

[PUBLISHED IN GAZETTE OF INDIA (EXTRAORDINARY) PART
III SECTION 4 DATED 5TH MAY, 2008]

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

NOTIFICATION

New Delhi, dated 5th May, 2008

No.1-CA(7)/116/2008.- The following draft of certain regulations further to amend the Chartered Accountants Regulations, 1988, which the Council of the Institute of Chartered Accountants of India proposes to make, is hereby published, as required by sub-section (3) of section 30 of the Chartered Accountants Act, 1949 (38 of 1949) for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the expiry of period of forty-five days from the date on which the copies of the Gazette of India in which these draft regulations are published are made available to the public;

Any person desiring to make any objection or suggestion in respect of the said draft regulations, may forward the same for consideration by the Council within the said period to the Secretary, the Institute of Chartered Accountants of India, "ICAI Bhawan", Indraprastha Marg, New Delhi – 110 002;

Any objection or suggestion which may be received from any person with respect to the said draft before the expiry of the said period will be taken into consideration by the said Council.

Draft Regulations

1. (1) These regulations may be called the Chartered Accountants (Amendment) Regulations, 2008.

(2) They shall come into force from the date of publication of final notification.

2. In the Chartered Accountants Regulations, 1988,-

(a) after regulation 3, the following regulation shall be inserted, namely:-

"3A. List of members — The list of members of the Institute as on the 1st day of April each year published, under sub-section (3) of section 19, may be sent to any member, on his request and on his making payment at the following rates, -

(i)	Western Region	– Rupees 500/- per copy
(ii)	Southern Region	– Rupees 500/- per copy
(iii)	Eastern Region	– Rupees 300/- per copy
(iv)	Central Region	– Rupees 400/- per copy
(v)	Northern Region	– Rupees 500/- per copy
(vi)	All India	– Rupees 750/- per copy

- (b) in regulation 5, in sub-regulation (1),
- (i) in clause (a), for the words, "the fee prescribed in these regulations", the words, "such fee as may be determined by the Council under sub-section (3) of section 4", shall be substituted.
 - (ii) in clause (b), for the words, "the prescribed entrance fee", the words, "such fee as may be determined by the Council under sub-section (3) of section 5" shall be substituted:

Provided that an associate on being admitted as a fellow in the course of the year shall pay, for that year, only the differential amount.";

- (c) for regulation 6, the following regulation shall be substituted, namely:-

"6. Fees

- (1) (a) The annual membership fee shall become due on the first day of April in each year.
- (b) Every member shall pay such annual membership fee as may be determined by the Council under sub-section (4) of section 19.
- (2) (a) The annual fee for certificate of practice shall become due on the first day of April in each year.
- (b) Every member in practice shall pay such annual certificate of practice fee, as may be determined by the Council under sub-section (2) of section 6.
- (3) A member seeking restoration of his membership shall pay, such additional fee, as may be determined by the Council under sub-section (3) of section 20.";

- (d) in regulation 10, for sub-regulations (1) and (2), the following shall be substituted, namely:-

"(1) A certificate of practice issued under sub-section (1) of section 6 shall be liable for cancellation, if -

- (i) the name of the holder of the certificate is removed from the Register under sub-sections (1) and (2) of section 20; or
 - (ii) the Council is satisfied, after giving an opportunity of being heard to the person concerned, that such certificate was issued on the basis of incorrect, misleading or false information, or by mistake or inadvertence; or
 - (iii) a member has ceased to practise; or
 - (iv) a member has not paid annual fee for certificate of practice till 30th day of September of the relevant year.
- (2) The cancellation of a certificate shall be effective:-

- (a) in a case falling under clause (i) of sub-regulation (1), on the date on which and during the period for which the name of the holder of the certificate was removed from the Register;
- (b) in a case falling under clause (iv) of sub-regulation (1), from the 15th day following the date of issue of notice by the Secretary on or after the 1st day of October; and
- (c) in any other case from such date and for such period, as may be decided by the Council.”;

(e) for regulation 11, the following regulation shall be substituted, namely: -

“11. Restoration of certificate of practice

The Council may, on an application made in the approved Form and on payment of such fee, as may be determined by the Council under sub-section (3) of section 20, restore the certificate of practice with effect from the date on which it was cancelled, to a member whose certificate has been cancelled due to non-payment of the annual fee for the certificate of practice and whose application, complete in all respects, together with the fee, is received by the Secretary before the expiry of the relevant year.”;

(f) in regulations 12, 13, 14, 15, 16 and 17, after the headings, the following words in brackets shall be inserted, namely:--

“[Applicable to a complaint or information pending before the Council or any inquiry initiated by the Disciplinary Committee or any reference or appeal made to a High Court prior to 17.11.2006]” ;

(g) after regulation 17, the following regulation shall be inserted, namely: -

“17A. Fee and procedure for investigation of a complaint or information to be followed by the Director (Discipline), Disciplinary Directorate and procedure for inquiry by the Disciplinary Committee.

[Applicable to a complaint or information received on or after 17.11.2006]

(1) Every complaint, other than a complaint filed by or on behalf of the Central Government or any State Government or any statutory authority, shall be accompanied by a fee of Rs.2,500/-;

(2) Each such complaint or information shall be dealt with in accordance with the procedure specified in the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.”;

(h) for regulation 19, the following regulation shall be substituted, namely: -

“19. Restoration to membership

(1) The Council may, on an application in the appropriate Form, received in this behalf from a member whose name has been removed from the Register under clause (c) of sub-section (1) of section 20, restore his name, if he is otherwise

eligible to such membership, on his paying the arrears of annual membership fee, entrance fee and additional fee determined by the Council under the Act.

(2) The restoration under sub-regulation (1) shall be with effect from the date on which the application and fee are received:

Provided that where such an application for restoration, complete in all respects, is received within the same year in which the name was removed, the Council may restore the name on his paying the annual membership fee due for that year, entrance fee and the additional fee for restoration, with effect from the date on which it was removed from the Register:

Provided further that the restoration of a member's name which was removed under the orders of the Board of Discipline or the Disciplinary Committee or the Appellate Authority or the High Court shall be effected only in accordance with such orders.";

(i) after regulation 53, the following regulations shall be inserted, namely:-

"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 (No.56 of 1980);
- (ii) Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 (No.23 of 1959) ;
- (iii) Actuary within the meaning of the Actuaries Act, 2006 (No.35 of 2006);

- (iv) Bachelor in Engineering from a University established by law or an Institution recognised 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.

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 (No.56 of 1980);
- (b) Cost Accountant, member, The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No.23 of 1959);
- (c) Advocate, member, Bar Council of India established under the Advocates Act, 1961 (No.25 of 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 (No.20 of 1972)
- (f) Actuary, member, The Institute of Actuaries of India, established under the Actuaries Act, 2006 (No.35 of 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.”;

- (j) Regulations 82 to 126 shall be omitted;
- (k) in regulation 137, in sub-regulation (9), for the words “such other persons belonging to the region as may be co-opted by the Regional Council, not exceeding two-thirds of the members of the committee, so however, that at least one-half of such co-opted persons shall be members of the Institute” the words “such other members belonging to the region as may be co-opted by the Regional Council, not exceeding one-third of the members elected to the committee as above” shall be substituted.

(l) After regulation 174, the following shall be inserted, namely:-

“174A. Committees of the Council

The Standing Committees constituted by the Council under section 17 shall at all times function under the control, direction and supervision of the Council.”

(m) for regulation 175, the following regulation shall be substituted, namely :-

“175. Executive Committee

(1) The Executive Committee shall perform the following functions, namely:—

- (a) enrolment of members with or without certificate of practice, admission of fellows, removal and restoration of names of members, cancellation of certificate of practice, prosecution of members on the findings of the Council, granting exemption to chartered accountants in practice or firms of such chartered accountants from the operation of sub-section (1) of section 27 and publication of the list of members;
- (b) grant of permission to a chartered accountant in practice to engage in any business or occupation other than the profession of accountancy in accordance with, and subject to, the restrictions specified in this behalf by the Council;
- (c) condone the delay in supplying requisite information under regulation 190;
- (d) maintenance of the Register of articled assistants and Register of audit assistants and all other statutory registers which are prescribed by the Act or these regulations;
- (e) custody of the property, assets and funds of the Institute;
- (f) maintenance of office of the Council and for this purpose the Executive Committee may employ, suspend, discharge or re-employ the necessary staff on such terms and conditions as it may deem fit;
- (g) according approval, on recommendation of Finance Committee, to the likely expenditure upto twenty percent in excess of the estimates previously sanctioned by the Council in the respective heads of the annual budget:

Provided that where the Executive Committee does not agree with the recommendation of the Finance Committee, the matter shall be decided by the Council.

(2) Except as otherwise provided by these regulations, the Executive Committee shall exercise all the functions and powers of the Council in relation to articled assistants and audit assistants, except those contained in regulations 44, 67 and 80.

(3) The Council shall have the power to review any decision taken by the Executive Committee in the performance of the functions assigned to it.”

(n) after regulation 176, the following regulation shall be inserted, namely: -

“176A. Finance Committee

(1) The Finance Committee shall control, implement and supervise the activities related with and incidental to the following areas, namely: -

- (a) maintenance of true and correct accounts of all the receipts and payments on behalf of the Council and the matters in respect of which such receipts and payments take place and of all the property, securities, debts, funds and liabilities of the Institute;
- (b) formulation of annual budget of the Institute and presenting it to the Council for approval, after obtaining the recommendation of the Executive Committee;
- (c) control of funds of the Institute;
- (d) investment of the funds of the Institute in securities and to vary such investments from time to time subject to the guidelines approved by the Council;
- (e) disbursements from the funds of the Institute for expenditure, both revenue and capital, based on the estimates previously sanctioned by the Council:

Provided that expenditure in excess of the estimates previously sanctioned by the Council may be incurred with the recommendation of the Executive Committee, wherever considered expedient, but such excess expenditure shall be brought to the notice of the Council at its next meeting;

- (f) making recommendation to the Executive Committee for sanction of likely expenditure upto twenty percent in excess of the estimates previously sanctioned by the Council for the respective heads of the annual budget.

(2) The Council shall have the power to review any decision taken by the Finance Committee in the performance of the functions assigned to it.

(o) for regulation 194, the following regulation shall be substituted, namely: -

“194. Maintenance of accounts

(1) It shall be the duty of the Secretary to cause to maintain proper books of accounts with respect to-

- (a) all sums of money received and expended by the Institute and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods;
- (c) all the assets and liabilities of the Institute.

(2) The annual accounts of the Council shall be prepared for every year. Such annual accounts shall comprise of the Balance Sheet of the Institute, Income

and Expenditure Account of the Institute comprising the surplus or deficit of the Institute for that year, and Cash Flow Statement for that year.”;

(p) for regulation 197, the following regulation shall be substituted, namely: -

“197. Comparison of actual income and expenditure with budget estimates

(1) The Council shall approve the budget prior to the commencement of each financial year indicating expenditure proposed to be incurred and anticipated revenues for the forthcoming year. Such a budget apart from the other things shall separately distinguish capital items and the revenue items.

(2) The budget for the capital items shall provide proposed expenditure apart from the other items on land, building, capital equipments, books and library.

(3) The budget for revenue items should provide anticipated income and proposed expenditure for the forthcoming year in relation to, apart from the other items, in respect of distance education, examination, services to members and salary and establishment.

(4) The budget so approved may be revised during the year to incorporate the expected changes.

(5) The auditors of the Council shall also compare the actual income and expenditure with the budget estimates approved by the Council and submit a report to the Council on the material departures.”

File No. 1-CA(7)/116/2008

Sd/-
Dr. Ashok Haldia
Secretary

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 7th October, 1989
- (ii) Notification No.1-CA(7)/10/90 published in the Gazette of India dated 19th January,1991
- (iii) Notification No.1-CA(7)/11/90 published in the Gazette of India dated 19th January,1991
- (iv) Notification No.1-CA(7)/12/91 published in the Gazette of India dated 23rd February,1991
- (v) Notification No.1-CA(7)/13/90 published in the Gazette of India dated 2nd February,1991

- (vi) Notification No.1-CA(7)/19/92 published in the Gazette of India, dated 7th March, 1992.
- (vii) Notification No.1-CA(7)/28/95 published in the Gazette of India dated 1st September,1995
- (viii) Notification No. 1-CA(7)/30/95 published in the Gazette of India, Extraordinary dated 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 26th February, 2000
- (xi) Notification No.1-CA(7)/45/99 published in the Gazette of India, dated 26th February, 2000.
- (xii) Notification No.1-CA(7)/51/2000 published in the Gazette of India, Extraordinary, dated 17th August, 2001.
- (xiii) Notification No.1-CA(7)/59/2001 published in the Gazette of India, Extraordinary dated 28th September, 2001
- (xiv) Notification No.1-CA(7)/64/2002 published in the Gazette of India, Extraordinary dated 31st March, 2003
- (xv) Notification No.1-CA(7)/64A/2003 published in the Gazette of India, Extraordinary dated 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, weekly dated 17th June, 2006
- (xviii) Notification No. 1-CA(7)/92/2006 published in the Gazette of India, Extraordinary dated 13th September, 2006
- (xix) Notification No. 1-CA(7)/102/2007(E) published in the Gazette of India, Extraordinary dated 17th August, 2007

Copies forwarded to :-

1. All Members of the Council.
2. All Regional Councils and their branches.
3. All Students' Associations and their branches.
4. The Secretary to the Government of India, Ministry of Company Affairs, Shastri Bhawan, New Delhi.
5. All officers and sections of the Institute.
6. Journal Section for publication in the forthcoming issue of the Journal – 4 copies.
- 7.(a) The Chief Secretaries of All State Governments (except Bihar, Punjab, West Bengal) and all Union Territories.
- (b) The Secretary, Finance Department, Government of Bihar, Patna.

- (c) The Secretary, Industries Department Government of Punjab, Chandigarh (3 copies)
- (d) The Secretary, Finance Department, Government of Rajasthan, Jaipur (2 copies)
- (e) The Secretary, Finance Department, Government of Kerala, Tiruvananthapuram (2 copies)

With reference to letter no.S(III)/L/15/PA dated 7th July, 1958 of the Department of Parliamentary Affairs, Government of India for publication in the official State Gazettes.

- 8. All Decentralised offices.
- 9. EDP Section for hosting in Institute's WEBSITE/INTRANET.

(T. Karthikeyan)
Director