

MULTI-DISCIPLINARY PARTNERSHIP - CHARTERED ACCOUNTANTS IN PRACTICE

(GUIDELINES, FAQs AND OTHER REFERENCE MATERIAL)



The Institute of Chartered Accountants of India (ICAI)

(Set up by an Act of Parliament)

New Delhi

MULTI-DISCIPLINARY PARTNERSHIP - CHARTERED ACCOUNTANTS IN PRACTICE

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Foreword

As we all are aware that the complexity of business has increased manifolds and reliance on technology has led to an increase in the demand for expert specialists. The complex supply chains, ownership structures and transactions have added a further layer to the business environment in which many entities operate. Moreover, with the above said change in business and economic environment, the financial reports have also become far more complex.

In order to meet the expectation of the society and keep up with the development of technology in today's rapidly evolving environment, with the increased use of various tools such as data analytics, block chain and artificial intelligence, the audit profession must embrace the changes and challenges posed by the environment. This would require a range of well-trained professionals with diverse backgrounds to meet the expectation of stakeholders and society.

Considering the need of the hour, the Council in the year 2020-21, constituted a Group to examine the legal provisions and operational issues and also to recommend measures to facilitate formation of multi-disciplinary partnership (MDP) firms by Chartered Accountants.

After getting the necessary approval from the government, the Revised Form 18 has been published in the Gazette of India vide Notification No. 1-CA(7)/197/2021 dated July 08, 2021 regarding the Chartered Accountants (Amendment) Regulations, 2021.

It is noteworthy that long cherished dream of profession to have an enabling environment for formation of multi-disciplinary partnership firms has become reality now. For this, I would like to extend my sincere appreciation to CA. G. Sekar, Convenor of the Group, all members of the Group and all members of the Council for their dedicated efforts in fulfilling this dream of ICAI within such short time span.

I am pleased to note that ICAI is bringing out this booklet "Multi-disciplinary Partnership – Chartered Accountants in Practice", which contains Revised Form 18, Guidelines, FAQs and various Appendices at one place for easy reference of all the members.

I am confident that all users would find this booklet immensely useful.

August 21, 2021

New Delhi

CA. Nihar N. Jambusaria
President, ICAI



Preface

The multi-disciplinary partnership firms is one of the best mechanisms to develop the skills, expertise and consistency needed for quality audits. As the name denotes, a multi-disciplinary partnership firm is one which provides both audit and other services by the same firm which shall be provision of complete package of services by the firm. The need of multi-disciplinary partnership firms is congruent to the fast pace of change and specialized nature of businesses. Globally also countries like Germany, Australia, UK and Other European countries have adopted the multi-disciplinary partnership model with different conditions.

Considering the need of multi-disciplinary partnership firms in India in order to cater the growing demand and expectation of various stakeholders, the Council in the year 2020-21, constituted a Group to examine the legal provisions and operational issues and to recommend measures to facilitate formation of multi-disciplinary partnership firms by chartered accountants.

The Group considered the matter and decided that the existing legal provisions read with the regulations, allow formation of multi-disciplinary partnerships firms and there is no legal hurdle in formation of multi-disciplinary partnerships firms under the Chartered Accountants Act, 1949 and suggested necessary changes in extant "Form 18 - Particulars of Offices and Firms" prescribed under the Chartered Accountants Regulations, 1988 in order to have details of various partners of multi-disciplinary partnerships firms. The Proposed Form-18 alongwith Draft Guidelines and FAQs on MDP after consideration, were approved by the Council.

The aforesaid proposal was submitted to the MCA for their approval and after getting the approval, the draft amendments in the Chartered Accountants Regulations, 1988 were published in the Gazette of India, Extraordinary dated 11th December, 2020 for public comments. Various suggestions/objections were received from the general public on the Guidelines/FAQs on MDP firms and Form 18. The Group considered the public comments and finalized amendments to Form 18, Guidelines and FAQs. The Council based on the recommendation of the Group also approved the proposed modifications in the Guidelines and FAQs on MDP firms in light of comments so received and submitted for approval of MCA.

After following the Due Process, Revised Form 18 has been published in the Gazette of India vide Notification No. 1- CA(7)/197/2021 dated July 08, 2021 regarding the Chartered Accountants (Amendment) Regulations, 2021.

I am pleased to inform the members and other stakeholders that ICAI is bringing out this booklet on "Multi-disciplinary Partnership – Chartered Accountants in Practice". The booklet contains the text of Revised Form 18, Guidelines on MDP, FAQs on MDP and various appendices to serve as a one stop source of reference of provisions relating to multi-disciplinary partnership firms.

At this juncture, I wish to place on record my sincere gratitude to all the members of the Group i.e. CA. (Dr.) Debashis Mitra, CA. Rajesh Sharma, CA. Chandrashekhar Vasant Chitale, CA. Satish Kumar Gupta, Shri Sunil Kanoria for their dedicated efforts and valuable suggestions in finalizing the Report of the Group.

I express my sincere thanks to CA. Nihar Niranjan Jambusaria, Honourable President, ICAI and CA. (Dr.) Debashis Mitra, Honourable Vice-President, ICAI for providing me this opportunity. I also express my sincere thanks to all the Central Council members for their suggestions, support and guidance in finalising various documents. I sincerely appreciate the efforts and hard work made by CA. Megha Saxena, Secretary to the Group for technical contribution and other support in preparing and finalizing Guidelines, FAQs and various Appendices/ documents.

I am confident that the members and other stakeholders would find this booklet immensely useful.

At the end I would like to quote that "Coming together is a beginning, staying together is progress, and working together is a success."

Wishing you all the Best.

August 21, 2021
Chennai

CA. G. Sekar
Convenor,
Group on MDP



Contents

S.No.	Particulars	Page No.
1	Guidelines for Formation of Multi-disciplinary Partnership as per the Chartered Accountants Act, 1949	9-17
2	Frequently Asked Questions (FAQs) on Multi-disciplinary Partnership Firm of Chartered Accountants in Practice (MDP CAs in Practice)	18-33
3	Form 18	34-35
4	Form 117	36-40
5	Appendices	41-77
	Appendix-1 - Gazette Notification	41-49
	Appendix - 2 - Provisions of CA, CS, CWA Acts w.r.t. Multi-disciplinary Partnership Firms	50-60
	Appendix - 3 - Relevant text of various Acts and Regulations	61-77



GUIDELINES FOR FORMATION OF MULTI-DISCIPLINARY PARTNERSHIP AS PER THE CHARTERED ACCOUNTANTS ACT, 1949

Introduction

The complexity of business has increased manifolds and reliance on technology has resulted in a greater demand for specialists. There has been a swift increase in cross border movement of goods and services. The complex supply chains, ownership structures and transactions have added a further layer to the business environment in which many entities operate. The financial reports have also become far more complex.

Accounting standards have also become more complex to suit the environment as business transactions are more challenging due to new products, services and financial instruments that are continuously emerging in our global economy. Besides, these changes and trends, the objective of the audit, remains the same rather the expectations have increased substantially. Moreover, sometimes financial information is prepared in accordance with the rules for some industries, which often requires the expertise of specialists.

In order to meet the expectation of the society in today's rapidly evolving environment, and to keep pace with the technology, with increased use of tools such as data analytics, block chain and artificial intelligence, the audit profession has to be agile. This would require employing a range of skilled professionals with diverse backgrounds to meet the expectation of stakeholders.

Meeting these demands requires a diverse skill base. A multi-disciplinary approach, drawing on deep methodology and frameworks for assurance, combined with specialist and subject matter expertise, possess the bandwidth to meet this need and will be increasingly vital as the market continues to evolve towards integrated thinking in the years to come.

The multi-disciplinary partnership is one of the best mechanisms to develop the skills, expertise and consistency needed for quality audits. As the name denotes, a multi-disciplinary firm is one which provides both audit and other services by the same firm which shall be provision of complete package of services by the firm. The growth of multi-disciplinary firms is congruent to the fast pace of change and specialized nature of businesses. Globally also countries like Germany, Australia, UK and Other European countries have adopted the multi-disciplinary partnership model with different conditions.

The provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations 1988, as amended, permit the members of the Institute of Chartered Accountants of India ("The Institute") to form multi-disciplinary partnership firms with specified professionals (company secretary, cost accountant, advocate, actuary, architect, engineer). These Guidelines are being issued by the Council of the Institute as Guidelines of the Council within the meaning of Clause 1 of Part II of the Second Schedule to the Chartered Accountants Act, 1949. The purpose of these Guidelines is to enable the members of the Institute to form multi-disciplinary partnership firms. These Guidelines are as follows:

1. Short Title and Commencement

- These Guidelines shall be known as "Guidelines for Formation of Multi- disciplinary Partnership (MDP)" as per the Chartered Accountants Act, 1949.
- These Guidelines shall come into force from 8th July 2021*.

2. Definitions

In these Guidelines, unless the context otherwise requires:-

- Act – Act means the Chartered Accountants Act, 1949.

* Please refer notification no. 1-CA(7)/197/2021 dated 8th July 2021 published in the Gazette of India.



- Regulations – Regulations means the Chartered Accountants Regulations, 1988.
- Multi-disciplinary Partnership Firm of Chartered Accountants (MDP CAs) in Practice means the firm which has been approved to practice in its name by the Council of ICAI under Regulation 53B read with Regulation 190 of the Regulations.

All words and expressions used herein and not defined in these Guidelines but defined in the Act or the Regulations shall have the meanings respectively assigned to them in the Act or the Regulations as the case may be.

3. Objective

The objective of these Guidelines is to guide the chartered accountants in practice for entering into partnership with the members of the professional bodies as prescribed in Regulation 53B of the Regulations.

4. Right to Enter into Partnership

Section 2(2) of the Act prescribes as follows:

"A member of the Institute shall be deemed "to be in practice", when individually or in partnership with chartered accountants in practice, or in partnership with members of such other recognised professions as may be prescribed..."

5. Applicability

These Guidelines shall apply only for MDP CAs in Practice as partnership firm along with the members of the professional bodies prescribed under Regulation 53B of the Regulations.

6. Professionals Prescribed for Entering into Partnership

The members of following professional bodies have been permitted to become a partner under Regulation 53B of the Regulations as on date:

- a) Company Secretary, member, The Institute of Company Secretaries of India, established under the Company Secretaries Act, 1980;
- b) Cost Accountant, member, The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959;
- c) Advocate, member, Bar Council of India established under the Advocates Act, 1961;
- d) Engineer, member, The Institution of Engineers, or Engineering from a University established by law or an institution recognized by law;
- e) Architect, member, The Indian Institute of Architects established under the Architects Act, 1972;
- f) Actuary, member, The Institute of Actuaries of India, established under the Actuaries Act, 2006.

(a) Partnership with Company Secretary

As per Section 2(1)(c) of the Company Secretaries Act, 1980, "Company Secretary" means a person who is a member of the Institute;

As per Section 2(2) of the Company Secretaries Act, 1980, Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed, he, in consideration of remuneration received or to be received,—



- (a) engages himself in the practice of the profession of Company Secretaries to, or in relation to, any company; or
- (b) offers to perform or performs services in relation to the promotion, forming, incorporation, amalgamation, reconstruction, reorganization or winding up of companies; or
- (c) offers to perform or performs such services as may be performed by—
 - (i) an authorised representative of a company with respect to filing, registering, presenting, attesting or verifying any documents (including forms, applications and returns) by or on behalf of the company,
 - (ii) a share transfer agent,
 - (iii) an issue house,
 - (iv) a share and stock broker,
 - (v) a secretarial auditor or consultant,
 - (vi) an adviser to a company on management, including any legal or procedural matter falling under the Capital Issues (Control) Act, 1947 (29 of 1947), the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Companies Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956), any of the rules or bye-laws made by a recognised stock exchange, the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Foreign Exchange Regulation Act, 1973, (46 of 1973), or under any other law for the time being in force.
 - (vii) issuing certificates on behalf of, or for the purposes of, a company; or
- (d) holds himself out to the public as a Company Secretary in practice; or
- (e) renders professional services or assistance with respect to matters of principle or detail relating to the practice of the profession of Company Secretaries; or
- (f) renders such other services as, in the opinion of the Council, are or may be rendered by a Company Secretary in practice;

and the words “to be in practice” with their grammatical variations and cognate expressions, shall be construed accordingly.

Clause 4 of Part I of First Schedule to the Company Secretaries Act, 1980 – Professional misconduct in relation to Company Secretaries in Practice

A Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he—

- (4) enters into partnership, in or outside India, with any person other than a Company Secretary in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (e) of sub-section (1) of section 4 or whose qualifications are recognized by the Central Government or the Council for the purpose of permitting such partnerships;

Regulation 168B of the Companies Secretaries Regulations, 1982– Membership of Professional body for Partnership

- (1) For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:—

- (a) The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (No. 38 of 1949);.....



Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Institute of Company Secretaries of India.

(b) Partnership with Cost Accountant

As per Section 2(1)(b) of the Cost and Works Accountants Act, 1959, "Cost Accountant" means a person who is a member of the Institute.

As per Section 2(2) of the Cost and Works Accountants Act, 1959, *Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed he, in consideration of remuneration received or to be received,—*

- (i) *engages himself in the practice of cost accountancy; or*
- (ii) *offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or certification or auditing of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or*
- (iii) *renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or*
- (iv) *renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice, and the words "to be in practice", with their grammatical variations and cognate expressions, shall be construed accordingly.*

Explanation: A member of the Institute who is a whole-time salaried employee of any person shall not be deemed to be in practice within the meaning of this sub-section.

Clause 4 of Part I of First Schedule to the Cost and Works Accountants Act, 1959 – Professional misconduct in relation to Cost Accountants in Practice

A Cost Accountant in Practice shall be deemed to be guilty of professional misconduct, if he—

(4) enters into partnership, in or outside India, with any person other than a cost accountant in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (iv) of sub-section (1) of section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships;

Regulation 111C of the Cost and Works Accountants Regulations, 1959 – Membership of professional bodies for partnership

- (1) *For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies namely:—*
 - (a) *Chartered Accountant, member of the Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (XXXVIII of 1949);.....*

As per Section 6(1) of the Cost and Works Accountants Act, 1959, No member of the Institute shall be entitled to practise, whether in India or elsewhere, unless he has obtained from the Council a certificate of practice.

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Institute of Cost Accountants of India.

(c) Partnership with Advocate

As per Section 2(1)(a) of the Advocates Act, 1961, "Advocate" means an advocate entered in any roll under the provisions of this Act.



As per Clause (c) of Regulation 53B of the Regulations, it is permitted to enter into a partnership with Advocate, Member of the Bar Council of India established under the Advocates Act, 1961.

However, as per Rule 2 of Chapter III of Part IV— “Conditions for Right to Practice” of the Bar Council of India Rules, 1975,

An Advocate shall not enter into a partnership of any other arrangement for sharing remuneration with any person or legal Practitioner who is not an Advocate.

Hence, unless the Bar Council of India Rules, 1975 are amended, MDP CAs in Practice shall not enter into partnership with an Advocate who is the member of the Bar Council of India.

(d) Partnership with Engineer

Indian Institute of Engineers:

Member of Indian Institute of Engineers means, Member as elected and approved under clause 48 of the bye laws of the Indian Institute of Engineers.

Engineer from University Established by Law:

As per the University Grants Commission Act, 1956

Section 2(f) defines *“University” means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under this Act.*

Hence, MDP CAs in Practice shall be permitted to enter into partnership with Engineer, who is a member of the Institution of Engineers, or Engineer from a University established by law or an institution recognized by law.

(e) Partnership with Architect

As per Section 2(a) of the Architects Act, 1972, *“Architect” means a person whose name is for time being entered in the register.*

As per Section 2(e) of the Architects Act, 1972, *“register” means the register of architects maintained under Section 23.*

As per Section 2(c) of the Architects Act, 1972, *“Indian Institute of Architects” means the Indian Institute of Architects registered under the Societies Registration Act, 1860 (21 of 1860).*

As per Clause 4 of the Constitution and Bye Laws of the Indian Institute of Architects,

4. CATEGORY OF MEMBERS:

- (a) Unless and until the Bye-Laws otherwise provide there shall be seven category of Members of the Institute termed respectively Honorary Fellow, Fellow, Associate, Licentiate, Retired Fellow, Retired Associate and Retired Licentiate. These expressions shall respectively bear the meanings attached thereto by the Bye-laws.

Bye-Laws 1. Interpretation:

“MEMBERS OF THE INSTITUTE” means any person who has been admitted to the Membership of the Institute, whether a Fellow, Associate, Licentiate or Hon. Member, all of whom may hereafter be referred to as Members.



Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Indian Institute of Architects.

(f) Partnership with Actuary

As per Section 2(1)(a) of the Actuaries Act, 2006,

"Actuary" means a person skilled in determining the present effects of future contingent events or in finance modelling and risk analysis in different areas of insurance, or calculating the value of life interests and insurance risks, or designing and pricing of policies, working out the benefits, recommending rates relating to insurance business, annuities, insurance and pension rates on the basis of empirically based tables and includes a statistician engaged in such technology, taxation, employees' benefits and such other risk management and investments and who is a fellow member of the Institute; and the expression "actuarial science" shall be construed accordingly.

As per Section 2(1)(i) of the Actuaries Act, 2006, "Member" means an individual whose name appears in the register of members maintained by the Institute.

As per Section 2(1)(h) of the Actuaries Act, 2006, "Institute" means the Institute of Actuaries of India constituted under Section 3.

As per Section 2(2) of the Actuaries Act, 2006,

Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when individually or in partnership with Actuaries in practice as a member or an employee of a company, he, whether or not in consideration of remuneration received or to be received,—

- (i) *engages himself in actuarial profession; or*
- (ii) *offers to perform or performs services involving the application of actuarial techniques in the fields of insurance, pension, investment, finance and management; or*
- (iii) *renders such other services as, in the opinion of the Council, are or may be rendered by an actuary in practice; or*
- (iv) *is in employment of a person engaged in one or more of the activities mentioned in clauses (i), (ii) and (iii) above,*

and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—For the purposes of this sub-section, the expression "company" includes a public financial institution as defined in section 4A of the Companies Act, 1956 (1 of 1956).

As per Part I of the Schedule to the Actuaries Act, 2006, Professional misconduct in relation to members of the Institute in practice,

An Actuary in practice shall be deemed to be guilty of professional misconduct, if he—

(3) enters into partnership with any person other than an Actuary in practice or a person resident outside India who but for his residence abroad would be entitled to be admitted as a member under clause (c) of sub-section (1) of section 6 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnership, provided the Actuary shares in the fees or profits of the business of the partnership both within and outside of India.

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Institute of Actuaries of India who does not hold certificate of practice. However, MDP CAs in Practice shall not



be permitted to enter into a partnership with a member of the Institute of Actuaries of India who holds certificate of practice.

Members of Other Professional Bodies

Members of any professional bodies or persons having prescribed qualification other than as specifically prescribed under Regulation 53B of the Regulations, shall not be admitted into partnership as on date. For example, members having post graduate qualification in management or approved valuer or approved insolvency professional or information technology professional shall not be admitted as a partner in MDP CAs in Practice.

7. Forms of Constitution

MDP CAs in practice can be constituted as a partnership firm as per the Indian Partnership Act, 1932 or as a limited liability partnership firm as per the Limited Liability Partnership Act, 2008.

8. Registration with the Institute

(a) Registration of MDP CAs in Practice with the Institute is mandatory.

(b) *Application Form:*

MDP CAs in Practice, if it is a new firm to be constituted, then for the approval of its trade name or firm name shall apply to the Council in Form 117 as prescribed under Regulation 190 of the Regulations and the conditions for its name and all other conditions as prescribed under that Regulation shall apply.

MDP CAs in Practice, if it is a new firm to be constituted or an existing CA in practice or a CA firm is intending to admit any of the members of the professional bodies as prescribed under Regulation 53B of the Regulations, then it shall submit the details prescribed in Form 18 as prescribed under Regulation 190 of the Regulations.

MDP CAs in Practice shall have distinct name which shall be approved by the Institute. To distinguish MDP CAs in Practice from other firms of chartered accountants, the suffix “multi-disciplinary partnership firm of chartered accountants in practice” shall be used after the name of MDP CAs in Practice.

The registration number of MDP CAs in Practice shall contain the abbreviation “MDP” to distinguish it from registration number of other firms of chartered accountants.

(c) *Verification of Partners:*

It is the duty of MDP CAs in Practice to submit the documentary evidence in case of partners who are not the members of the Institute of Chartered Accountants of India. Above documentary evidence needs to be attested by a chartered accountant in practice who is not related to the MDP CAs in Practice.

It is the duty of the chartered accountant who attests the above documentary evidence to verify:

- The truth and validity of the certificate of membership of the prescribed professional bodies or the degree of the recognized University in case of engineering graduate.
- On the date of entering into multi-disciplinary partnership firm of chartered accountants in practice, the members of other professional bodies are having valid membership with the prescribed professional body.

9. Meaning of MDP CAs in Practice

MDP CAs in Practice constituted under these Guidelines, shall have the same meaning as assigned under Clause (ca) of Section 2(1) of the Act read with Regulation 190A of the Regulations.



10. Services to be rendered by MDP CAs in Practice

MDP CAs in Practice can render all services as prescribed in Section 2(2) of the Act read with Regulation 190A of the Regulations. MDP CAs in Practice can also render services allowed to be performed by other professionals who are its partners.

11. Audit under the Companies Act, 2013

Section 141(1) of the Companies Act, 2013: A person shall be eligible for appointment as an auditor of a company only if he is a chartered accountant:

Provided that a firm whereof majority of partners practising in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of a company.

Section 141(2) of the Companies Act, 2013: Where a firm including a limited liability partnership is appointed as an auditor of a company, only the partners who are chartered accountants shall be authorised to act and sign on behalf of the firm.

Accordingly, MDP CAs in Practice is not eligible for statutory audit under the Companies Act 2013 in case majority of its partners are non-CAs.

In case MDP CAs in Practice is appointed as an auditor to conduct audit of financial statements under the Companies Act 2013, it is the responsibility of MDP CAs in Practice to ensure that majority of its partners are chartered accountants, failing which, necessary disciplinary action as per the Act and the Regulations will be taken on all the partners who are chartered accountants.

‘Majority criteria’ for the purpose of computing eligibility of MDP CAs in Practice for the purpose of appointment as statutory auditor under the Companies Act, 2013 shall be calculated both on the basis of the number of partners as well as their aggregate share of profits in MDP CAs in Practice so that the majority criteria is clearly established.

It is to be noted that partners of partnership firm have joint and several liability and partners of limited liability partnership have limited liability. Keeping both the aspects into consideration, the above condition for majority shall apply.

Also, with regard to computation of ceiling limits as per Section 141(3)(g) of the Companies Act, 2013 read with the Guidelines of the Council of the Institute, practicing chartered accountant partners alone shall be considered.

12. Share of Profits, Administration, Management and Functional Responsibility

It is the discretion of MDP CAs in Practice to decide the share of profits of each partner among themselves.

The functions, powers, authorities, duties, rights, responsibilities, liabilities and disputes among the partners shall be mutually agreed as per the partnership deed.

13. Reconstitution of MDP CAs in Practice (Admission, retirement, death)

In case of any change in partners (admission, retirement, death) or any change in details of partners, MDP CAs in Practice will be required to submit the necessary particulars to the Institute in Form 18 within 30 days of such change.

It is the responsibility of the continuing partners to satisfy the conditions as prescribed under Regulation 190 of the Regulations in case of admission, retirement and death of partners.

14. Establishment of Branch Office

As per Section 27 of the Act,



(1) *Where a chartered accountant in practice or a firm of such chartered accountants has more than one office in India, each one of such offices shall be in the separate charge of a member of the Institute*

Provided that the Council may in suitable cases exempt any chartered accountant in practice or a firm of such chartered accountants from the operation of this subsection.

(2) *Every chartered accountant in practice or a firm of such chartered accountants maintaining more than one office shall send to the Council a list of offices and the persons in charge thereof and shall keep the Council informed of any changes in relation thereto.*

By virtue of Section 27 of the Chartered Accountants Act, 1949, only chartered accountants are permitted to be in-charge of the branch offices of MDP CAs in Practice. However, it may be noted that in terms of the proviso given in sub-section (1) of Section 27 of the Chartered Accountants Act, 1949, the Council of ICAI has power to grant exemption from the aforesaid requirement in suitable cases. In case, MDP CAs in practice desires that a non-CA partner be made in-charge of any branch office, it may make request to the Council of ICAI in this regard.

15. Fees for Professional Services

The conditions stipulated under Regulation 192 of the Regulations shall apply to MDP CAs in Practice.

16. Other Business or Occupation

For chartered accountant partners of MDP CAs in Practice, engaged in any other business or occupation or part time employment, the provisions of Regulations 190A and 191 of the Regulations shall apply.

17. Professional Address of the Partners

For the professional address of the partners of MDP CAs in Practice, the provisions of Regulation 187 of the Regulations shall apply.

18. Disciplinary proceedings

Disciplinary proceedings shall be taken on any partner who violated provisions of law:

- (a) If the partner who violated the provisions is a Chartered Accountant, the proceedings shall be taken as per the provisions of the Chartered Accountants Act, 1949.
- (b) If the partner who violated the provisions is a Cost Accountant, the proceedings shall be taken as per the provisions of the Cost and Works Accountants Act, 1949.
- (c) If the partner who violated the provisions is a Company Secretary, the proceedings shall be taken as per the provisions of the Company Secretaries Act, 1980.
- (d) If the partner who violated the provisions is an Architect, the proceedings shall be taken as per the provisions of the Architects Act, 1972.
- (e) If the partner who violated the provisions is an Engineer, the proceedings shall be taken as per the general principles of civil law.
- (f) If the partner who violated the provisions is an Actuary, the proceedings shall be taken as per the provisions of the Actuaries Act, 2006.



FREQUENTLY ASKED QUESTIONS (FAQs) ON MULTI-DISCIPLINARY PARTNERSHIP FIRM OF CHARTERED ACCOUNTANTS IN PRACTICE (MDP CAs IN PRACTICE)

Q1. What is meaning of the term “MDP CAs in Practice”?

Response: “MDP CAs in Practice” is abbreviation of the term “Multi-disciplinary Partnership Firm of Chartered Accountants in Practice”.

MDP CAs in Practice means the firm which has been approved to practice in its name by the Council of ICAI under Regulation 53B read with Regulation 190 of the Chartered Accountants Regulations, 1988.

Q2. Whether MDP CAs in Practice can be formed as a company?

Response: As per Section 25 of the Chartered Accountants Act, 1949,

Companies not to engage in accountancy

(1) No company, whether incorporated in India or elsewhere, shall practise as chartered accountants.

Explanation – For the removal of doubts, it is hereby declared that the “company” shall include any limited liability partnership which has company as its partner for the purposes of this section.

(2) If any company contravenes the provisions of sub-section (1), then, without prejudice to any other proceedings which may be taken against the company, every director, manager, secretary and any other officer thereof who is knowingly a party to such contravention shall be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction to five thousand rupees.

Hence, MDP CAs in Practice cannot be formed as a company.

Q3. What are permissible modes for formation of MDP CAs in Practice?

Response: There are two permissible modes:

- Partnership as per the Indian Partnership Act, 1932.
- Limited Liability partnership as per the Limited Liability Partnership Act, 2008.

Q4. Which Regulation of the Chartered Accountants Regulations, 1988 cover partnership aspect? With whom CAs can enter into partnership in terms of provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988?

Response: Regulation 53B of the Chartered Accountants Regulations, 1988 covers partnership aspect. The provisions of Section 2(2) of the Chartered Accountants Act, 1949, Clause 4 of Part I of First Schedule to the Chartered Accountants Act, 1949 read with Regulation 53B of the Chartered Accountants Regulations, 1988 permit CAs to enter into partnership with the members of following professional bodies:

- (a) Company Secretary, member, The Institute of Company Secretaries of India, established under the Company Secretaries Act, 1980;



- (b) Cost Accountant, member, The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959;
- (c) Advocate, member, Bar Council of India established under the Advocates Act, 1961;
- (d) Engineer, member, The Institution of Engineers, or Engineering from a University established by law or an institution recognized by law;
- (e) Architect, member, The Indian Institute of Architects established under the Architects Act, 1972;
- (f) Actuary, member, The Institute of Actuaries of India, established under the Actuaries Act, 2006.

For details about entering into partnership with above mentioned professionals, please refer the specific questions given below.

Q5. Whether company secretary can become partner in MDP CAs in Practice?

Response: As per Section 2(1)(c) of the Company Secretaries Act, 1980, *“Company Secretary” means a person who is a member of the Institute;*

As per Section 2(2) of the Company Secretaries Act, 1980, *Save as otherwise provided in this Act, a member of the Institute shall be deemed “to be in practice” when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed, he, in consideration of remuneration received or to be received,—*

- (a) *engages himself in the practice of the profession of Company Secretaries to, or in relation to, any company; or*
- (b) *offers to perform or performs services in relation to the promotion, forming, incorporation, amalgamation, reconstruction, reorganization or winding up of companies; or*
- (c) *offers to perform or performs such services as may be performed by—*
 - (i) *an authorised representative of a company with respect to filing, registering, presenting, attesting or verifying any documents (including forms, applications and returns) by or on behalf of the company,*
 - (ii) *a share transfer agent,*
 - (iii) *an issue house,*
 - (iv) *a share and stock broker,*
 - (v) *a secretarial auditor or consultant,*
 - (vi) *an adviser to a company on management, including any legal or procedural matter falling under the Capital Issues (Control) Act, 1947 (29 of 1947), the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Companies Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956), any of the rules or bye-laws made by a recognised stock exchange, the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Foreign Exchange Regulation Act, 1973, (46 of 1973), or under any other law for the time being in force.*
 - (vii) *issuing certificates on behalf of, or for the purposes of, a company; or*



- (d) holds himself out to the public as a Company Secretary in practice; or
- (e) renders professional services or assistance with respect to matters of principle or detail relating to the practice of the profession of Company Secretaries; or
- (f) renders such other services as, in the opinion of the Council, are or may be rendered by a Company Secretary in practice;

and the words "to be in practice" with their grammatical variations and cognate expressions, shall be construed accordingly.

Clause 4 of Part I of First Schedule to the Company Secretaries Act, 1980 – Professional misconduct in relation to Company Secretaries in Practice

A Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he—

- (4) enters into partnership, in or outside India, with any person other than a Company Secretary in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (e) of sub-section (1) of section 4 or whose qualifications are recognized by the Central Government or the Council for the purpose of permitting such partnerships;

Regulation 168B of the Companies Secretaries Regulations, 1982– Membership of Professional body for Partnership

- (1) For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:-
 - (a) The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (No. 38 of 1949);.....

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Institute of Company Secretaries of India.

Q6. Whether cost accountant can become partner in MDP CAs in Practice?

Response: As per Section 2(1)(b) of the Cost and Works Accountants Act, 1959, "Cost Accountant" means a person who is a member of the Institute.

As per Section 2(2) of the Cost and Works Accountants Act, 1959, Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed he, in consideration of remuneration received or to be received,—

- (i) engages himself in the practice of cost accountancy; or
- (ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or certification or auditing of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or
- (iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or



(iv) *renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice, and the words "to be in practice", with their grammatical variations and cognate expressions, shall be construed accordingly.*

Explanation: A member of the Institute who is a whole-time salaried employee of any person shall not be deemed to be in practice within the meaning of this sub-section.

Clause 4 of Part I of First Schedule to the Cost and Works Accountants Act, 1959 – Professional misconduct in relation to Cost Accountants in Practice

A Cost Accountant in Practice shall be deemed to be guilty of professional misconduct, if he–

(4) enters into partnership, in or outside India, with any person other than a cost accountant in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (iv) of sub-section (1) of section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships;

Regulation 111C of the Cost and Works Accountants Regulations, 1959 – Membership of professional bodies for partnership

(1) For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies namely:—

(a) *Chartered Accountant, member of the Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (XXXVIII of 1949);.....*

As per Section 6(1) of the Cost and Works Accountants Act, 1959, No member of the Institute shall be entitled to practise, whether in India or elsewhere, unless he has obtained from the Council a certificate of practice.

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Institute of Cost Accountants of India.

Q7. Whether advocate can become partner in MDP CAs in Practice?

Response: As per Section 2(1)(a) of the Advocates Act, 1961, “Advocate” means an advocate entered in any roll under the provisions of this Act.

As per Clause (c) of Regulation 53B of the Chartered Accountants Regulations, 1988, it is permitted to enter into a partnership with Advocate, Member of the Bar Council of India established under the Advocates Act, 1961.

However, as per Rule 2 of Chapter III of Part IV – “Conditions for Right to Practice” of the Bar Council of India Rules, 1975,

An Advocate shall not enter into a partnership of any other arrangement for sharing remuneration with any person or legal Practitioner who is not an Advocate.

Hence, unless the Bar Council of India Rules, 1975 are amended, MDP CAs in Practice shall not enter into partnership with an Advocate who is the member of the Bar Council of India.



Q8. Whether engineer can become partner in MDP CAs in Practice?

Response: Indian Institute of Engineers:

Member of Indian Institute of Engineers means, Member as elected and approved under clause 48 of the bye laws of the Indian Institute of Engineers.

Engineer from University Established by Law:

As per the University Grants Commission Act, 1956

Section 2(f) defines "*University*" means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under this Act.

Hence, MDP CAs in Practice shall be permitted to enter into partnership with Engineer, who is a member of the Institution of Engineers, or Engineer from a University established by law or an institution recognized by law.

Q9. Whether architect can become partner in MDP CAs in Practice?

Response: As per Section 2(a) of the Architects Act, 1972, "*Architect*" means a person whose name is for time being entered in the register.

As per Section 2(e) of the Architects Act, 1972, "*register*" means the register of architects maintained under Section 23.

As per Section 2(c) of the Architects Act, 1972, "*Indian Institute of Architects*" means the Indian Institute of Architects registered under the Societies Registration Act, 1860 (21 of 1860).

As per Clause 4 of the Constitution and Bye Laws of the Indian Institute of Architects,

4. CATEGORY OF MEMBERS:

(a) Unless and until the Bye-Laws otherwise provide there shall be seven category of Members of the Institute termed respectively Honorary Fellow, Fellow, Associate, Licentiate, Retired Fellow, Retired Associate and Retired Licentiate. These expressions shall respectively bear the meanings attached thereto by the Bye-laws.

Bye-Laws 1. Interpretation:

"*MEMBERS OF THE INSTITUTE*" means any person who has been admitted to the Membership of the Institute, whether a Fellow, Associate, Licentiate or Hon. Member, all of whom may hereafter be referred to as Members.

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Indian Institute of Architects.

Q10. Whether actuary can become partner in MDP CAs in Practice?

Response: As per Section 2(1)(a) of the Actuaries Act, 2006,



"Actuary" means a person skilled in determining the present effects of future contingent events or in finance modelling and risk analysis in different areas of insurance, or calculating the value of life interests and insurance risks, or designing and pricing of policies, working out the benefits, recommending rates relating to insurance business, annuities, insurance and pension rates on the basis of empirically based tables and includes a statistician engaged in such technology, taxation, employees' benefits and such other risk management and investments and who is a fellow member of the Institute; and the expression "actuarial science" shall be construed accordingly.

As per Section 2(1)(i) of the Actuaries Act, 2006, "Member" means an individual whose name appears in the register of members maintained by the Institute.

As per Section 2(1)(h) of the Actuaries Act, 2006, "Institute" means the Institute of Actuaries of India constituted under Section 3.

As per Section 2(2) of the Actuaries Act, 2006,

Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when individually or in partnership with Actuaries in practice as a member or an employee of a company, he, whether or not in consideration of remuneration received or to be received,—

- (i) *engages himself in actuarial profession; or*
- (ii) *offers to perform or performs services involving the application of actuarial techniques in the fields of insurance, pension, investment, finance and management; or*
- (iii) *renders such other services as, in the opinion of the Council, are or may be rendered by an actuary in practice; or*
- (iv) *is in employment of a person engaged in one or more of the activities mentioned in clauses (i), (ii) and (iii) above,*

and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—For the purposes of this sub-section, the expression "company" includes a public financial institution as defined in section 4A of the Companies Act, 1956 (1 of 1956).

As per Part I of the Schedule to the Actuaries Act, 2006, Professional misconduct in relation to members of the Institute in practice,

An Actuary in practice shall be deemed to be guilty of professional misconduct, if he—

- (3) *enters into partnership with any person other than an Actuary in practice or a person resident outside India who but for his residence abroad would be entitled to be admitted as a member under clause (c) of sub-section (1) of section 6 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnership, provided the Actuary shares in the fees or profits of the business of the partnership both within and outside of India.*

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Institute of Actuaries of India who does not hold certificate of practice. However, MDP CAs in Practice shall not



be permitted to enter into a partnership with a member of the Institute of Actuaries of India who holds certificate of practice.

Q11. Whether any person other than those prescribed under Regulation 53B of the Chartered Accountants Regulations, 1988 can be a partner in MDP CAs in Practice?

Response: Any person other than those prescribed under Regulation 53B of the Chartered Accountants Regulations, 1988 cannot be a partner in MDP CAs in Practice.

Q12. Whether MBA can become partner in MDP CAs in Practice?

Response: As per Clause 4 of Part I of First Schedule to the Chartered Accountants Act, 1949 read with Regulation 53B of the Chartered Accountants Regulations, 1988, MBA cannot become partner in MDP CAs in Practice.

Q13. Whether partners of MDP CAs in Practice can also practice in their individual names?

Response: As on date, the Chartered Accountants Act 1949 read with the Chartered Accountants Regulations, 1988 does not prohibit the same, at the same time, it is the discretion of MDP CAs in Practice to permit its partners to practice in their individual capacity. In case partnership deed is silent on this aspect, the provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations 1988 shall apply.

Q14. How the fees will be shared among the partners of MDP CAs in Practice?

Response: The sharing of fees will be decided among the partners as agreed among themselves and prescribed in the partnership deed.

Q15. How the disputes among the partners will be settled?

Response: The disputes among the partners will be settled as agreed among the partners and prescribed in the partnership deed. Otherwise provisions of the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008, as may be applicable, will apply.

Q16. How to verify professional qualifications of partners who are not the members of ICAI?

Response: It is the duty of MDP CAs in Practice to submit the documentary evidence in case of partners who are not the members of ICAI. These documentary evidence needs to be attested by a CA in practice who is not related to the MDP CAs in Practice. It is the duty of the CA who attests the above documentary evidence to verify the truth and validity of the certificate of membership of the prescribed professional bodies or the degree of the recognized University in case of engineering graduate.

Q17. Whether there is any need to obtain the permission of the other professional bodies for implementation of provisions of MDP CAs in Practice?

Response: There is no need to obtain permission of the other professional bodies prescribed under Regulation 53B of the Chartered Accountants Regulations, 1988.

Q18. Whether a CA partner of MDP CAs in Practice can become partners in other firms or engage in other occupation?

Response: A CA partner of MDP CAs in Practice can become partners in other firms or engage in other occupation as agreed among the partners as per their partnership deed. In case of a partner who is a chartered



accountant, for his engagement in any other business or occupation or part time employment, the provisions of Regulations 190A and 191 of the Chartered Accountants Regulations, 1988 shall apply. In case of a partner other than a chartered accountant, the provisions of the relevant Act along with its Regulations or Rules shall apply.

Q19. Whether profit sharing with non-CAs is allowed under the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988?

Response: The relevant provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988 are given below.

“Part I: Professional misconduct in relation to Chartered Accountants in Practice” of the First Schedule to the Chartered Accountants Act, 1949

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

Clause (2): pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India.

Explanation – In this item, “partner” includes a person residing outside India with whom a chartered accountant in practice has entered into partnership which is not in contravention of item (4) of this Part;

Clause (3): accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute:

Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share commission or brokerage in the fees, with a member of such professional body or other person having qualifications, as is referred to in item (2) of this Part;

“Regulation 53A- Other professional bodies” of the Chartered Accountants Regulations, 1988,

(1) For the purposes of Items (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be a member of any of the following professional bodies, namely:-

- (a) The Institute of Company Secretaries of India established under the Companies Act, 1980 (No.56 of 1980);
- (b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No.23 of 1959);
- (c) Bar Council of India established under the Advocates Act, 1961 (No.25 of 1961);
- (d) The Indian Institute of Architects established under the Architects Act, 1972 (No.20 of 1972);
- (e) The Institute of Actuaries of India established under the Actuaries Act, 2006 (No.35 of 2006).

(2) The membership of the professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 shall also be taken into consideration for the purposes of Items (2), (3) and (5) of the Part I of the First Schedule to the Act.



(3) For the purposes of Items (2), (3), (4) and (5) of Part I of the First Schedule to the Act, the following shall be the persons qualified in India, namely:-

- (i) Company Secretary within the meaning of the Company Secretaries Act, 1980;
- (ii) Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;
- (iii) Actuary within the meaning of the Actuaries Act, 2006;
- (iv) Bachelor in Engineering from a University established by law or an Institution recognized by law;
- (v) Bachelor in Technology from a University established by law or an institution recognised by law;
- (vi) Bachelor in Architecture from a University established by law or an institution recognised by law;
- (vii) Bachelor in Law from a University established by law or an institution recognised by law;
- (viii) Master in Business Administration from Universities established by law or technical institutions recognised by All India Council for Technical Education.

Hence, as per Clauses 2 and 3 of Part I of First Schedule to the Chartered Accountants Act, 1949 read with Regulation 53A of the Chartered Accountants Regulations, 1988, profit sharing with non-CAs is allowed.

Q20. Which provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988 cover partnership aspect?

Response: Section 2(2) of the Chartered Accountants Act, 1949, Clause 4 of Part I of First Schedule to the Chartered Accountants Act, 1949 and Regulation 53B of the Chartered Accountants Regulations, 1988 cover partnership aspect. These provisions are given below.

Section 2(2) of the Chartered Accountants Act 1949,

"A member of the Institute shall be deemed "to be in practice", when individually or in partnership with chartered accountants in practice, or in partnership with members of such other recognised professions as may be prescribed..."

"Part I: Professional misconduct in relation to Chartered Accountants in Practice" of the First Schedule to the Chartered Accountants Act, 1949

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

(4) enters into partnership, in or outside India, with any person other than a chartered accountant in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (v) of sub-section (1) of Section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships.

"Regulation 53B - Membership of professional bodies for partnership" of the Chartered Accountants Regulations, 1988,

(1) For the purposes of entering into partnership under Item (4) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:-



- (a) Company Secretary, member, The Institute of Company Secretaries of India, established under the Company Secretaries Act, 1980;
- (b) Cost Accountant, member, The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959;
- (c) Advocate, member, Bar Council of India established under the Advocates Act, 1961;
- (d) Engineer, member, The Institution of Engineers, or Engineering from a University established by law or an institution recognized by law.
- (e) Architect, member, The Indian Institute of Architects established under the Architects Act, 1972;
- (f) Actuary, member, The Institute of Actuaries of India, established under the Actuaries Act, 2006.

(2) Professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 of the Act.

Q21. Which Regulation of the Chartered Accountants Regulations, 1988 cover profit sharing aspect?

Response: Regulation 53A(1) of the Chartered Accountants Regulations, 1988 covers profit sharing aspect with the members of prescribed professional bodies and Regulation 53A(3) covers profit sharing aspect with the persons having prescribed professional qualifications. These Regulations allow profit sharing even without entering into a partnership.

Q22. Whether the list of persons mentioned in Regulation 53A (which covers profit sharing) and Regulation 53B (which covers partnership) of the Chartered Accountants Regulations, 1988 is same?

Response: No, Regulation 53A shall apply for a CA in practice or a firm of CA in practice who want to share fees or accept sharing of fees from the members of prescribed professional bodies or persons having prescribed professional qualification even without entering into a partnership. Regulation 53B shall apply to a CA in practice or a firm of CAs in practice who want to enter into a partnership with members of prescribed professional bodies. MBAs are not covered in the list of persons mentioned in Regulation 53B of the Chartered Accountants Regulations, 1988.

Q23. Whether there is any ratio or number prescribed for different partners of MDP CAs in Practice?

Response: There is no such ratio or number prescribed under the Chartered Accountants Act, 1949 or the Chartered Accountants Regulations, 1988. However, to be eligible to undertake statutory audit under the Companies Act, 2013, MDP CAs in Practice should have majority of CA partners. In this regard, please refer the specific question given below.

Q24. Can MDP CAs in Practice be formed where majority of partners are non-CAs as prescribed under Regulation 53B of the Chartered Accountants Regulations, 1988?

Response: Yes, there is no such restriction imposed either in the Chartered Accountants Act, 1949 or the Chartered Accountants Regulations, 1988. However, to be eligible to undertake statutory audit under the Companies Act, 2013, MDP CAs in Practice should have majority of CA partners. In this regard, please refer the specific question given below.



Q25. Is MDP CAs in Practice eligible for statutory audit under the Companies Act 2013 in case majority of its partners are non-CAs?

Response: Section 141 of the Companies Act 2013 states as under:

Eligibility, Qualifications and Disqualifications of Auditors

- (1) A person shall be eligible for appointment as an auditor of a company only if he is a chartered accountant: Provided that a firm whereof majority of partners practising in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of a company.
- (2) Where a firm including a limited liability partnership is appointed as an auditor of a company, only the partners who are chartered accountants shall be authorised to act and sign on behalf of the firm.
- (3) The following persons shall not be eligible for appointment as an auditor of a company, namely:—
 - (a) a body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008;
 - (b) an officer or employee of the company;
 - (c) a person who is a partner, or who is in the employment, of an officer or employee of the company;
 - (d) a person who, or his relative or partner—
 - (i) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company: Provided that the relative may hold security or interest in the company of face value not exceeding one thousand rupees or such sum as may be prescribed;
 - (ii) is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of such amount as may be prescribed; or
 - (iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, for such amount as may be prescribed;
 - (e) a person or a firm who, whether directly or indirectly, has business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed;
 - (f) a person whose relative is a director or is in the employment of the company as a director or key managerial personnel;
 - (g) a person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of more than twenty companies;
 - (h) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction;
 - (i) a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company.



Explanation.—For the purposes of this clause, the term “directly or indirectly” shall have the meaning assigned to it in the Explanation to section 144.

(4) Where a person appointed as an auditor of a company incurs any of the disqualifications mentioned in sub-section (3) after his appointment, he shall vacate his office as such auditor and such vacation shall be deemed to be a casual vacancy in the office of the auditor.

Accordingly, MDP CAs in Practice is not eligible for statutory audit under the Companies Act 2013 in case majority of its partners are non-CAs.

Q26. How the majority of partners will be calculated for the purpose of appointment as statutory auditor under the Companies Act, 2013?

Response: “Majority criteria” for the purpose of computing eligibility of MDP CAs in Practice for the purpose of appointment as statutory auditor under the Companies Act, 2013 shall be calculated both on the basis of the number of partners as well as their aggregate share of profits in MDP CAs in Practice so that the majority criteria is clearly established.

It is to be noted that partners of partnership firm have joint and several liability and partners of limited liability partnership have limited liability. Keeping both the aspects into consideration, the above condition for majority shall apply.

For example, the number of CA partners in MDP CAs in Practice is more but their aggregate share of profits is lesser than the aggregate share of profits of non-CA partners then it shall not be called majority. Similarly, number of CA partners in MDP CAs in Practice is lesser than the number of non-CA partners in MDP CAs in Practice but their aggregate share of profits is more than aggregate share of profits of the non-CA partners then also it shall be considered as a firm with no majority.

Q27. Can MDP CAs in Practice undertake Tax Audit engagement?

Response: MDP CAs in Practice can undertake Tax Audit engagement.

Q28. Whether MDP CAs in Practice can accept other engagement like bank audit, audit of co-operative society?

Response: MDP CAs in Practice can render all services as prescribed in Section 2(2) of the Chartered Accountants Act, 1949 read with Regulation 190A of the Chartered Accountants Regulations, 1988. It can also render services allowed to be performed by other professionals who are its partners.

Q29. What services can be rendered by MDP CAs in Practice?

Response: MDP CAs in Practice can render all services as prescribed in Section 2(2) of the Chartered Accountants Act, 1949 read with Regulation 190A of the Chartered Accountants Regulations, 1988. It can also render services allowed to be performed by other professionals who are its partners.

Q30. Can non-CA partner be in-charge of branch office of MDP CAs in Practice?

Response: As per “Section 27 - Maintenance of Branch Offices” of the Chartered Accountants Act, 1949:

(1) *Where a chartered accountant in practice or a firm of such chartered accountants has more than one office in India, each one of such offices shall be in the separate charge of a member of the Institute:*

Provided that the Council may in suitable cases exempt any chartered accountant in practice or a firm of such chartered accountants from the operation of this subsection.



(2) *Every chartered accountant in practice or a firm of such chartered accountants maintaining more than one office shall send to the Council a list of offices and the persons in charge thereof and shall keep the Council informed of any changes in relation thereto.*

By virtue of Section 27 of the Chartered Accountants Act, 1949, only chartered accountants are permitted to be in-charge of the branch offices of MDP CAs in Practice. However, it may be noted that in terms of the proviso given in sub-section (1) of Section 27 of the Chartered Accountants Act, 1949, the Council of ICAI has power to grant exemption from the aforesaid requirement in suitable cases. In case, MDP CAs in practice desires that a non-CA partner be made in-charge of any branch office, it may make request to the Council of ICAI in this regard.

Q31. Have the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988 specified foreign qualifications equivalent to CA for purposes of MDP CAs in Practice?

Response: Regulation 53B(2) of the Chartered Accountants Regulations, 1988 states as under:

“Professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 of the Act.”

As on date, the Council of ICAI has not specified any foreign qualifications equivalent to CA for purposes of MDP CAs in Practice.

Q32. Which partner of MDP CAs in Practice will be responsible to supply information at the time of registration and supply information which may be required from time to time?

Response: This aspect will be decided among the partners as prescribed in the partnership deed.

Q33. Can partners of MDP CAs in Practice appoint staff of their choice?

Response: This aspect will be decided among the partners as prescribed in the partnership deed.

Q34. Partnership deed is having a specific clause that the death or retirement of partner(s) shall not dissolve the MDP CAs in Practice. In case all the CA partners in MDP CAs in Practice are deceased or retired whether the non-CA partners can continue MDP CAs in Practice?

Response: No, to form MDP CAs in Practice, atleast one partner should be a CA holding certificate of practice.

Q35. Whether partners of MDP CAs in Practice are required to consult each other or can work independently?

Response: This aspect will be decided among the partners as prescribed in the partnership deed.

Q36. The Company Secretaries (Amendment) Regulations, 2020 have inserted a new regulation 165A “Multidisciplinary Firm” in the Company Secretaries Regulations, 1982. Is parallel change required in the Chartered Accountants Regulations, 1988?

Response: The provisions of Regulation 165A is already explained in detail under Regulation 168A and Regulation 168B of the Company Secretaries Regulations, 1982, which are exactly similar to Regulation 53A and Regulation 53B of the Chartered Accountants Regulations, 1988. Accordingly, there is no need for similar provision either in the Chartered Accountants Act, 1949 or the Cost and Works Accountants Act, 1949 or the Regulations thereunder.

Q37. What will be extent of liability of partners of MDP CAs in Practice?

Response: The liability of partners of MDP CAs in Practice will be governed by the legislation under which it is constituted i.e. the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008.



Q38. Whether these provisions cover conversion of existing CA firm into MDP CAs in Practice or these provisions only cover formation of new MDP CAs in Practice?

Response: These provisions cover both cases i.e. conversion of existing CA firm into MDP CAs in Practice as well as formation of new MDP CAs in Practice.

Q39. In case of conversion of existing CA firm into MDP CAs in Practice, whether new FRN will be required?

Response: In case of conversion of existing CA firm into MDP CAs in Practice, new FRN will be required.

Q40. Whether MDP CAs in Practice will be eligible for empanelment with various agencies?

Response: MDP CAs in Practice will be eligible for empanelment with various agencies provided it satisfies the eligibility criteria for empanelment prescribed by various agencies.

Q41. Whether networking will be allowed for MDP CAs in Practice?

Response: Networking will be allowed for MDP CAs in Practice provided it satisfies the various conditions prescribed in the "Guidelines for Networking" issued by the Council of ICAI.

Q42. Whether various guidelines issued by the Council of ICAI from time to time (e.g. advertisement, website, visiting cards, networking) will be applicable to MDP CAs in Practice?

Response: Yes. MDP CAs in Practice will be required to comply with the provisions of the Chartered Accountants Act, 1949, the Chartered Accountants Regulations, 1988 and Rules framed thereunder, Guidelines and directions issued by the Council of ICAI from time to time.

Q43. Whether non-CA partners of MDP CAs in Practice can be part of the engagement team in terms of definition of the term "engagement team" given in SQC 1 and SA 220?

Response: Definition of the term "engagement team" as per SQC 1 and SA 220 is reproduced below.

"Engagement team – all personnel performing an engagement, including any experts contracted by the firm in connection with that engagement. The term "engagement team" excludes individuals within the client's internal audit function who provide direct assistance on an audit engagement when the external auditor complies with the requirements of SA 610 (Revised)."

Further, definition of the term "personnel" as per SQC 1 and SA 220 is reproduced below.

"Personnel – partners and staff"

From above definitions, it is clear that engagement team includes partners. Accordingly, non-CA partners of MDP CAs in Practice can be part of the engagement team in terms of definition of the term "engagement team" given in SQC 1 and SA 220.

Q44. How the identity of MDP CAs in Practice will be distinguished from other CA firms?

Response: MDP CAs in Practice shall have distinct name which shall be approved by the Institute. To distinguish MDP CAs in Practice from other CA firms, the suffix "multi-disciplinary partnership firm of chartered accountants in practice" shall be used after the name of MDP CAs in Practice.

Illustration: A firm consists of partners who are Chartered Accountants in practice (i.e. where all partners are Chartered Accountants) then under Section 7 of the Chartered Accountants Act, 1949, the firm can use along with its name "Chartered Accountants" as suffix.



But in case of MDP CAs in Practice, since all the partners are not Chartered Accountants, the firm shall be called "Multi-disciplinary Partnership Firm of Chartered Accountants in Practice".

Q45. Whether MDP CAs in Practice will be required to comply with provisions of Acts and Rules/Regulations of professional bodies whose members are its partners?

Response: *Clause 1 of Part II of Second Schedule to the Chartered Accountants Act, 1949 – Professional misconduct in relation to members of the Institute generally*

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he–

(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;

Clause 1 of Part II of Second Schedule to the Company Secretaries Act, 1980 – Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he–

(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;

Clause 1 of Part II of Second Schedule to the Cost and Works Accountants Act, 1959 – Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he–

(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;

Clause 4 of Part III of Schedule to the Actuaries Act, 2006 – Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he–

(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council under clause (i) of sub-section (2) of section 19;

Clause 2 of Part IV of First Schedule to the Chartered Accountants Act, 1949 – Other misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he–

(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

Clause 2 of Part IV of First Schedule to the Company Secretaries Act, 1980 – Other misconduct in relation to members of the Institute generally



A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if–

(2) in the opinion of the Council, he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

Clause 2 of Part IV of First Schedule to the Cost and Works Accountants Act, 1959 – Other misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if–

(2) in the opinion of the Council, he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

Hence, MDP CAs in Practice will be required to comply with provisions of Acts and Rules/Regulations of professional bodies whose members are its partners.

Q46. Whether a specimen format of partnership deed should be provided?

Response: Partnership firm is an organization based on agreement or arrangement between two or more persons. It is the responsibility of MDP CAs in Practice to draft their own partnership deed satisfying the provisions of the Chartered Accountants Act, 1949, the Chartered Accountants Regulations, 1988 and the provisions of Acts and Rules/Regulations of respective professional bodies.

Q47. What will be the responsibility of MDP CAs in Practice or its partners for misconduct of a partner?

Response: In case of misconduct of a partner, that partner would be subject to disciplinary mechanism of the respective professional body. Where there is no professional body to deal with misconduct of a partner, general law of the land will prevail. Further, MDP CAs in Practice or other partners of MDP CAs in Practice would not be responsible for misconduct of a partner.



FORM 18

(See Section 2(2) of the Chartered Accountants Act, 1949, Regulation 53B and Regulation 190 of the Chartered Accountants Regulations, 1988)

PARTICULARS OF OFFICES AND FIRMS

1. Name of firm/trade name of Chartered Accountant in practice
2. PAN number and GST Registration number of firm¹
3. Name(s) of the proprietor/partners of firm with his/ their membership number(s)

**Details of Partners Holding Certificate of Practice -
(Chartered Accountant/Company Secretary/Cost Accountant)**

S.N.	Name of Partner	Professional Qualifications*	Membership No.:	Whether membership is active (Yes/ No)	Date from which Certificate of Practice held:

Details of Partners Holding Professional Qualifications Other than Chartered Accountant/Company Secretary/Cost Accountant, permitted as per Regulation 53B

S.N.	Name of Partner	Professional Qualifications*	Degree no.	Name of University/Institution which issued the Degree

4. (a) Date of formation of proprietary/partnership firm
(b) Date on which the present partnership was entered into
(c) Whether the partnership is supported by a Deed?
(d) Whether all the partners are sharing the profits of the firm?
5. Ref. No; Date and particulars of approval of trade/firm name obtained from the Council (applicable to cases where the firm was started on or after 1.1.1983)
6. Address of the Head Office of the firm/Chartered Accountant in practice.
7. (a) Address(es) of the branch office(s) of the firm/Chartered Accountant in practice, if any
(b) Date on which each branch office was opened

¹ In case PAN number and GST Registration number of firm is not available at the time of making application, it should be submitted within three months from the time of making application.

* Professional Qualifications of partners who are non-chartered accountants should be duly attested by an Independent Practicing Chartered Accountant who is not a partner of the said firm/ relative of the said person.



8. Name of the member, with membership number who is incharge of each of the offices, i.e., head office and branch offices.

Head Office	Name of the member in-charge	Membership Number
Branch Office(s)	Name(s) of the member(s) in-charge	Membership Number(s)

9. Whether the proprietor/any partner stated in serial number 3 above is/are partner or YES NO proprietor or paid assistant with any other firm(s) of chartered accountants in practice anywhere in India and whether any of them are engaged in a full time or a part-time occupation elsewhere ?

10. If yes, give details in each case

Name of the Partner/ proprietor/paid assistant	Name(s) of the firm(s) of chartered accountants with which connected	Capacity in which connected	Particulars of full time or part-time occupation elsewhere if any
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11. In case of a firm, whether any partner is also practicing in his individual name? YES NO

12. If yes, give name(s) and membership number(s) of the member(s)

13. Name(s) of the member(s) of the Institute with membership number(s) holding full time employment in the firm/under the chartered accountant in practice and date of joining of each such member.

14. Whether any paid assistant stated at serial number 13 above is partner or proprietor or paid YES NO assistant with any other firm(s) or chartered accountant in practice anywhere in India?

15. If yes, give details:-

Name of the paid assistant	Name(s) and place(s) of firm(s) in which engaged as partner/ Proprietor/paid Assistant	Capacity in which connected with the firm, i.e. as partner/ Proprietor/paid Assistant
----------------------------	--	---

16. Whether any paid assistant stated at serial number 13 above is practicing ?

17. If yes, give name(s) and membership number(s) of the paid assistant(s)

Declaration

I/ We hereby confirm that the information given in this Form is true and correct.

Place:

Date:

Signature(s) of the proprietor/all partner(s) of the firm with their membership number(s).



FORM 117

[See Section 2(2) of the Chartered Accountants Act, 1949, Regulation 53B and Regulation 190(1) of the Chartered Accountants Regulations, 1988]

The Institute of Chartered Accountants of India

Form of Application for Approval of a Trade or a Firm Name



1095148048921

Space for Official Stamp

1. Proposed trade/ firm name (in order of preference)

Particulars required in case of a firm other than a Multi-disciplinary Partnership Firm of Chartered Accountants in Practice

2. Name(s) of the Proprietor/Partners of the firm; with his/ their membership Number(s).

(The names should be given as entered in the Register of Members)

1.	Name	[15 boxes]
	Mem. No	[8 boxes]
2.	Name	[15 boxes]
	Mem. No	[8 boxes]
3.	Name	[15 boxes]
	Mem. No	[8 boxes]
4.	Name	[15 boxes]
	Mem. No	[8 boxes]

Particulars required in case of a Multi-disciplinary Partnership Firm of Chartered Accountants in Practice

2A. Details of the Partners of the firm



Details of Partners Holding Certificate of Practice - (Chartered Accountant/Company Secretary/Cost Accountant)

S. N.	Name of Partner	Professional Qualifications*	Membership number

Details of Partners Holding Professional Qualifications Other than Chartered Accountant/Company Secretary/Cost Accountant, permitted as per Regulation 53B

S. N.	Name of Partner	Professional Qualifications*	Degree number

3. Address of the Head Office

City _____ Pin _____

Phone No. with State Code
STD Code

Country:

Email id:

Email id:

Mobile No.

* Professional Qualifications of partners who are non-chartered accountants should be duly attested by an Independent Practicing Chartered Accountant who is not a partner of the said firm/ relative of the said person.



Provided that a chartered accountant in practice who wishes to practice in his own name need not apply for approval as aforesaid.

2. A trade / firm name shall be restricted to the name(s) of the proprietor / partners or a name which is already in use.

(ii) A trade / firm name may include the name(s) of the member(s) as it/they may appear in the Register of Members in the following manner:

- (a) The full Surname of the Member(s); or
- (b) The full first name of the Member(s); or
- (c) The combination of the first name, middle name the initials and / or the Surname of member(s), any expansion thereof; or
- (d) The initials of the first name and full Surname of the member(s); or
- (e) The initials of his/her full name; or
- (f) The full name including the Surname of the member(s); or
- (g) Such distinguishing part of the name(s) as is indicative of the manner in which he/they/is/are commonly known; or
- (h) The combination of name and/or surnames of one or more partners of the firm; or
- (i) Permitting the use as a firm /trade name a part of the name of the proprietor or one or more partners.
- (j) A trade / firm name shall not be allowed where a members seeks to use a part of his surname.
- (k) The only suffixes to be allowed in a trade / firm name shall be “&Co.” and “& Associates” or their equivalents. Suffixes “like” & partners” “&Fellows” & others” etc. shall not be allowed.
- (l) A trade / firm name which bears the name of a God/Goddess/Deity and which has no relationship with the name of the member(s) as above, shall not be allowed.
- (m) Descriptive trade firm names shall not be allowed.
- (n) Trade / firm names which smack of publicity shall not be allowed.

Explanation I

The name or surname of the members should normally confirm to the name or Surname as they appear in the Register of Members. If the member is also known by any other name or Surname, this may be allowed to be used on production of an affidavit or other evidence to the satisfaction of the Secretary.

Explanation II

After various permutations and combinations under the above clause (ii) have been exhausted and the member is not able to get firm/trade name in accordance with the same he may be permitted to adopt or coin a firm/trade name out of the name of his / her family members, provided that such name was not already registered by some other members. The term “family’ for this purpose means husband/ wife/father,/mother/ son/ daughter.

3. The Council, may at its discretion, refuse to approve a particular trade or firm name (i) if the same or similar or nearly similar name is already used by a Chartered accountant in practice or a firms of such Chartered Accountants and has been entered in the register of offices and firms; or (ii) if that name, in the opinion of the Council, is undesirable.



4. A Chartered accountant in practice or a firm of such chartered accountants shall within one month of the approval of the trade or firm name, or commencement of practice as the case may be, supply to the Council in the appropriate form particulars regarding his/her office or the firm as the case may be.
5. With effect from such date as the Council may decide the particulars regarding offices or firm shall also be furnished by a Chartered Accountant in practice or a firm of such Chartered Accountants whose particulars are already entered in the Register of Firms in the appropriate form as revised by the said Amendment Regulations.
6. The Council shall maintain a register of offices and firms and shall register therein the particulars referred to in sub-regulation (4): Provided that the Council may refuse to register a trade or firm name which has not been approved under sub-regulation (2).
7. Every time there is a change in particulars referred to sub-regulation (4), the member or the firm, as the case may be, shall within one month communicate it to the Council.
8. Where the same trade or firm name has been registered in the past in the register of offices and firms in the case of two or more members or firms, the Council may direct to the member or firm as the case may be, other than one whose name was registered first in the register of offices and firms, to alter the name in such manner as the Council may consider proper and inform the Council of such alteration within six months from the issue of the direction.
9. (i) No member shall practice under a trade or firm name which has not been approved under sub-regulation (2).
(ii) No member shall practice under a trade or firm name in respect of which a direction has not been issued under sub-regulation (8) after the expiry of six months from the date of issue of direction.
10. Nothing contained in this regulation shall apply to firms of chartered accountants in practice (i) with identical names, if at least one of the partners of this firm is common; or (ii) with similar or nearly similar names if they are based on the names of any one or more partners of the firm.
11. The Executive Committee may, in its discretion, condone the delay in filling the particulars under sub-regulation (4) or sub-regulation (7) in appropriate cases.



APPENDIX - 1

Gazette Notification

रजिस्ट्री सं. डी.एल.- 33004/99

REGD. No. D. L.-33004/99



भारत का राजपत्र

The Gazette of India

सी.जी.-डी.एल.-अ.-08072021-228184
CG-DL-E-08072021-228184

असाधारण
EXTRAORDINARY

भाग III—खण्ड 4
PART III—Section 4

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 281]
No. 281]

नई दिल्ली, बृहस्पतिवार, जुलाई 8, 2021/आषाढ़ 17, 1943
NEW DELHI, THURSDAY, JULY 8, 2021/ASHADHA 17, 1943

भारतीय चार्टर्ड अकाउंटेंट्स संस्थान

अधिसूचना

नई दिल्ली, 8 जुलाई, 2021

सं. 1-सीए(7)/197/2021.—चार्टर्ड अकाउंटेंट्स विनियम, 1988 का आगे और संशोधन करने के लिए कतिपय प्रारूप विनियमों को, चार्टर्ड अकाउंटेंट्स अधिनियम, 1949 (1949 का 38) की धारा 30 की उपधारा (3) की अपेक्षानुसार, उससे प्रभावित होने वाले व्यक्तियों से, उस तारीख से जिसको उक्त अधिसूचना को अंतर्विष्ट करने वाले राजपत्र की प्रतियां जनता को उपलब्ध करा दी जाती हैं, पैंतालीस दिन की अवधि के अवसान से पूर्व आक्षेप और सुझाव आमंत्रित करते हुए भारत के राजपत्र, असाधारण, भाग III, खंड 4, तारीख 11 दिसंबर, 2020 में अधिसूचना सं. सीए(7)/197/2020, तारीख 10 दिसंबर, 2020 द्वारा प्रकाशित किया गया था ;

और उक्त राजपत्र की प्रतियां 11 दिसंबर, 2020 को जनता को उपलब्ध करा दी गई थीं ;

और जनता से उक्त प्रारूप विनियमों के संबंध में प्राप्त आक्षेपों और सुझावों पर संस्थान की परिषद् द्वारा विचार किया गया है ;

अतः, अब परिषद् उक्त अधिनियम की धारा 30 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार के अनुमोदन से चार्टर्ड अकाउंटेंट्स विनियम, 1988 का आगे और संशोधन करने के लिए निम्नलिखित विनियम बनाती है, अर्थात् :-

- (1) इन विनियमों का संक्षिप्त नाम चार्टर्ड अकाउंटेंट्स (संशोधन) विनियम, 2021 है ।
- (2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे ।



2. चार्टर्ड अकाउंटेंट्स विनियम, 1988 में, अनुसूची “क” में, प्ररूप सं. 18 के स्थान पर निम्नलिखित प्ररूप रखा जाएगा, अर्थात् :—

“प्ररूप ‘18’

[चार्टर्ड अकाउंटेंट्स अधिनियम, 1949 की धारा 2(2) और चार्टर्ड अकाउंटेंट्स विनियम, 1988 का विनियम 53ख और विनियम 190 देखें]

कार्यालय और फर्म के ब्यौरे

- फर्म का नाम / व्यवसायरत चार्टर्ड अकाउंटेंट का व्यापार नाम
- फर्म का पेन संख्यांक और जीएसटी रजिस्ट्रीकरण संख्या¹
- फर्म के स्वामी/भागीदारों का (के) नाम, उसकी/उनकी सदस्यता संख्या सहित

व्यवसाय प्रमाणपत्र धारण करने वाले भागीदारों के ब्यौरे – (चार्टर्ड अकाउंटेंट/कंपनी सचिव/लागत लेखापाल)

क्रम सं.	भागीदार का नाम	वृत्तिक अर्हताएं*	सदस्यता संख्या :	क्या सदस्यता सक्रिय है (हाँ/नहीं)	वह तारीख, जिससे व्यवसाय प्रमाणपत्र धारण किया जा रहा है

चार्टर्ड अकाउंटेंट/कंपनी सचिव/लागत लेखापाल से भिन्न वृत्तिक अर्हताएं धारण करने वाले ऐसे भागीदारों के ब्यौरे, जिन्हें विनियम 53ख के अनुसार अनुमति प्रदान की गई है

क्रम सं.	भागीदार का नाम	वृत्तिक अर्हताएं ¹	डिग्री संख्या	उस विश्वविद्यालय/ संस्था का नाम, जिसने डिग्री जारी की है

- (क) स्वामित्व वाली/ भागीदारी फर्म के सृजन की तारीख
 - वह तारीख, जिसको वर्तमान भागीदारी आरंभ की गई थी
 - क्या भागीदारी किसी विलेख द्वारा समर्थित हैं ?
 - क्या सभी भागीदार फर्म के अभिलाभों का अंशभाजन कर रहे हैं ?
- परिषद् से अभिप्राप्त व्यापार/फर्म के अनुमोदन से संबंधित संदर्भ संख्या, तारीख और विशिष्टियां (केवल ऐसे मामलों में लागू, जहाँ फर्म को 1.1.1983 को या उसके पश्चात् आरंभ किया गया था)

¹ अवेदन करते समय फर्म का पेन संख्यांक और जीएसटी रजिस्ट्रीकरण संख्या उपलब्ध न होने की दशा में उसे अवेदन करने के समय के तीन मास के भीतर प्रस्तुत किया जाना चाहिए।

* ऐसे भागीदारों, जो चार्टर्ड अकाउंटेंट नहीं हैं, की वृत्तिक अर्हताओं को किसी ऐसे स्वतंत्र व्यवसायरत चार्टर्ड अकाउंटेंट द्वारा सम्यक् रूप से अधिप्रमाणित किया जाना चाहिए, जो उक्त फर्म का भागीदार/ उक्त व्यक्ति का कोई नातेदार नहीं है।



[भाग III—खण्ड 4]

भारत का राजपत्र : असाधारण

3

6. फर्म/व्यवसायरत चार्टर्ड अकाउंटेंट के प्रधान कार्यालय का पता

7. (क) फर्म/व्यवसायरत चार्टर्ड अकाउंटेंट के शाखा कार्यालय (कार्यालयों) का पता (के पते), यदि कोई हों
(ख) प्रत्येक शाखा कार्यालय को खोले जाने की तारीख

8. कार्यालयों, अर्थात् प्रधान कार्यालय और शाखा कार्यालयों में से प्रत्येक के प्रभारी सदस्य का नाम, उसकी सदस्यता संख्या सहित

प्रधान कार्यालय	प्रभारी सदस्य का नाम	सदस्यता संख्या

शाखा कार्यालय	प्रभारी सदस्य (सदस्यों) का नाम (के नाम)	सदस्यता संख्या

9. क्या ऊपर क्रम संख्या 3 में कथित स्वामी/ कोई भागीदार भारत में कहीं भी व्यवसायरत चार्टर्ड अकाउंटेंटों की किसी अन्य फर्म (किन्हीं फर्मों) में भागीदार या स्वामी या वेतन प्राप्त करने वाले सहायक हैं और क्या उनमें से कोई कहीं अन्यत्र पूर्णकालिक या अंशकालिक व्यवसाय में नियोजित है ?

10. यदि हां, तो प्रत्येक मामले में व्यौरे प्रदान करें

भागीदार/स्वामी/ वेतनभोगी सहायक का नाम	ऐसी चार्टर्ड अकाउंटेंट फर्म (फर्मों) का नाम (के नाम) जिससे वह संबद्ध है	सहबद्ध होने की हैसियत	कहीं अन्यत्र पूर्णकालिक या अंशकालिक व्यवसाय की विशिष्टियां

11. किसी फर्म की दशा में क्या कोई भागीदार अपने व्यष्टिक नाम से भी व्यवसाय कर रहा है ?

12. यदि हां, तो सदस्य (सदस्यों) का नाम (के नाम) और सदस्यता संख्या

13. किसी फर्म/किसी व्यवसायरत चार्टर्ड अकाउंटेंट के अधीन पूर्णकालिक नियोजन धारण करने वाले संस्थान के सदस्य (सदस्यों) का नाम (के नाम) और सदस्यता संख्या तथा ऐसे प्रत्येक सदस्य द्वारा नियोजन धारण करने की तारीख

14. क्या ऊपर क्रम सं. 13 में कथित कोई वेतनभोगी सहायक भारत में कहीं किसी अन्य फर्म (किन्हीं फर्मों) का भागीदार या स्वामी या उसमें वेतनभोगी सहायक है या किसी व्यवसायरत चार्टर्ड अकाउंटेंट का भागीदार या वेतनभोगी सहायक है ?



15. यदि हां, तो व्यौरे प्रदान करें :-

वेतनभोगी सहायक का नाम	ऐसी फर्म (फर्मों) का नाम (के नाम) और अवस्थान, जिसमें भागीदार/स्वामी/ वेतनभोगी सहायक के रूप में नियोजित है	फर्म से किस हैसियत में सहबद्ध है, अर्थात् भागीदार/ स्वामी / वेतनभोगी सहायक के रूप में

16. क्या ऊपर क्रम सं. 13 में कथित कोई वेतनभोगी सहायक व्यवसाय कर रहा है ?

17. यदि हां, तो ऐसे वेतनभोगी सहायक (सहायकों) का नाम (के नाम) और सदस्यता संख्या प्रस्तुत करें

घोषणा

मैं/हम एतद्वारा यह पुष्टि करते हैं कि इस प्ररूप में दी गई जानकारी सत्य और सही है।

स्थान:

तारीख:

फर्म के स्वामी/ भागीदार (सभी भागीदारों) के हस्ताक्षर, उनकी सदस्यता संख्या सहित ।”

जय कुमार बत्रा, कार्यकारी सचिव

[विज्ञापन III/4/असा./146/2021-22]

टिप्पण : मूल विनियम भारत के राजपत्र, असाधारण, तारीख 1 जून, 1988 में अधिसूचना सं. 1-सीए(7)/134/88, तारीख 1 जून, 1988 द्वारा प्रकाशित किए गए थे और तत्पश्चात् निम्नलिखित संख्याओं द्वारा संशोधित किए गए थे :—

- (i) भारत के राजपत्र, तारीख 7 अक्टूबर, 1989 में अधिसूचना सं. 1-सीए(7)/1/89 द्वारा प्रकाशित
- (ii) भारत के राजपत्र, तारीख 19 जनवरी, 1991 में अधिसूचना सं. 1-सीए(7)/10/90 द्वारा प्रकाशित
- (iii) भारत के राजपत्र, तारीख 19 जनवरी, 1991 में अधिसूचना सं. 1-सीए(7)/11/90 द्वारा प्रकाशित
- (iv) भारत के राजपत्र, तारीख 23 फरवरी, 1991 में अधिसूचना सं. 1-सीए(7)/12/91 द्वारा प्रकाशित
- (v) भारत के राजपत्र, तारीख 2 फरवरी, 1991 में अधिसूचना सं. 1-सीए(7)/13/90 द्वारा प्रकाशित
- (vi) भारत के राजपत्र, तारीख 7 मार्च, 1992 में अधिसूचना सं. 1-सीए(7)/19/92 द्वारा प्रकाशित
- (vii) भारत के राजपत्र, तारीख 1 सितंबर, 1995 में अधिसूचना सं. 1-सीए(7)/28/95 द्वारा प्रकाशित
- (viii) भारत के राजपत्र, असाधारण, तारीख 13 मार्च, 1996 में अधिसूचना सं. 1-सीए(7)/30/95 द्वारा प्रकाशित
- (ix) भारत के राजपत्र, तारीख 16 अगस्त, 1997 में अधिसूचना सं. 1-सीए(7)/31/97 द्वारा प्रकाशित
- (x) भारत के राजपत्र, तारीख 26 फरवरी, 2000 में अधिसूचना सं. 1-सीए(7)/44/99 द्वारा प्रकाशित
- (xi) भारत के राजपत्र, तारीख 26 फरवरी, 2000 में अधिसूचना सं. 1-सीए(7)/45/99 द्वारा प्रकाशित



- (xii) भारत के राजपत्र, असाधारण, तारीख 17 अगस्त, 2001 में अधिसूचना सं. 1-सीए(7)/51/2000 द्वारा प्रकाशित
- (xiii) भारत के राजपत्र, असाधारण, तारीख 28 सितंबर, 2001 में अधिसूचना सं. 1-सीए(7)/59/2001 द्वारा प्रकाशित
- (xiv) भारत के राजपत्र, असाधारण, तारीख 31 मार्च, 2003 में अधिसूचना सं. 1-सीए(7)/64/2002 द्वारा प्रकाशित
- (xv) भारत के राजपत्र, असाधारण, तारीख 4 दिसंबर, 2003 में अधिसूचना सं. 1-सीए(7)/64ए/2003 द्वारा प्रकाशित
- (xvi) भारत के राजपत्र, असाधारण, तारीख 28 जुलाई, 2005 में अधिसूचना सं. 1-सीए(7)/83/2005 द्वारा प्रकाशित
- (xvii) भारत के राजपत्र, तारीख 17 जून, 2006 में अधिसूचना सं. 1-सीए(7)/84/2005 द्वारा प्रकाशित
- (xviii) भारत के राजपत्र, तारीख 13 सितंबर, 2006 में अधिसूचना सं. 1-सीए(7)/92/2006 द्वारा प्रकाशित
- (xix) भारत के राजपत्र, तारीख 17 अगस्त, 2007 में अधिसूचना सं. 1-सीए(7)/102/2007(अ) द्वारा प्रकाशित
- (xx) भारत के राजपत्र, तारीख 25 सितंबर, 2008 में अधिसूचना सं. 1-सीए(7)/116/2008 द्वारा प्रकाशित
- (xxi) भारत के राजपत्र, तारीख 3 दिसंबर, 2008 में अधिसूचना सं. 1-सीए(7)/123/2008 द्वारा प्रकाशित
- (xxii) भारत के राजपत्र, असाधारण, तारीख 1 अगस्त, 2012 में अधिसूचना सं. 1-सीए(7)/145/2012 द्वारा प्रकाशित
- (xxiii) भारत के राजपत्र, असाधारण, तारीख 22 जुलाई, 2014 में अधिसूचना सं. 1-सीए(7)/154/2014 द्वारा प्रकाशित
- (xxiv) भारत के राजपत्र, असाधारण, तारीख 23 जनवरी, 2015 में अधिसूचना सं. 1-सीए(7)/167/2014 द्वारा प्रकाशित
- (xxv) भारत के राजपत्र, असाधारण, तारीख 25 मई, 2017 में अधिसूचना सं. 1-सीए(7)/178/2016 द्वारा प्रकाशित
- (xxvi) भारत के राजपत्र, असाधारण, तारीख 19 अक्टूबर, 2020 में अधिसूचना सं. 1-सीए(7)/193/2020 द्वारा प्रकाशित
- (xxvii) भारत के राजपत्र, असाधारण, तारीख 23 जून, 2021 में अधिसूचना सं. 1-सीए(7)/196/2021 द्वारा प्रकाशित।

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

NOTIFICATION

New Delhi, the 8th July, 2021

No. 1-CA(7)/197/2021.—Whereas certain draft regulations further to amend the Chartered Accountants Regulations, 1988, were published as required by sub-section (3) of section 30 of the Chartered Accountants Act, 1949 (38 of 1949), in the Gazette of India, Extraordinary, Part III, Section 4, dated the 11th December, 2020, vide notification No.1-CA(7)/197/2020, dated the 10th December, 2020, inviting objections and suggestions from persons likely to be affected thereby, before the expiry of forty-five days from the date on which the copies of the said Gazette containing the said notification was made available to the public;



And whereas the said Gazette was made available to the public on the 11th December, 2020;

And whereas the objections and suggestions received from the public on the said draft regulations have been considered by the Council of the Institute;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 30 of the aforesaid Act, the Council, with the approval of the Central Government, hereby makes the following regulations further to amend the Chartered Accountants Regulations, 1988, namely:-

1. (1) These regulations may be called the Chartered Accountants (Amendment) Regulations, 2021.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Chartered Accountants Regulations, 1988, in Schedule “A”, for Form 18, the following Form shall be substituted, namely:-

“ FORM ‘18”

(See section 2(2) of the Chartered Accountants Act, 1949, regulation 53B and regulation 190 of the Chartered Accountants Regulations, 1988)

PARTICULARS OF OFFICES AND FIRMS

1. Name of firm/trade name of Chartered Accountant in practice
2. PAN number and GST Registration number of firm¹
3. Name(s) of the proprietor/partners of firm with his/ their membership number(s)

Details of Partners Holding Certificate of Practice

(Chartered Accountant/Company Secretary/Cost Accountant)

S.N.	Name of Partner	Professional Qualifications*	Membership No.:	Whether membership is active (Yes/ No)	Date from which Certificate of Practice held:

Details of Partners Holding Professional Qualifications Other than Chartered Accountant/Company Secretary/Cost Accountant, permitted as per regulation 53B

S.N.	Name of Partner	Professional Qualifications*	Degree No.	Name of University/ Institution which issued the Degree

4. (a) Date of formation of proprietary/partnership firm
- (b) Date on which the present partnership was entered into

¹ In case PAN number and GST Registration number of firm is not available at the time of making application, it should be submitted within three months from the time of making application.

* Professional Qualifications of partners who are non-chartered accountants should be duly attested by an Independent Practicing Chartered Accountant who is not a partner of the said firm/ relative of the said person.



(c) Whether the partnership is supported by a Deed?

(d) Whether all the partners are sharing the profits of the firm?

5. Ref. No; Date and particulars of approval of trade/firm name obtained from the Council (applicable to cases where the firm was started on or after 1.1.1983)

6. Address of the Head Office of the firm/Chartered Accountant in practice.

7. (a) Address(es) of the branch office(s) of the firm/Chartered Accountant in practice, if any
(b) Date on which each branch office was opened

8. Name of the member, with membership number who is incharge of each of the offices, i.e., head office and branch offices.

Head Office	Name of the member in-charge	Membership Number

Branch Office(s)	Name(s) of the member(s) in-charge	Membership Number(s)

9. Whether the proprietor/any partner stated in serial number 3 above is/are partner or proprietor or paid assistant with any other firm(s) of chartered accountants in practice anywhere in India and whether any of them are engaged in a full time or a part-time occupation elsewhere ? YES NO

10. If yes, give details in each case

Name of the Partner/proprietor/paid assistant	Name(s) of the firm(s) of chartered accountants with which connected	Capacity in which connected	Particulars of full time or part-time occupation elsewhere if any

11. In case of a firm, whether any partner is also practicing in his individual name? YES NO

12. If yes, give name(s) and membership number(s) of the member(s)

13. Name(s) of the member(s) of the Institute with membership number(s) holding full time employment in the firm/under the chartered accountant in practice and date of joining of each such member.



14. Whether any paid assistant stated at serial number 13 above is partner or proprietor or paid assistant with any other firm(s) or chartered accountant in practice anywhere in India ? YES NO

15. If yes, give details:-

Name of the paid assistant	Name(s) and place(s) of firm(s) in which engaged as partner/ Proprietor/paid Assistant	Capacity in which connected with the firm, i.e. as partner/ Proprietor/paid Assistant

16. Whether any paid assistant stated at serial number 13 above is practicing?

17. If yes, give name(s) and membership number(s) of the paid assistant(s)

Declaration

I/ We hereby confirm that the information given in this Form is true and correct.

Place:

Signature(s) of the proprietor/all partner(s) of the firm with their membership number(s)."

Date:

JAI KUMAR BATRA, Acting Secy.

[ADVT.-III/4/Exty./146/2021-22]

Note: The principal regulations were published in the Gazette of India, Extraordinary, dated the 1st June, 1988 *vide* number 1-CA(7)/134/88 dated 1st June, 1988 and subsequently amended by the following numbers:-

- (i) Notification No.1-CA(7)/1/89, published in the Gazette of India, dated the 7th October, 1989;
- (ii) Notification No.1-CA(7)/10/90, published in the Gazette of India, dated the 19th January, 1991;
- (iii) Notification No.1-CA(7)/11/90, published in the Gazette of India, dated the 19th January, 1991;
- (iv) Notification No.1-CA(7)/12/91, published in the Gazette of India, dated the 23rd February, 1991;
- (v) Notification No.1-CA(7)/13/90, published in the Gazette of India, dated the 2nd February, 1991;
- (vi) Notification No.1-CA(7)/19/92, published in the Gazette of India, dated the 7th March, 1992;
- (vii) Notification No.1-CA(7)/28/95, published in the Gazette of India dated the 1st September, 1995;
- (viii) Notification No.1-CA(7)/30/95, published in the Gazette of India, Extraordinary dated the 13th March, 1996;
- (ix) Notification No. 1-CA(7)/31/97, published in the Gazette of India, dated 16th August, 1997;
- (x) Notification No. 1-CA(7)/44/99, published in the Gazette of India dated the 26th February, 2000;
- (xi) Notification No.1-CA(7)/45/99, published in the Gazette of India, dated the 26th February, 2000;
- (xii) Notification No.1-CA(7)/51/2000, published in the Gazette of India, Extraordinary, dated the 17th August, 2001;



[भाग III—खण्ड 4]

भारत का राजपत्र : असाधारण

9

- (xiii) Notification No.1-CA(7)/59/2001, published in the Gazette of India, Extraordinary dated the 28th September, 2001;
- (xiv) Notification No.1-CA(7)/64/2002, published in the Gazette of India, Extraordinary dated the 31st March, 2003;
- (xv) Notification No.1-CA(7)/64A/2003, published in the Gazette of India, Extraordinary dated the 4th December, 2003;
- (xvi) Notification No.1-CA(7)/83/2005, published in the Gazette of India, Extraordinary dated 28th July, 2005;
- (xvii) Notification No.1-CA(7)/84/2005, published in the Gazette of India, dated the 17th June, 2006;
- (xviii) Notification No. 1-CA(7)/92/2006, published in the Gazette of India, dated the 13th September, 2006;
- (xix) Notification No. 1-CA(7)/102/2007(E), published in the Gazette of India, dated the 17th August, 2007;
- (xx) Notification No.1-CA(7)/116/2008, published in the Gazette of India, dated the 25th September, 2008;
- (xxi) Notification No.1-CA(7)/123/2008, published in the Gazette of India, dated the 3rd December, 2008;
- (xxii) Notification No. 1-CA(7)/145/2012, published in the Gazette of India, Extraordinary dated the 1st August, 2012;
- (xxiii) Notification No. 1-CA(7)/154/2014, published in the Gazette of India, Extraordinary dated the 22nd July, 2014;
- (xxiv) Notification No. 1-CA(7)/167/2014, published in the Gazette of India, Extraordinary dated the 23rd January, 2015;
- (xxv) Notification No.1-CA(7)/178/2016, published in the Gazette of India, Extraordinary dated the 25th May, 2017;
- (xxvi) Notification No.1-CA(7)/193/2020, published in the Gazette of India, Extraordinary dated the 19th October, 2020.
- (xxvii) Notification No.1-CA(7)/196/2021, published in the Gazette of India, Extraordinary dated the 23rd June, 2021.



APPENDIX - 2

PROVISIONS OF CA, CS, CWA ACTS W.R.T. MULTI-DISCIPLINARY PARTNERSHIP FIRMS

Relevant Section, Schedule Regulation	The Chartered Accountants Act, 1949	Cost And Works Accountants Act, 1959	The Company Secretaries Act, 1980
Section 2(2) of Relevant Act	Section 2. Interpretation	Section 2. Definitions and interpretation	Section 2. Definitions and interpretation
	<p>(2) A member of the Institute shall be deemed "to be in practice", when individually or in partnership with chartered accountants in practice, or in partnership with members of such other recognised professions as may be prescribed, he, in consideration of remuneration received or to be received,—</p> <p>(i) engages himself in the practice of accountancy; or</p> <p>(ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts or records, or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or</p> <p>(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or</p>	<p>(2) Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed he, in consideration of remuneration received or to be received,—</p> <p>(i) engages himself in the practice of cost accountancy; or</p> <p>(ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or certification or auditing of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or</p> <p>(iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or</p>	<p>(2) Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed, he, in consideration of remuneration received or to be received,—</p> <p>(a) engages himself in the practice of the profession of Company Secretaries to, or in relation to, any company; or</p> <p>(b) offers to perform or performs services in relation to the promotion, forming, incorporation, amalgamation, reconstruction, reorganization or winding up of companies; or</p> <p>(c) offers to perform or performs such services as may be performed by—</p> <p>(i) an authorised representative of a company with respect to filing, registering, presenting, attesting or verifying any documents (including forms, applications and returns) by or on behalf of the company,</p>



	<p>(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant in practice; and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.</p> <p>Explanation – An associate or a fellow of the Institute who is a salaried employee of a chartered accountant in practice or a firm of such chartered accountants or firm consisting of one or more chartered accountants and members of any other professional body having prescribed qualifications shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articled assistants.</p>	<p>(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice, and the words "to be in practice", with their grammatical variations and cognate expressions, shall be construed accordingly.</p> <p>Explanation: A member of the Institute who is a whole-time salaried employee of any person shall not be deemed to be in practice within the meaning of this sub-section.</p>	<p>(ii) a share transfer agent,</p> <p>(iii) an issue house,</p> <p>(iv) a share and stock broker.</p> <p>(v) a secretarial auditor or consultant,</p> <p>(vi) an adviser to a company on management, including any legal or procedural matter falling under the Capital Issues (Control) Act, 1947 (29 of 1947), the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Companies Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956), any of the rules or bye-laws made by a recognised stock exchange, the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Foreign Exchange Regulation Act, 1973, (46 of 1973), or under any other law for the time being in force.</p> <p>(vii) issuing certificates on behalf of, or for the purposes of, a company; or</p> <p>(d) holds himself out to the public as a Company Secretary in practice; or</p> <p>(e) renders professional services or assistance with respect to matters of principle or detail relating to the practice of the profession of Company Secretaries; or</p> <p>(f) renders such other services as, in the opinion of the Council, are or may be rendered by a Company Secretary in practice;</p>
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			and the words "to be in practice" with their grammatical variations and cognate expressions, shall be construed accordingly.
Schedule to Relevant Act	The First Schedule Part I: Professional misconduct in relation to Chartered Accountants in Practice	The First Schedule Part I: Professional misconduct in relation to Cost Accountants in Practice	The First Schedule Part I: Professional misconduct in relation to Company Secretaries in Practice
Clause 2	<p><i>A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-</i></p> <p>(2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India.</p> <p><i>Explanation</i> – In this item, "partner" includes a person residing outside India with whom a chartered accountant in practice has entered into partnership which is not in contravention of item (4) of this Part;</p>	<p><i>A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he-</i></p> <p>(2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India.</p> <p><i>Explanation</i>.—In this item, "partner" includes a person residing outside India with whom a cost accountant in practice has entered into partnership which is not in contravention of item (4) of this Part;</p>	<p><i>A Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he-</i></p> <p>(2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed for the purpose of rendering such professional services from time to time in or outside India.</p> <p><i>Explanation</i>. – In this item, "partner" includes a person residing outside India with whom a Company Secretary in practice has entered into partnership which is not in contravention of item (4) of this Part;</p>
Clause 3	<p>(3) accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute:</p> <p>Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share, commission or brokerage in the fees, with a member of such professional body or other</p>	<p>(3) accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute:</p> <p>Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share, commission or brokerage in the fees, with a member of such professional body or other</p>	<p>(3) accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute:</p> <p>Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share, commission or brokerage in the fees, with a member of such professional body or other</p>



	person having qualifications, as is referred to in item (2) of this Part;	person having qualifications, as is referred to in item (2) of this Part;	person having qualifications, as is referred to in item (2) of this part;
Clause 4	(4) enters into partnership, in or outside India, with any person other than a chartered accountant in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (v) of sub-section (1) of Section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships;	(4) enters into partnership, in or outside India, with any person other than a cost accountant in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (iv) of sub-section (1) of section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships;	(4) enters into partnership, in or outside India, with any person other than a Company Secretary in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (e) of sub-section (1) of section 4 or whose qualifications are recognized by the Central Government or the Council for the purpose of permitting such partnerships;
Clause 5	(5) secures, either through the services of a person who is not an employee of such chartered accountant or who is not his partner or by means which are not open to a chartered accountant, any professional business: Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this Part;	(5) secures, either through the services of a person who is not an employee of such cost accountant or who is not his partner or by means which are not open to a cost accountant, any professional business: Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this Part;	(5) secures, either through the services of a person who is not an employee of such company secretary or who is not his partner or by means which are not open to a Company Secretary, any professional business: Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this Part;
Relevant Regulations	The Chartered Accountants Regulations, 1988	The Cost And Works Accountants Regulations, 1959	The Company Secretaries Regulations, 1982
	Regulation 53A. Other professional bodies	Regulation 111B. Other professional bodies	Regulation 168A. Other Professional bodies
	(1) For the purposes of Items (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be a member of any of the following professional bodies, namely:- (a) The Institute of Company Secretaries of India established under the Companies Act, 1980 (No.56 of 1980);	(1) For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be member of any of the following namely : (a) the Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (XXXVIII of 1949);	(1) For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be member of any of the following, namely :- (a) The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (No.38 of 1949);



	<p>(b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No.23 of 1959);</p> <p>(c) Bar Council of India established under the Advocates Act, 1961 (No.25 of 1961);</p> <p>(d) The Indian Institute of Architects established under the Architects Act, 1972 (No.20 of 1972);</p> <p>(e) The Institute of Actuaries of India established under the Actuaries Act, 2006 (No.35 of 2006).</p> <p>(2) The membership of the professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 shall also be taken into consideration for the purposes of Items (2), (3) and (5) of the Part I of the First Schedule to the Act.</p> <p>(3) For the purposes of Items (2), (3), (4) and (5) of Part I of the First Schedule to the Act, the following shall be the persons qualified in India, namely:-</p> <p>(i) Company Secretary within the meaning of the Company Secretaries Act, 1980;</p> <p>(ii) Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;</p> <p>(iii) Actuary within the meaning of the Actuaries Act, 2006;</p> <p>(iv) Bachelor in Engineering from a University established by law or an Institution recognized by law;</p>	<p>(b) the Institute of Company Secretaries of India established under the Company Secretaries Act, 1980 (No. 56 of 1980);</p> <p>(c) the Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961)</p> <p>(d) the Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972)</p> <p>(e) the Institute of Actuaries of India established under the Actuaries Act, 2006 (No. 35 of 2006)</p> <p>(f) any other professional body or institution whose qualifications relating to cost accountancy are recognized by the Council.</p> <p>(2) For the purposes of Clauses (2), (3) and (5) of Part 1 of the First Schedule to the Act, the following shall be the persons qualified in India, namely :</p> <p>(a) Chartered Accountants within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949);</p> <p>(b) Company Secretary within the meaning of the Company Secretaries Act, 1980 (No. 56 of 1980);</p> <p>(c) Actuary within the meaning of the Actuaries Act, 2006 (No. 35 of 2006);</p> <p>(d) Bachelor in Engineering from a University established by law or an Institution recognized by law;</p> <p>(e) Bachelor in Technology from a University established by law or an institution recognized by law;</p>	<p>(b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No. 23 of 1959);</p> <p>(c) Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961);</p> <p>(d) The Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);</p> <p>(e) The Institute of Actuaries of India established under the Actuaries Act, 2006 (No. 35 of 2006);</p> <p>(f) the membership of the professional bodies or institutions whose qualifications relating to Company Secretaryship are recognized by the Council under Sub-section (2) of Section 38 of the Act.</p> <p>(2) For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, the following shall be the persons qualified in India, namely :-</p> <p>(a) Chartered Accountant within the meaning of the Chartered Accountants Act, 1949;</p> <p>(b) Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;</p> <p>(c) Actuary within the meaning of the Actuaries Act, 2006;</p> <p>(d) Bachelor in Engineering from a University established by law or an institution recognized by law;</p>
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	<p>(v) Bachelor in Technology from a University established by law or an institution recognised by law;</p> <p>(vi) Bachelor in Architecture from a University established by law or an institution recognised by law;</p> <p>(vii) Bachelor in Law from a University established by law or an institution recognised by law;</p> <p>(viii) Master in Business Administration from Universities established by law or technical institutions recognised by All India Council for Technical Education.</p>	<p>(f) Bachelor in Architecture from a University established by law or an institution recognized by law;</p> <p>(g) Bachelor in Law from a University established by law or an institution recognized by law;</p> <p>(h) Master in Business Administration from Universities established by law or technical institutions recognized by All India Council for Technical Education.</p>	<p>(e) Bachelor in Technology from a University established by law or an institution recognized by law;</p> <p>(f) Bachelor in Architecture from a University established by law or an institution recognized by law;</p> <p>(g) Bachelor of Law from a University established by law or an institution recognized by law;</p> <p>(h) Master in Business Administration from Universities established by Law or Technical Institutions recognized by All India Council for Technical Education.</p>
	Regulation 53B. Membership of professional bodies for partnership	Regulation 111C. Membership of professional bodies for partnership	Regulation 168B. Membership of Professional body for Partnership
	<p>(1) For the purposes of entering into partnership under Item (4) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:-</p> <p>(a) Company Secretary, member, The Institute of Company Secretaries of India, established under the Company Secretaries Act, 1980;</p> <p>(b) Cost Accountant, member, The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959;</p> <p>(c) Advocate, member, Bar Council of India established under the Advocates Act, 1961;</p>	<p>(1) For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies namely :—</p> <p>(a) Chartered Accountant, member of the Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (XXXVIII of 1949);</p> <p>(b) Company Secretary, member of the Institute of Company Secretaries of India, established under the Company Secretaries Act, 1980 (No. 56 of 1980);</p> <p>(c) Advocate, member of the Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961);</p>	<p>(1) For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:-</p> <p>(a) The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (No. 38 of 1949);</p> <p>(b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No.23 of 1959);</p> <p>(c) Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961);</p>



	<p>(d) Engineer, member, The Institution of Engineers, or Engineering from a University established by law or an institution recognized by law.</p> <p>(e) Architect, member, The Indian Institute of Architects established under the Architects Act, 1972;</p> <p>(f) Actuary, member, The Institute of Actuaries of India, established under the Actuaries Act, 2006.</p> <p>(2) Professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 of the Act.</p>	<p>(d) Engineer, member of the Institution of Engineers, or Engineering from a University established by law or an institution recognized by law;</p> <p>(e) Architect, member of the Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);</p> <p>(f) Actuary, member of the Institute of Actuaries of India, established under the Actuaries Act, 2006 (No. 35 of 2006);</p> <p>(g) Any other professional body or institution outside India whose qualifications relating to costaccountancy are recognized by the Council under sub-section (2) of Section 38 of the Act.</p>	<p>(d) The Institute of Engineers or Engineering from a University established by law or an institution recognized by law;</p> <p>(e) The Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);</p> <p>(f) The Institute of Actuaries of India established under the Actuaries Act, 2006 (No. 35 of 2006);</p> <p>(g) Professional bodies or institutions outside India whose qualifications relating to Company Secretary recognized by the Council under Sub-section (2) of Section 38 of the Act.</p>
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PROVISIONS OF COMPANIES ACT 2013 REGARDING APPOINTMENT OF CHARTERED ACCOUNTANT, COST ACCOUNTANT, COMPANY SECRETARY FOR CONDUCTING STATUTORY AUDIT, COST AUDIT, SECRETARIAL AUDIT RESPECTIVELY

	Chartered Accountants	Cost Accountants	Company Secretaries
Relevant Definitions given in Section 2 of Companies Act 2013	Section 2(17): "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;	Section 2(28): "Cost Accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;	Section 2(24): "company secretary" or "secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) who is appointed by a company to perform the functions of a company secretary under this Act; Section 2(25): "company secretary in practice" means a company secretary who is deemed to be in practice under sub-section (2) of section 2 of the Company Secretaries Act, 1980 (56 of 1980);
Relevant Provisions for Appointment given in Companies Act 2013	Appointment of chartered accountant as statutory auditor under Sections 139 and 141	Appointment of cost accountant as cost auditor under Section 148	Appointment of company secretary as secretarial auditor under Section 204
	Section 139(1): Subject to the provisions of this Chapter, every company shall, at the first annual general meeting, <u>appoint an individual or a firm as an auditor</u> who shall hold office from the conclusion of that meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting and the manner and procedure of selection of auditors by the members of the company at such meeting shall be such as may be prescribed;	Section 148: Central Government to Specify Audit of Items of Cost in Respect of Certain Companies (1) Notwithstanding anything contained in this Chapter, the Central Government may, by order, in respect of such class of companies engaged in the production of such goods or providing such services as may be prescribed, direct that particulars relating to the utilisation of material or labour or to other items of cost as may be prescribed shall also be included in the books of account kept by that class of companies:	Section 204: Secretarial Audit for Bigger Companies (1) Every listed company and a company belonging to other class of companies as may be prescribed shall annex with its Board's report made in terms of sub-section (3) of section 134, a secretarial audit report, given by a company secretary in practice, in such form as may be prescribed.



	<p>Section 141(1): A person shall be eligible for appointment as an auditor of a company only if he is a chartered accountant:</p> <p>Provided that a firm whereof majority of partners practising in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of a company.</p> <p>Section 141(2): Where a firm including a limited liability partnership is appointed as an auditor of a company, only the partners who are chartered accountants shall be authorised to act and sign on behalf of the firm.</p>	<p>Provided that the Central Government shall, before issuing such order in respect of any class of companies regulated under a special Act, consult the regulatory body constituted or established under such special Act.</p> <p>(2) If the Central Government is of the opinion, that it is necessary to do so, it may, by order, direct that the audit of cost records of class of companies, which are covered under sub-section (1) and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.</p> <p>(3) The audit under sub-section (2) shall be conducted by a Cost Accountant who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed:</p> <p>Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records:</p> <p>Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.</p> <p>Explanation.—For the purposes of this sub-section, the expression "cost auditing standards" mean such standards as are issued by the Institute of Cost Accountants of India, constituted under the Cost and Works Accountants Act, 1959, with the approval of the Central Government.</p>	<p><u>Note: The other class of companies which are required to have secretarial audit have been prescribed in the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014. As per Rule 9 of these Rules:</u></p> <p>(1) For the purposes of sub-section (1) of section 204, the other class of companies shall be as under-</p> <ul style="list-style-type: none">(a) Every public company having a paid-up share capital of fifty crore rupees or more; or(b) Every public company having a turnover of two hundred fifty crore rupees or more; or(c) Every company having outstanding loans or borrowings from banks or public financial institutions of one hundred crore rupees or more.
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		<p>(4) An audit conducted under this section shall be in addition to the audit conducted under section 143.</p> <p><u>Note: The applicability criteria for maintenance of cost records and applicability of cost audit are prescribed in the Companies (Cost Records and Audit) Rules, 2014. Relevant Rules of these Rules are given below.</u></p> <p>Rule 3: Application of Cost Records</p> <p>Under this Rule, a number of industries/sectors have been specified in a Table. The table is divided into "item A- Regulated Sectors" and "item B- Non-Regulated Sectors". The class of companies, which are engaged in the production of the goods or providing services, specified in the abovementioned table and which have an overall turnover from all its products and services of rupees thirty five crore or more during the immediately preceding financial year, are required to maintain cost records for such products or services.</p> <p>Rule 4: Applicability for Cost Audit</p> <p>(1) Every company specified in item (A) of rule 3 shall get its cost records audited in accordance with these rules if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is rupees fifty crore or more and the aggregate turnover of the individual product or products or services</p>	
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		<p>for which cost records are required to be maintained under rule 3 is rupees twenty five crore or more.</p> <p>(2) Every company specified in item (B) of rule 3 shall get its cost records audited in accordance with these rules if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is rupees one hundred crore or more and the aggregate turnover of the individual product or products or service or services for which cost records are required to be maintained under rule 3 is rupees thirty five crore or more.</p> <p>(3) The requirement for cost audit under these rules shall not apply to a company which is covered in rule 3, and-</p> <ul style="list-style-type: none">(i) whose revenue from exports, in foreign exchange, exceeds seventy five per cent of its total revenue; or(ii) Which is operating from a special economic Zone.(iii) which is engaged in generation of electricity for captive consumption through Captive Generating Plant. For this purpose, the term "Captive Generating Plant" shall have the same meaning as assigned in rule 3 of the Electricity Rules, 2005";	
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APPENDIX - 3

RELEVANT TEXT OF VARIOUS ACTS AND REGULATIONS

RELEVANT TEXT OF THE CHARTERED ACCOUNTANTS ACT, 1949

Section 2. Interpretation

(2) A member of the Institute shall be deemed "to be in practice", when individually or in partnership with chartered accountants in practice, or in partnership with members of such other recognised professions as may be prescribed, he, in consideration of remuneration received or to be received, –

- (i) engages himself in the practice of accountancy; or
- (ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts or records, or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or
- (iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or
- (iv) renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant in practice;

and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation – An associate or a fellow of the Institute who is a salaried employee of a chartered accountant in practice or a firm of such chartered accountants or firm consisting of one or more chartered accountants and members of any other professional body having prescribed qualifications shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articled assistants.

2(ca) "firm" shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932, and includes, –

- (i) the limited liability partnership as defined in clause (n) of subsection (1) of section 2 of the Limited Liability Partnership Act, 2008; or
- (ii) the sole proprietorship, registered with the Institute;

Section 7: Members to be known as Chartered Accountants

Every member of the Institute in practice shall, and any other member may, use the designation of a chartered accountant and no member using such designation shall use any other description, whether in addition thereto or in substitution therefor:

Provided that nothing contained in this Section shall be deemed to prohibit any such person from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognized in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as Chartered Accountants.



Section 25: Companies not to engage in accountancy

(1) No company, whether incorporated in India or elsewhere, shall practise as chartered accountants.

Explanation – For the removal of doubts, it is hereby declared that the “company” shall include any limited liability partnership which has company as its partner for the purposes of this section.

(2) If any company contravenes the provisions of sub-section (i), then, without prejudice to any other proceedings which may be taken against the company, every director, manager, secretary and any other officer thereof who is knowingly a party to such contravention shall be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction to five thousand rupees.

Section 27: Maintenance of branch offices

(1) Where a chartered accountant in practice or a firm of such chartered accountants has more than one office in India, each one of such offices shall be in the separate charge of a member of the Institute:

Provided that the Council may in suitable cases exempt any chartered accountant in practice or a firm of such chartered accountants from the operation of this subsection.

(2) Every chartered accountant in practice or a firm of such chartered accountants maintaining more than one office shall send to the Council a list of offices and the persons in charge thereof and shall keep the Council informed of any changes in relation thereto.

Clause 2 of The First Schedule - Part I: Professional misconduct in relation to Chartered Accountants in Practice

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

(2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India.

Explanation – In this item, “partner” includes a person residing outside India with whom a chartered accountant in practice has entered into partnership which is not in contravention of item (4) of this Part;

Clause 3 of The First Schedule - Part I: Professional misconduct in relation to Chartered Accountants in Practice

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

(3) accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute:

Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share commission or brokerage in the fees, with a member of such professional body or other person having qualifications, as is referred to in item (2) of this Part;

Clause 4 of The First Schedule - Part I: Professional misconduct in relation to Chartered Accountants in Practice

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

(4) enters into partnership, in or outside India, with any person other than a chartered accountant in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed,



including a resident who but for his residence abroad would be entitled to be registered as a member under clause (v) of sub-section (1) of Section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships;

Clause 5 of The First Schedule - Part I: Professional misconduct in relation to Chartered Accountants in Practice

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

(5) secures, either through the services of a person who is not an employee of such chartered accountant or who is not his partner or by means which are not open to a chartered accountant, any professional business:

Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this Part;

Clause 2 of The First Schedule - Part IV: Other misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he-

(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

Clause I of The Second Schedule - Part II: Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he-

(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;

RELEVANT TEXT OF THE CHARTERED ACCOUNTANTS REGULATIONS, 1988

Regulation 53A. Other professional bodies

- (1) For the purposes of Items (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be a member of any of the following professional bodies, namely:-
 - (a) The Institute of Company Secretaries of India established under the Companies Act, 1980 (No.56 of 1980);
 - (b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No.23 of 1959);
 - (c) Bar Council of India established under the Advocates Act, 1961 (No.25 of 1961);
 - (d) The Indian Institute of Architects established under the Architects Act, 1972 (No.20 of 1972);
 - (e) The Institute of Actuaries of India established under the Actuaries Act, 2006 (No.35 of 2006).
- (2) The membership of the professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 shall also be taken into consideration for the purposes of Items (2), (3) and (5) of the Part I of the First Schedule to the Act.



(3) For the purposes of Items (2), (3), (4) and (5) of Part I of the First Schedule to the Act, the following shall be the persons qualified in India, namely:-

- (i) Company Secretary within the meaning of the Company Secretaries Act, 1980;
- (ii) Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;
- (iii) Actuary within the meaning of the Actuaries Act, 2006;
- (iv) Bachelor in Engineering from a University established by law or an Institution recognized by law;
- (v) Bachelor in Technology from a University established by law or an institution recognised by law;
- (vi) Bachelor in Architecture from a University established by law or an institution recognised by law;
- (vii) Bachelor in Law from a University established by law or an institution recognised by law;
- (viii) Master in Business Administration from Universities established by law or technical institutions recognised by All India Council for Technical Education.

Regulation 53B. Membership of professional bodies for partnership

(1) For the purposes of entering into partnership under Item (4) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:-

- (a) Company Secretary, member, The Institute of Company Secretaries of India, established under the Company Secretaries Act, 1980;
- (b) Cost Accountant, member, The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959;
- (c) Advocate, member, Bar Council of India established under the Advocates Act, 1961;
- (d) Engineer, member, The Institution of Engineers, or Engineering from a University established by law or an institution recognized by law.
- (e) Architect, member, The Indian Institute of Architects established under the Architects Act, 1972;
- (f) Actuary, member, The Institute of Actuaries of India, established under the Actuaries Act, 2006.

(2) Professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 of the Act.

Regulation 187. Professional address

(1) Every member in practice shall have a professional address in India in his own charge or in charge of another member.

(2) In the case of a member who is an employee of a chartered accountant or a firm of such chartered accountants and is not holding a certificate of practice, the professional address of the employer shall be deemed to be his professional address.

(3) Except in the case of a person enrolled under the proviso to Section 4(1)(v), a member not in practice may specify a place which shall be deemed to be his professional address for the purpose of Section 21 and these Regulations.

(4) The postal address of the professional address shall be intimated to the Council at the time of making the application for membership and any change in the professional address or the postal address shall be communicated to the Council within 30 days of the change.



(5) The Council may remove the name of a member from the Register who has contravened the provisions of this regulation after giving him an opportunity of being heard.

Regulation 190: Register of offices and firms

(1) A chartered accountant in practice or a firm of such chartered accountants shall, before commencement of practice in a trade name or firm name, apply to the Council in the form approved by the Council for approval to use a trade or a firm name:

Provided that a chartered accountant in practice who wishes to practise in his own name need not apply for approval as aforesaid.

(2) (i) A trade/firm name shall be restricted to the name/s of the proprietor/ partners or a name which is already in use.

(ii) A trade/firm name may include the name/s of the member/s as it/ they may appear in the Register of Members in the following manner:—

- (a) the full Surname of the member/s; or
- (b) the full first name of the member/s; or
- (c) the combination of the first name, middle name, the initials and/ or the Surname of the member/s, or any expansion thereof; or
- (d) the initials of the first name and the full Surname of the member/s; or
- (e) the initials of his full name; or
- (f) the full name including the Surname of the member/s; or
- (g) such distinguishing part of the name/s as is indicative of the manner in which he/they is/are commonly known; or
- (h) the combination of names and/or surnames of one or more partners of the firm; or
- (i) permitting the use as a firm/trade name a part of the name of the proprietor or one or more partners.
- (j) A trade/firm name shall not be allowed where a member seeks to use a part of his surname.
- (k) The only suffixes to be allowed in a trade/firm name shall be “& Co.” and “& Associates” or their equivalents. Suffixes like “& Partners”, “& Fellows”, “& others” etc. shall not be allowed.
- (l) A trade/firm name which bears the name of a god/goddess/deity and which has no relationship with the name of member/s as above, shall not be allowed.
- (m) Descriptive trade/firm names shall not be allowed.
- (n) Trade/firm names which smack of publicity shall not be allowed.

Explanation I — The name or surname of the member should normally conform to the name or surname as they appear in the Register of Members. If the member is also known by any other name or Surname, this may be allowed to be used on production of an affidavit or other evidence to the satisfaction of the Secretary.

Explanation II — After various permutations and combinations under the above clause (ii) have been exhausted and the member is not able to get approval of firm/trade name in accordance with the same he may be permitted to adopt or coin a firm/trade name out of the names of his/her family members, provided that such name was



not already registered by some other members. The term “family” for this purpose means husband, wife, father, mother, son and daughter.

- (3) The Council may, at its discretion, refuse to approve a particular trade or firm name (i) if the same or similar or nearly similar name is already used by a chartered accountant in practice or a firm of such chartered accountants and has been entered in the register of offices and firms; or (ii) if that name, in the opinion of the Council, is undesirable.
- (4) The chartered accountant in practice or a firm of such chartered accountants shall within one month of the approval of the trade or firm name, or commencement of practice as the case may be, supply to the Council in the appropriate Form particulars regarding his office or the firm as the case may be.
- (5) With effect from such date as the Council may decide the particulars regarding offices or firms shall also be furnished by a Chartered Accountant in practice or a firm of such Chartered Accountants whose particulars are already entered in the Register of Firms in the appropriate Form as revised by the said Amendment/Regulations.
- (6) The Council shall maintain a register of offices and firms and shall register therein the particulars referred to in sub-regulation (4):

PROVIDED that the Council may refuse to register a trade or firm name which has not been approved under sub-regulation (2).

- (7) Every time there is a change in the particulars referred to in sub-regulation (4), the member or the firm, as the case may be, shall within one month communicate it to the Council.
- (8) Where the same trade or firm name has been registered in the past in the register of offices and firms in the case of two or more members or firms, the Council may direct the member or the firm, as the case may be, other than one whose name was registered first in the register of offices and firms, to alter the name in such manner as the Council may consider proper and inform the Council of such alteration within six months of the issue of the direction.
- (9) (i) No member shall practise under a trade or firm name which has not been approved under sub-regulation (2).
(ii) No member shall practise under a trade or firm name in respect of which a direction has been issued under sub-regulation (8) after the expiry of six months from the date of issue of the direction.
- (10) Nothing contained in this regulation shall apply to firms of chartered accountants in practice
 - (i) with identical names, if at least one of the partners of the firm is common; or
 - (ii) with similar or nearly similar names if they are based on the names of any one or more partners of the firm.
- (11) The Executive Committee may, in its discretion, condone the delay in filing the particulars under sub-regulation (4) or sub-regulation (7) in appropriate cases.

Regulation 190A. Chartered Accountant in practice not to engage in any other business or occupation

A chartered accountant in practice shall not engage in any business or occupation other than the profession of accountancy, except with the permission granted in accordance with a resolution of the Council.



Regulation 191. Part time employments a Chartered Accountant in practice may accept

Notwithstanding anything contained in Regulation 190A but subject to the control of the Council, a chartered accountant in practice may act as a liquidator, trustee, executor, administrator, arbitrator, receiver, adviser or representative for costing, financial or taxation matter, or may take up an appointment that may be made by the Central Government or a State Government or a court of law or any other legal authority or may act as a Secretary in his professional capacity, provided his employment is not on a salary-cum-full-time basis.

Regulation 192: Restriction on fees

No chartered accountant in practice shall charge or offer to charge, accept or offer to accept, in respect of any professional work, fees which are based on a percentage of profits, or which are contingent upon the findings, or results of such work:

Provided that:—

- (a) in the case of a receiver or a liquidator, the fees may be based on a percentage of the realisation or disbursement of the assets;
- (b) in the case of an auditor of a co-operative society, the fees may be based on a percentage of the paid up capital or the working capital or the gross or net income or profits;
- (c) in the case of a valuer for the purposes of direct taxes and duties, the fees may be based on a percentage of the value of the property valued.
- (d) in the case of certain management consultancy services as may be decided by the resolution of the Council from time to time, the fees may be based on percentage basis which may be contingent upon the findings, or results of such work;
- (e) in the case of certain fund raising services, the fees may be based on a percentage of the fund raised;
- (f) in the case of debt recovery services, the fees may be based on a percentage of the debt recovered;
- (g) in the case of services related to cost optimisation, the fees may be based on a percentage of the benefit derived; and
- (h) any other service or audit as may be decided by the Council.]

RELEVANT TEXT OF THE COMPANY SECRETARIES ACT, 1980

Section 2. Definitions and interpretation

- (1) In this Act, unless the context otherwise requires—
 - (a) “Associate” means an Associate Member of the Institute;
 - (aa) “Authority” means the Appellate Authority referred to in section 22A;]
 - (aaa) “Board” means the Quality Review Board constituted under section 29A;]
 - (b) “Companies Act” means the Companies Act, 1956 (1 of 1956);
 - (c) “Company Secretary” means a person who is a member of the Institute;
 - (d) “Council” means the Council of the Institute constituted under section 9;



- (e) "dissolved company" means the Institute of Company Secretaries of India registered under the Companies Act;
- (f) "Fellow" means a Fellow Member of the Institute;
- (fa) "firm" shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932, and includes,-
 - (i) the limited liability partnership as defined in clause (n) of sub-section (1) of Section 2 of the Limited Liability Partnership Act, 2008; or
 - (ii) the sole proprietorship, registered with the Institute.
- (g) "Institute" means the Institute of Company Secretaries of India constituted under this Act;
- (ga) "notification" means a notification published in the Official Gazette;
- (gb) "partner" shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 or in clause (q) of sub-section (l) of Section 2 of the Limited Liability Partnership Act, 2008, as the case may be;
- (gc) "partnership" means-(A) a partnership as defined in section 4 of the Indian Partnership Act, 1932; or (B) a limited liability partnership which has no company as its partner;
- (h) "prescribed" means prescribed by regulations made under this Act;
- (i) "President" means the President of the Council;
- (j) "Register" means the Register of members of the Institute maintained under this Act;
- (jj) "sole proprietorship" means an individual who engages himself in the practice of the profession of the company secretaries or offers to perform services referred to in clauses (b) to (f) of sub-section (2);
- (ja) "specified" means specified by rules made by the Central Government under this Act;
- (jb) "Tribunal" means a Tribunal established under subsection (1) of section 10B;
- (k) "Vice-President" means the Vice-President of the Council;
- (l) "year" means the period commencing on the 1st day of April of any year and ending on the 31st day of March of the succeeding year;
- (m) words and expressions used herein and not defined but defined in the Companies Act shall have the meanings respectively assigned to them in that Act.

(2) Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed, he, in consideration of remuneration received or to be received,—

- (a) engages himself in the practice of the profession of Company Secretaries to, or in relation to, any company; or
- (b) offers to perform or performs services in relation to the promotion, forming, incorporation, amalgamation, reconstruction, reorganization or winding up of companies; or



- (c) offers to perform or performs such services as may be performed by—
 - (i) an authorised representative of a company with respect to filing, registering, presenting, attesting or verifying any documents (including forms, applications and returns) by or on behalf of the company,
 - (ii) a share transfer agent,
 - (iii) an issue house,
 - (iv) a share and stock broker.
 - (v) a secretarial auditor or consultant,
 - (vi) an adviser to a company on management, including any legal or procedural matter falling under the Capital Issues (Control) Act, 1947 (29 of 1947), the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Companies Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956), any of the rules or bye-laws made by a recognised stock exchange, the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Foreign Exchange Regulation Act, 1973, (46 of 1973), or under any other law for the time being in force.
 - (vii) issuing certificates on behalf of, or for the purposes of, a company; or
- (d) holds himself out to the public as a Company Secretary in practice; or
- (e) renders professional services or assistance with respect to matters of principle or detail relating to the practice of the profession of Company Secretaries; or
- (f) renders such other services as, in the opinion of the Council, are or may be rendered by a Company Secretary in practice;

and the words “to be in practice” with their grammatical variations and cognate expressions, shall be construed accordingly.

Clause 2 of First Schedule - Part I: Professional misconduct in relation to Company Secretaries in Practice

A Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he-

(2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed for the purpose of rendering such professional services from time to time in or outside India.

Explanation. – In this item, “partner” includes a person residing outside India with whom a Company Secretary in practice has entered into partnership which is not in contravention of item (4) of this Part;

Clause 3 of First Schedule - Part I: Professional misconduct in relation to Company Secretaries in Practice

A Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he-

(3) accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute:



Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share commission or brokerage in the fees, with a member of such professional body or other person having qualifications, as is referred to in item (2) of this part;

Clause 4 of First Schedule - Part I: Professional misconduct in relation to Company Secretaries in Practice

A Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he-

(4) enters into partnership, in or outside India, with any person other than a Company Secretary in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (e) of sub-section (1) of section 4 or whose qualifications are recognized by the Central Government or the Council for the purpose of permitting such partnerships;

Clause 5 of First Schedule - Part I: Professional misconduct in relation to Company Secretaries in Practice

A Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he-

(5) secures, either through the services of a person who is not an employee of such company secretary or who is not his partner or by means which are not open to a Company Secretary, any professional business:

Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this Part;

Clause 2 of First Schedule - Part IV: Other misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if –

(2) in the opinion of the Council, he brings disrepute to the profession or the institute as a result of his action whether or not related to his professional work.

Clause 1 of Second Schedule - Part II: Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—

(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;

RELEVANT TEXT OF THE COMPANY SECRETARIES REGULATIONS, 1982

Regulation 165A: Multidisciplinary Firm.

A member in practice may form multi-disciplinary firm with the member of other professional bodies as prescribed under regulations 168A and 168B in accordance with the regulating guidelines of the Council for functioning and regulation of such multidisciplinary firm.

Regulation 168A. Other Professional bodies

(1) For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be member of any of the following, namely :-



- (a) The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (No.38 of 1949);
- (b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No. 23 of 1959);
- (c) Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961);
- (d) The Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);
- (e) The Institute of Actuaries of India established under the Actuaries Act, 2006 (No. 35 of 2006);
- (f) the membership of the professional bodies or institutions whose qualifications relating to Company Secretaryship are recognized by the Council under Sub-section (2) of Section 38 of the Act.

(2) For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, the following shall be the persons qualified in India, namely :-

- (a) Chartered Accountant within the meaning of the Chartered Accountants Act, 1949;
- (b) Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;
- (c) Actuary within the meaning of the Actuaries Act, 2006;
- (d) Bachelor in Engineering from a University established by law or an institution recognized by law;
- (e) Bachelor in Technology from a University established by law or an institution recognized by law;
- (f) Bachelor in Architecture from a University established by law or an institution recognized by law;
- (g) Bachelor of Law from a University established by law or an institution recognized by law;
- (h) Master in Business Administration from Universities established by Law or Technical Institutions recognized by All India Council for Technical Education.

Regulation 168B. Membership of Professional body for Partnership

(1) For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:-

- (a) The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (No. 38 of 1949);
- (b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No.23 of 1959);
- (c) Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961);
- (d) The Institute of Engineers or Engineering from a University established by law or an institution recognized by law;
- (e) The Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);
- (f) The Institute of Actuaries of India established under the Actuaries Act, 2006 (No. 35 of 2006);
- (g) Professional bodies or institutions outside India whose qualifications relating to Company Secretary recognized by the Council under Sub-section (2) of Section 38 of the Act.



RELEVANT TEXT OF THE COST AND WORKS ACCOUNTANTS ACT, 1959

Section 2. Definitions and interpretation

- (1) In this Act, unless the context otherwise requires:-
 - (b) "cost accountant" means a person who is a member of the Institute;
- (2) Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed he, in consideration of remuneration received or to be received,—
 - (i) engages himself in the practice of cost accountancy; or
 - (ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or certification or auditing of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or
 - (iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or
 - (iv) renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice, and the words "to be in practice", with their grammatical variations and cognate expressions, shall be construed accordingly.

Explanation: A member of the Institute who is a whole-time salaried employee of any person shall not be deemed to be in practice within the meaning of this sub-section.

Clause 2 of The First Schedule - Part I: Professional misconduct in relation to Cost Accountants in Practice

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he-

- (2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India.

Explanation.—In this item, "partner" includes a person residing outside India with whom a cost accountant in practice has entered into partnership which is not in contravention of item (4) of this Part;

Clause 3 of The First Schedule - Part I: Professional misconduct in relation to Cost Accountants in Practice

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he-

- (3) accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute:

Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share, commission or brokerage in the fees, with a member of such professional body or other person having qualifications, as is referred to in item (2) of this Part;



Clause 4 of The First Schedule - Part I: Professional misconduct in relation to Cost Accountants in Practice

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he-

(4) enters into partnership, in or outside India, with any person other than a cost accountant in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (iv) of sub-section (1) of section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships;

Clause 5 of The First Schedule - Part I: Professional misconduct in relation to Cost Accountants in Practice

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he-

(5) secures, either through the services of a person who is not an employee of such cost accountant or who is not his partner or by means which are not open to a cost accountant, any professional business:

Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this Part;

Clause 2 of The First Schedule - Part IV: Other Misconduct in Relation to Members of The Institute Generally

A member of the institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if—

- (1) he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months;
- (2) in the opinion of the Council he brings disrepute to the profession or the institute as a result of his action whether or not related to his professional work.

Clause 1 of The Second Schedule - Part II: Professional Misconduct in Relation to Members of The Institute Generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he-

- (1) contravenes any of the provisions of this Act or the regulations made there-under or any guidelines issued by the Council;

RELEVANT TEXT OF THE COST AND WORKS ACCOUNTANTS REGULATIONS, 1959

Regulation 111B. Other professional bodies

- (1) For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be member of any of the following namely :
 - (a) the Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (XXXVIII of 1949);
 - (b) the Institute of Company Secretaries of India established under the Company Secretaries Act, 1980 (No. 56 of 1980);
 - (c) the Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961)



- (d) the Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972)
- (e) the Institute of Actuaries of India established under the Actuaries Act, 2006 (No. 35 of 2006)
- (f) any other professional body or institution whose qualifications relating to cost accountancy are recognized by the Council.

(2) For the purposes of Clauses (2), (3) and (5) of Part 1 of the First Schedule to the Act, the following shall be the persons qualified in India, namely :

- (a) Chartered Accountants within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949);
- (b) Company Secretary within the meaning of the Company Secretaries Act, 1980 (No. 56 of 1980);
- (c) Actuary within the meaning of the Actuaries Act, 2006 (No. 35 of 2006);
- (d) Bachelor in Engineering from a University established by law or an Institution recognized by law;
- (e) Bachelor in Technology from a University established by law or an institution recognized by law;
- (f) Bachelor in Architecture from a University established by law or an institution recognized by law;
- (g) Bachelor in Law from a University established by law or an institution recognized by law;
- (h) Master in Business Administration from Universities established by law or technical institutions recognized by All India Council for Technical Education.

Regulation 111C. Membership of professional bodies for partnership

(1) For the purposes of entering into partnership under clauses (4) and (5) of Part 1 of the First Schedule to the Act, a person shall be a member of any of the following professional bodies namely :—

- (a) Chartered Accountant, member of the Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (XXXVIII of 1949);
- (b) Company Secretary, member of the Institute of Company Secretaries of India, established under the Company Secretaries Act, 1980 (No. 56 of 1980);
- (c) Advocate, member of the Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961);
- (d) Engineer, member of the Institution of Engineers, or Engineering from a University established by law or an institution recognized by law;
- (e) Architect, member of the Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);
- (f) Actuary, member of the Institute of Actuaries of India, established under the Actuaries Act, 2006 (No. 35 of 2006);
- (g) Any other professional body or institution outside India whose qualifications relating to cost accountancy are recognized by the Council under sub-section (2) of Section 38 of the Act.



RELEVANT TEXT OF THE ADVOCATES ACT, 1961

2. **Definitions.**— (1) In this Act, unless the context otherwise requires,—

- (a) “advocate” means an advocate entered in any roll under the provisions of this Act;

RELEVANT TEXT OF THE ARCHITECTS ACT, 1972

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

- (a) “architect” means a person whose name is for the time being entered in the register;
- (b) “Council” means the Council of Architecture constituted under section 3;
- (c) “Indian Institute of Architects” means the Indian Institute of Architects registered under the Societies Registration Act, 1860 (21 of 1860);
- (d) “recognised qualification” means any qualification in architecture for the time being included in the Schedule or notified under section 15;
- (e) “register” means the register of architects maintained under section 23;
- (f) “regulation” means a regulation made under this Act by the Council;
- (g) “rule” means a rule made under this Act by the Central Government.

RELEVANT TEXT OF THE ACTUARIES ACT, 2006

2. **Definitions. - (1) In this Act, unless the context otherwise requires,—**

2(1)(h) “Institute” means the Institute of Actuaries of India constituted under section 3;

2(1)(i) “member” means an individual whose name appears in the register of members maintained by the Institute;

(2) Save as otherwise provided in this Act, a member of the Institute shall be deemed “to be in practice” when individually or in partnership with Actuaries in practice as a member or an employee of a company, he, whether or not in consideration of remuneration received or to be received,—

- (i) engages himself in actuarial profession; or
- (ii) offers to perform or performs services involving the application of actuarial techniques in the fields of insurance, pension, investment, finance and management; or
- (iii) renders such other services as, in the opinion of the Council, are or may be rendered by an actuary in practice; or
- (iv) is in employment of a person engaged in one or more of the activities mentioned in clauses (i), (ii) and (iii) above,

and the words “to be in practice” with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—For the purposes of this sub-section, the expression “company” includes a public financial institution as defined in section 4A of the Companies Act, 1956 (1 of 1956).



PART I of Schedule to the Act

Professional misconduct in relation to members of the Institute in practice

An Actuary in practice shall be deemed to be guilty of professional misconduct, if he—

- (1) allows any person to practice in his name as an actuary unless such person is also an actuary in practice and is in partnership with or employed by himself; or
- (2) pays by way of remuneration to an employee, pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner; or
- (3) enters into partnership with any person other than an Actuary in practice or a person resident outside India who but for his residence abroad would be entitled to be admitted as a member under clause (c) of sub-section (1) of section 6 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnership, provided the Actuary shares in the fees or profits of the business of the partnership both within and outside of India; or
- (4) secures either through the services of a person who is not an employee of such Actuary or who is not qualified to be his partner or by means which are not open to an Actuary, any professional business; or
- (5) accepts an assignment as Actuary previously held by another Actuary without first communicating with him in writing; or
- (6) charges or offers to charge, accepts or offers to accept in respect of any professional employment fees which are based on a percentage of profit or which are contingent upon the findings or results of such employment, except as permitted under any regulation made under this Act; or
- (7) engages in any business or occupation other than the profession of Actuaries unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle an Actuary from being a director of a company; or

- (8) accepts a position as an actuary previously held by some other Actuary in practice in such conditions as to constitute undercutting; or
- (9) allows a person not being a member of the Institute in practice, or a member not being his partner to sign on his behalf or on behalf of his firm, any valuation report or financial statement; or
- (10) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force; or
- (11) certifies or submits in his name, or in the name of his firm, a valuation report or a financial statement unless the examination of such statement and the related records has been made by him or by a partner or an employee in his firm or by another Actuary in practice; or
- (12) expresses his opinion or valuation reports or financial statements of any business or any enterprise in which he, his firm, or a partner in his firm has a substantial interest, unless he has disclosed the interest also in his report; or
- (13) fails to disclose a material fact known to him in a valuation report or a financial statement, but disclosures of which is necessary to make the valuation report or the financial statement not misleading where he is concerned with such valuation report or the financial statement in a professional capacity; or



- (14) fails to report a material misstatement known to him to appear in a valuation report or financial statement with which he is concerned in a professional capacity; or
- (15) is grossly negligent in the conduct of his professional duties; or
- (16) fails to obtain sufficient information to warrant the formation of an opinion in regard to any matter contained in any valuation report or financial statement prepared by him or on his behalf; or
- (17) fails to invite attention to any material departure from the generally accepted procedure or professional work applicable to the circumstances, in any valuation report or financial statement prepared by him or on his behalf.

Clause 4 of Part III of Schedule to the Act

Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—

- (4) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council under clause (i) of sub-section (2) of section 19; or



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New Delhi