decision of the Council, may appeal to the High Court within thirty days after receipt of notice of the decision of the Council.

(4) Subject to subsection (3), a person who has been suspended or whose name has been cancelled from the register, shall have the name restored upon payment of the prescribed fee and any penalty levied against that person.

- (5) The Council may
- (a) on conditions prescribed by the Council, and
 - (b) on the payment of the prescribed fee,

restore the name of a person whose membership has been suspended or cancelled.

Restoration of membership

26. The Council may review a decision to strike off the name of a member from the register under section 24 for the purpose of restoring the membership of that member if the member

- (a) discharges outstanding financial obligations and pays any penalties levied against the member by the Council; or
- (b) successfully appeals against the decision to strike off the name from the register.

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Administrative and Financial Provisions

Appointment of Chief Executive Officer

27. (1) The Institute shall have a Chief Executive Officer.

(2) The Council shall appoint a person with experience in management, governance and financial matters relevant to banking as the Chief Executive Officer of the Institute.

(3) The Chief Executive Officer shall hold office on the terms and conditions specified in the letter of appointment.

Functions of Chief Executive Officer

28. (1) The Chief Executive Officer is responsible for the day to day administration of the affairs of the Institute and is answerable to the Council in the performance of functions under this Act.

(2) The Chief Executive Officer

(a) is the Secretary to the Council; and

(b) shall keep records and minutes of meetings of the Council.

(3) The Chief Executive Officer may delegate a function to an officer of the Institute but is not relieved of the ultimate responsibility for the performance of the delegated function.

Appointment of other staff

29. (1) The Council shall appoint other staff of the Institute that are necessary for the proper and effective performance of the functions of the Institute.

(2) Public officers may be transferred or seconded to the Institute or may otherwise give assistance on request by the Council.

(3) The Institute may engage the services of consultants and advisers on the recommendation of the Council.

(4) The terms and conditions of members of staff shall be determined by the Council.

Internal Audit Unit

30. (1) The Institute shall have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

(2) The Internal Audit Unit shall be headed by an Internal Auditor who shall be appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

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(3) The Internal Auditor is responsible for the internal audit of the Institute.

(4) The Internal Auditor shall, subject to subsections (3) and (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), at intervals of three months

- (a) prepare and submit to the Council, a report on the internal audit carried out during the period of three months immediately preceding the preparation of the report; and
- (b) make recommendations in each report with respect to matters which appear to the Internal Auditor as necessary for the conduct of the affairs of the Institute.

(5) The Internal Auditor shall in accordance with subsection (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), submit a copy of each report prepared under this section to the Minister and the chairperson of the Council.

Funds of the Institute

31. The funds of the Institute include

- (a) members' subscriptions;
- (b) fees charged in the performance of the functions of the Institute;
- (c) contributions from corporate members;
- (d) donations, grants and gifts; and
- (f) any other moneys that are approved by the Council.

Bank account of the Institute

32. Moneys for the Institute shall be paid into a bank account of the Institute opened by the Council for the purpose.

Borrowing powers of the Institute

33. The Institute may obtain loans and other credit facilities on the security of its property and assets.

Accounts and audit

34. (1) The Council shall keep the books of accounts and records in the form approved by the Auditor-General.

(2) The Council shall submit the accounts of the Institute to the Auditor-General for audit at the end of the financial year.

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(3) The Auditor-General shall, within six months after the end of the immediately preceding financial year, audit the accounts and forward a copy each of the audit report to the Minister and the Council.

(4) The financial year of the Institute is the same as the financial year of the Government.

Annual report and other reports

35. (1) The Council shall within thirty days after the receipt of the audit report, submit an annual report to the Minister covering the activities and operations of the Institute for the year to which the annual report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Council shall submit to the Minister any other reports which the Minister may require in writing.

Miscellaneous Provisions

Registration to provide tuition

36. A person who seeks to provide tuition for professional examination in banking shall register with the Institute.

Custody and use of the common seal

37. (1) The Institute shall have a common seal to be kept by a person determined by the Council.

- (2) The common seal shall not be affixed to a legal document except
- (a) with the prior authorisation of the Institute in writing; and
 - (b) in the presence of two members of the Council who shall sign the document independently of any other person who may have signed the document as a witness.

Offences

38. A person who

- (a) makes a false declaration in an application for registration as a chartered banker or a member of the banking profession;

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- (b) wilfully and falsely uses a name or title implying a qualification to practise as a chartered banker or a member of the banking profession;
- (c) without being registered under this Act, practises or professes to practise as a chartered banker or a member of the Institute;
- (d) wilfully destroys or damages a register kept under this Act;
or
- (e) contravenes section 36

commits an offence and is liable on summary conviction to a fine of not less than two thousand five hundred penalty units and not more than five thousand penalty units or to a term of imprisonment of not less than five years and not more than ten years, or to both.

Regulations

39. The Minister may, by legislative instrument, make Regulations to

- (a) prescribe practice standards for members of the Institute;
- (b) provide for the discipline of members;
- (c) prescribe forms for the purpose of this Act;
- (d) amend the
 - (i) First Schedule in respect of the Disciplinary Committee and the procedures for proceedings;
 - (ii) Second Schedule to vary the composition and functions of the Executive Committee;
 - (iii) Third Schedule in respect of the type of meetings, notification and procedures for meetings of the Institute; and
 - (iv) Fourth Schedule to vary the definition of professional misconduct; and
- (f) provide for any other matter necessary for the effective implementation of this Act.

Fees

40. The fees payable under this Act shall be prescribed by the Council and paid to the Institute.

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Interpretation

41. In this Act, unless the context otherwise requires,
- “ACIB” means Associate of the Chartered Institute of Bankers, (Ghana);
 - “bank” means a bank licensed in Ghana by the Bank of Ghana under the Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930);
 - “chartered banker” means a person who has successfully met all the requirements of the professional banking examinations and who holds the ACIB certificate recognised by the Institute;
 - “Code of Conduct” means the code of professional conduct of the Institute;
 - “corporate member” means a banking or non-bank financial institution or a financial services company approved by the Council;
 - “Council” means the governing body of the Chartered Institute of Bankers, (Ghana) established under section 4;
 - “FCIB” means Fellow of the Chartered Institute of Bankers, (Ghana);
 - “FCIB (Hon)” means Honorary Fellow of the Chartered Institute of Bankers, (Ghana);
 - “financial institution” means a bank or a specialised deposit-taking institution;
 - “fees” includes annual subscriptions;
 - “fit and proper person” means a person of good character, who is not an undischarged bankrupt and has not been convicted in the country or elsewhere of an offence involving fraud or dishonesty;
 - “Institute” means the Chartered Institute of Bankers, (Ghana) established under section 1;
 - “member of the banking profession” means a person registered by the Institute as an ordinary member, student member, associate member, honorary fellow or fellow;
 - “Minister” means the Minister responsible for Education;

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- “non-bank financial institution” means a company licensed by the Bank of Ghana under the Non-Bank Financial Institutions Act, 2008 (Act 774);
- “prescribed” means prescribed by or under this Act;
- “professional misconduct” means conduct as defined in the Fourth Schedule;
- “Regulations” means the Regulations made under this Act; and
- “specialised deposit-taking institution” means a body corporate which engages in the deposit-taking business and is issued with a licence to engage in the deposit-taking business in accordance with the Banks and Specialised Deposit –Taking Institutions Act, 2016 (Act 930).

Transitional provisions

42. (1) The rights, assets and liabilities accrued in respect of the properties vested in the Chartered Institute of Bankers (Ghana) established under the Professional Bodies Registration Act, 1973 (N.R.C.D. 143) immediately before the coming into force of this Act and the persons employed by the Institute shall be transferred to the Chartered Institute of Bankers, (Ghana) established under this Act and accordingly proceedings taken by or against the former Institute may be continued by or against the Institute under this Act.

(2) A contract subsisting between the Institute established under the Professional Bodies Registration Act, 1973 (N.R.C.D. 143) and another person and in effect immediately before the coming into force of this Act shall subsist between the Institute established under this Act and that other person unless otherwise provided by this Act.

(3) A person who holds a qualification approved by the Council and is practising as a banker prior to the coming into force of this Act may, within three months after the coming into force of this Act, submit an application for membership of the Institute to the Council and on approval for membership, shall be registered to continue as a banker.

(4) A person who is engaged in the provision of tuition for professional examinations in banking before the coming into force of this Act, shall, within six months after the coming into force of this Act, register with the Institute.

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Dissolution and savings

43. (1) The Chartered Institute of Bankers (Ghana) established under the Professional Bodies Registration Act, 1973 (N.R.C.D. 143) is hereby dissolved.

(2) Despite the dissolution under subsection (1), any notices, orders, directions, appointments or any other act lawfully made or done by that Institute and in force immediately before the coming into force of this Act shall be considered to have been made or done under this Act and shall continue to have effect until reviewed, cancelled or terminated.

(3) Any register in use immediately before the coming into force of this Act and every document prepared or issued by the Chartered Institute of Bankers, (Ghana) established under N.R.C.D. 143 shall continue in force as if kept, prepared or issued under the corresponding provisions of this Act.

(4) Until the date of the first meeting of the Council, the governing Council of the Chartered Institute of Bankers (Ghana) shall have and exercise the powers conferred by the Council established under section 4.

(5) Members and Fellows of the Chartered Institute of Bankers (Ghana) shall be members of the Institute and Fellows respectively after the coming into force of this Act

FIRST SCHEDULE

(section 9 (2))

Disciplinary Committee and Procedure for Proceedings

1. (1) The Council shall appoint five persons, at least three of whom shall be from among its members, to constitute a Disciplinary Committee for the purposes of an inquiry into the conduct of a member under this Act.

(2) One of the members shall be appointed by the Council as chairperson of the Committee.

2. (1) The Council shall cause a statement to be prepared setting out the charges to be investigated by the Disciplinary Committee and the Secretary of the Council shall submit a copy of the statement to each member of the Committee and to the person whose conduct is the subject of the inquiry.

(2) Where the inquiry is to be held in consequence of a petition or complaint alleging misconduct by any person, the Secretary of the Council shall, in addition, transmit a copy of that petition or complaint to that person and to each of the members of the Disciplinary Committee.

3. (1) The Secretary of the Council shall give notice of the first date fixed for the inquiry to the person whose conduct is the subject of the inquiry.

(2) Each notice shall be sent to the last known address of the person and shall be delivered by hand or sent by registered mail, at least fourteen days before the date fixed for the inquiry.

(3) Where a person to whom a notice has been given, fails to appear in person or is not represented by counsel, the inquiry may be held by the Disciplinary Committee in the absence of that person.

4. (1) If the Council is of the opinion that the evidence of a person or the production of a document by a person is necessary to enable a matter to be investigated by the Disciplinary Committee, the Council shall direct the Secretary of the Council to require that person to attend or produce the document at a time and place specified in a notice which shall be addressed to and delivered at the last known place of residence of that person by hand or registered mail.

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(2) A person commits an offence under this Act, if that person after being served with a notice, without reasonable cause fails to attend or produce a document at the time and place specified in the notice.

(3) The Secretary of the Council shall be the secretary to the Disciplinary Committee and shall sign every notice issued for the purpose of a disciplinary proceeding.

5. The Disciplinary Committee shall have power to administer oaths or affirmations to persons who are required to give evidence before the Committee, and a person who refuses to be sworn or affirmed commits an offence.

6. A person who wilfully gives false evidence on examination on oath or affirmation before a Disciplinary Committee commits an offence.

7. A person whose conduct is the subject of investigation at an inquiry or who is in anyway concerned or implicated in the inquiry may be represented by counsel at the inquiry.

8. The Council may authorise a legal practitioner to assist the Disciplinary Committee in the leading and taking of evidence.

9. An inquiry held by the Disciplinary Committee shall be held in camera unless the Council otherwise determines.

10. A question before the Disciplinary Committee shall be determined by the decision of the majority of the members of the committee present and voting at the meeting.

11. Upon the conclusion of an inquiry, the Disciplinary Committee shall prepare and submit a report to the Council on its findings on the matter in respect of which the inquiry was held.

SECOND SCHEDULE

(section 10 (2))

Executive Committee

Composition

1. The Executive Committee of the Institute consists of
 - (a) the President;
 - (b) the Vice-President;
 - (c) the Treasurer;
 - (d) the Chief Executive Officer; and
 - (e) any other person to be nominated by the Council on the recommendation of the President of the Institute.

Functions of the Executive Committee

2. The Executive Committee
 - (a) shall on behalf of the Council, exercise general oversight responsibility for the strategic direction of the Institute;
 - (b) shall consider proposals submitted by the Chief Executive Officer for review of the terms and conditions of service of staff of the Institute and make appropriate recommendations to the Council for its approval;
 - (c) is responsible for the appointment and termination of appointment of senior staff below the level of the Chief Executive Officer;
 - (d) shall review and make appropriate recommendations to the Council in respect of the annual business plan and budget for the Institute submitted by the respective committee through its chairperson; and
 - (e) is responsible to the Council of the Institute.

THIRD SCHEDULE
(section 12)
Meetings of the Institute

Annual General Meetings

1. (1) The total membership of the Institute constitutes the General Assembly of the Institute.

(2) The Council shall convene an Annual General Meeting of the Institute to

- (a) elect a President, Vice President, Treasurer and not more than four members of the Council,
- (b) approve the annual report of the Council, the audited accounts of the Institute and the auditor's report on the accounts,
- (c) determine the allowances to be paid to members of the Council, and
- (d) appoint auditors for the ensuing year.

(3) The Annual General Meeting of the Institute shall be held not later than the 30th of June each year or on a date appointed by the Council but which date shall not be more than fifteen months from the date of the previous Annual General Meeting.

(4) The President of the Institute or in the absence of the President, the Vice President of the Institute shall preside at each Annual General Meeting of the Institute.

(5) In the absence of both the President and the Vice-President of the Institute, a member of the Council elected from among the members of the Council present at the meeting shall preside.

(6) In the absence of the officers specified under subparagraph (5), a member of the Institute shall be elected from amongst the members of the Institute present at the meeting, to preside.

(7) A member who intends to move a motion not related to the ordinary business of the Institute may do so when,

- (a) notice in writing of the proposed motion is given to and received by the Secretary not later than five weeks before the date of the Annual General Meeting; and
- (b) the proposed motion relates to matters affecting the Institute.

Extraordinary meetings

2. (1) The Council may convene an extraordinary meeting of the Institute on its own or on receipt of a written request signed by not less than twenty members of the Institute.

(2) A request for an extraordinary meeting shall state the purpose of the proposed meeting and be submitted to the Secretary to the Council.

Notification of a meeting

3. (1) The Secretary shall send to each member of the Institute a notice giving the day, time, place of the meeting and the agenda for the meeting not less than twenty-one days before an Annual General Meeting or Extraordinary Meeting of the Institute.

(2) Members may agree to a shorter notice.

(3) The Secretary shall send to each member of the Institute

(a) a notice of the meeting;

(b) a copy of the annual report;

(c) a copy of the audited accounts of the Institute with the auditors' report on the accounts;

(d) a list of persons nominated for membership of the Council;

(e) the name of any auditor proposed by the Council for the Institute; and

(f) particulars of motions to be moved at the meeting in the case of the Annual General Meeting.

(4) The non-receipt of the documents by a member of the Institute shall not invalidate the proceedings of the meeting to which they relate.

Quorum at a meeting of the Institute

4. (1) Fifty members of the Institute present within thirty minutes from the time appointed for an Annual General Meeting shall form a quorum.

(2) Where this condition is not met, the meeting shall be adjourned for a week to be held at the same hour and place or at a place determined by the Council and communicated to the members.

(3) The adjourned meeting shall proceed to do business on the next adjourned date despite the fact that the members present do not form a quorum.

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(4) An Extraordinary Meeting of the Institute shall be adjourned if at least fifteen members are not present within thirty minutes of the time appointed for the meeting.

Adjournments

5. (1) The person presiding at a meeting of the Institute may adjourn the meeting with the consent of the members present at the meeting.

(2) Business left unfinished at the previous meeting from which the adjournment took place shall take precedence over any other business to be transacted at an adjourned meeting.

Resolutions

6. (1) Every resolution and amendment proposed and seconded at a meeting of the Institute shall be put to the meeting by the person presiding and decided by majority of members of the Institute present and voting.

(2) The person presiding shall in the event of an equality of votes have a casting vote.

(3) A declaration by the person presiding as to the decision of the meeting shall be final.

(4) A poll of members of the Institute present at a meeting and entitled to vote may be taken in writing prior to a decision made being declared, but a poll shall not be taken on a resolution or amendment relating to the election of the person presiding, the appointment of scrutineers or the adjournment of a meeting.

(5) Members who have not paid up their annual subscription fee shall not be entitled to vote at a meeting of the Institute.

Polling at meetings

7. (1) The person presiding at a meeting of the Institute at which a poll is demanded shall at the conclusion of the meeting, state any resolution or amendment in the form of a proposition which in the opinion of the person will be most suitable to ascertain the thinking of the members of the Institute on the substance of the resolution or amendment and the rendition of the person presiding shall be final.

(2) Voting papers setting out the propositions stated, together with necessary notes and directions shall within fourteen days after the meeting, be issued by the Council to all members of the Institute entitled to vote at the meeting at which the poll was demanded.

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(3) Members of the Institute wishing to vote on a proposition shall do so by sending the voting papers to the Institute addressed to the scrutineers so as to be received by them not later than twenty-one days after the meeting.

(4) At each meeting of the Institute at which a poll is demanded, the meeting shall appoint five members of the Institute present from amongst their number as scrutineers, any three of whom shall form a quorum.

(5) The scrutineers shall reject the vote of a member of the Institute whose subscription or other sum payable by the person under this Act or the Regulations is in arrears at the date of the meeting, and may in their discretion, reject any vote where the voter has failed to observe the notes and directions relating to it or any other vote which in their view ought properly to be rejected.

(6) The scrutineers shall, report the result of the voting to the person presiding at the meeting as soon as is practicable and shall include in the report, a statement of the number of votes rejected by them and the reasons for their rejection.

(7) The person presiding shall send a copy of the report to each member of the Institute as soon as is practicable and where there is an equality of votes, the person presiding shall have a casting vote and declare when sending the report, the manner in which the casting vote is given and the result of the voting.

(8) The facts contained in the report of the scrutineers as to the result of the voting or the declaration by the person presiding, shall be conclusive.

(9) The results from the voting shall take effect from the date of the report of the scrutineers except that where a meeting was adjourned to receive the report of the scrutineers the voting shall take effect from the date when the report was presented to the adjourned meeting.

(10) Where the person presiding is unable to exercise powers granted to that person, the power shall be exercised by a member of the Council who is present at the meeting and authorised by the Council to exercise the powers.

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Minutes of meetings

8. (1) Resolutions and proceedings of meetings of Council and of any committees of the Council shall be recorded in the minutes of the meeting, and the minutes shall be signed by the person presiding at the meeting to which the minutes relate.

(2) The minutes duly signed is sufficient evidence of the facts contained in it.

FOURTH SCHEDULE
(section 18 (2) (d))
Professional Misconduct

“Professional Misconduct” on the part of a member of the Institute includes the member

- (a) providing false information to seek admission for membership;
- (b) disclosing information acquired in the course of professional engagement to another person without the consent of the client or customer otherwise than as required by law;
- (c) indicating in a statement, a return or form submitted to the Council, particulars knowing them to be false;
- (d) stealing, embezzling and misappropriating funds and property under that members custody;
- (e) permitting unqualified persons to use certificates to gain employment or for other purposes;
- (f) destroying official records without authorisation with the aim of concealing evidence;
- (g) failing to keep or maintain the ethical standards of the profession;
- (h) committing gross negligence in the conduct of professional duties;
- (i) undertaking a transaction without indicating that the member is in a conflict of interest situation;
- (j) submitting a bill or charging fees for services that the member knows to be false or misleading;
- (k) charging fees
 - (i) for a service that is free, or
 - (ii) that is excessive in relation to the service offered or performed;
- (l) misusing a corporate name and logo for personal interest;
- (m) engaging in the illegal transfer of funds or money laundering; and
- (n) expressing a professional opinion without sufficient information to arrive at the opinion.

Chartered Institute of Bankers (Ghana) Bill, 2018

Date of *Gazette* notification: 13th June, 2018.

CHARTERED INSTITUTE OF BANKERS (GHANA) BILL, 2018

MEMORANDUM

The purpose of the Bill is to establish the Chartered Institute of Bankers (Ghana) to promote the advancement of banking and regulate the practice of the banking profession in the country.

The Chartered Institute of Bankers (Ghana) has been practising as a professional body registered under the Professional Bodies Registration Act, 1973 (N.R.C.D. 143). Since the registration of the Institute, a myriad of changes and innovations have taken place in the banking profession and in international banking practice which require legislation to implement.

Although the Chartered Institute of Bankers (Ghana) exists as a professional body, it has not been properly set up by an Act of Parliament to regulate the practice of the banking profession which the Bill seeks to do.

The Bill is divided into six groups of *clauses* captioned Establishment of the Chartered Institute of Bankers (Ghana), Governance of the Institute, Membership and Qualification, Registration, Administrative and Financial Provisions, and Miscellaneous Provisions.

Clauses 1 to 3 deal with the Establishment of the Chartered Institute of Bankers (Ghana). *Clause* 1 establishes the Chartered Institute of Bankers (Ghana) as a corporate body with all the incidents of incorporation and provides for the acquisition of property by the State on behalf of the Institute under the State Lands Act, 1962 (Act 125) where there is a hindrance to the acquisition.

Clause 2 deals with the object of the Institute which is to promote the study of banking and regulate banking practice.

The functions of the Institute are enumerated in *clause* 3 of the Bill and include determining the standard of knowledge and skill to be attained by a person who intends to be a member of the banking profession; establish and maintain a register of persons who are members of

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the banking profession and of persons who provide tuition for professional examinations in banking. Other functions include the conduct of professional examinations for the qualification of bankers and the award of certificates in respect of the qualification acquired. The Institute is required to set standards and ensure the observance of ethical standards and professional conduct among practitioners of the banking profession and to determine the academic equivalent of the certificates awarded in respect of the professional examination that the Institute conducts.

Clauses 4 to 13 deal with the governance of the Institute. *Clause 4* provides for the governing body of the Institute and it enumerates thirteen members of the Council including the Governor of the Bank of Ghana or a representative of the Governor of the Bank of Ghana and a representative each of the Ministry responsible for Education and the Ministry responsible for Finance. The members of the Council are to be appointed by the President under article 70 of the Constitution.

The tenure of office of members of the Council, meetings of the Council, disclosure of interest and establishment of committees are provided for in *clauses 5, 6, 7 and 8* respectively.

A Disciplinary Committee is provided for in *clause 9* and the composition and powers of the Disciplinary Committee are provided for in the First Schedule to the Bill. *Clause 10* establishes an Executive Committee. The composition of the Executive Committee and the powers of the Executive Committee are provided for in the Second Schedule to the Bill.

Allowances of members of the Council are provided for in *clause 11*.

Clause 12 empowers the Institute to hold meetings with its members. *Clause 13* provides for Ministerial directives.

Clauses 14 to 16 deal with membership of the Institute and qualification. *Clause 14* enumerates the categories of membership of the Institute.

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The membership consists of ordinary members, student members, associate members, fellows, honorary fellows and corporate members.

Clause 15 specifies the requirements for enrollment in respect of the categories of membership. *Clause 16* restricts the use of the title “Chartered Banker” to a person recognised under the Act as a chartered banker.

Clauses 17 to 26 deal with the registration of bankers and members of the Institute. A person qualifies to be registered to practise as a chartered banker if that person, among other things, has acquired the requisite training in banking determined by the Institute and maintains professional skills and values in accordance with the continuing education requirements of the Institute, *clause 17*. The qualification for registration as a member of the Institute is stated in *clause 18*.

Clause 19 sets out the application process for registering as a chartered banker or a member of the Institute. *Clause 20* requires the Institute to issue a certificate of registration showing the class of membership to a person who has registered with the Institute.

The conditions under which a member’s registration may be suspended are provided for under *clause 21*.

Clause 22 specifies the grounds on which the Council may cancel the registration of a member. These include, among others, reasonable grounds to believe that the registration was obtained by fraud, misrepresentation or concealment of a material fact. The contravention of the Act or Regulations; breach of the code of conduct; conviction for an offence involving dishonesty; and being subject to a term of imprisonment for a criminal offence are provided as further grounds for cancellation of registration. A person whose registration is to be cancelled is to be given the opportunity to be heard by the Council.

The Institute is required to establish, keep and maintain a register of members, *clause 23*.

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Clause 24 stipulates the procedure for striking off the name of a person from the register of the Institute. An inquiry by the Disciplinary Committee is a condition precedent to a name being struck off the register.

Clause 25 requires the Council to give thirty days notice in writing to a member of the intention of the Council to suspend or cancel the membership of that member and to further communicate that intention in writing within twenty-one days of taking the decision. The member has a right to be heard and a right of appeal to the High Court.

Clause 26 provides for the review of a decision of the Council to strike off the name of a member from the register for the purpose of restoring the membership of the member.

Clauses 27 to 35 deal with administrative and financial provisions. The Council is required under *clause 27* to appoint a Chief Executive Officer for the Institute on terms and conditions specified in the letter of appointment. The functions of the Chief Executive Officer are stated in *clause 28*.

Clause 29 makes provision for the appointment of other staff of the Institute that are necessary for the effective performance of the functions of the Institute.

Clause 30 provides for an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

Clause 31 is on the funds of the Institute. The sources of money for the Institute include fees charged by the Institute in the performance of its functions, contributions from corporate members, donations, gifts, grants and other moneys approved by the Council.

Moneys designated for the Institute are required to be paid into the bank account of the Institute, *clause 32*. *Clause 33* empowers the Institute to obtain loans and any other credit facilities on the security of its property and assets. Standard provisions on accounts and audit and annual report and other reports are provided for under *clauses 34 and 35*.

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Clauses 36 to 43 deal with miscellaneous provisions. Under clause 36, a person who seeks to provide tuition for professional examinations in banking, must register with the Institute. Clause 37 provides for the custody and use of the common seal of the Institute.

Clause 38 provides for offences whilst clause 39 provides the enabling power for the Minister responsible for Education to make Regulations.

Finally, clauses 40, 41, 42 and 43 provide for fees, interpretation, transitional provisions, and dissolution and savings respectively.

DR. MATTHEW OPOKU PREMPEH (MP)
Minister responsible for Education

Date: 1st June, 2018.