

# Salient Features Of The Amendments\* Made Through The Chartered Accountants (Amendment) Act, 2006

The Chartered Accountants Act, 1949 (No.38 of 1949) came into force on the 1st day of July 1949. Later, in the year 1959, certain amendments were made therein through the Chartered Accountants (Amendment) Act, 1959 (No.15 of 1959) (hereinafter referred to as the "Parent Act"). The amendments so made did not alter the basic scheme/structure of the Statute in any manner, whatsoever.

Thereafter, and more particularly after the year 1990, initiatives were taken for bringing in amendments in the Parent Act, in keeping with the liberalization policy pursued by the Central Government and having regard to difficulties/problems faced by the Institute at the relevant times in carrying out the various provisions of the Parent Act. As such, after about 47 years, extensive changes have been made in the Parent Act through the Chartered Accountants (Amendment) Act, 2006 (No.9 of 2006) which have been notified by the Central Government in the Gazette of India (Extra Ordinary) dated 23rd March, 2006 (hereinafter referred to as the "Amendment Act, 2006").

It is pertinent to mention here that a Bill, namely, the Chartered Accountants (Amendment) Bill, 2003 further to amend the Parent Act, was initially brought before the Rajya Sabha in December 2003 and after extensive discussions at various levels, the Chartered Accountants (Amendment) Bill, 2005 was then introduced in the Rajya Sabha on 13th December, 2005. Later, the Bill was debated in the Lok Sabha on 23rd December, 2005. After compliance with certain formalities, the Chartered Accountants (Amendment) Act, 2006 has now been notified, as aforementioned.

The salient features of the amendments made through the Amendment Act, 2006 are as follows:-

## Section 2: Interpretation

- Definition of certain terms used in the Amendment Act, 2006 inserted.
- The nomenclatures "articled clerks" and "audit clerks" changed as "articled assistants" and "audit assistants" respectively.

## Section 3: Incorporation of the Institute

No change

## Section 4: Entry of names in the Register

## Section 5: Fellows and Associates

## Section 6: Certificate of Practice

## Section 19: Register; and

## Section 20: Removal from the Register

- The Council empowered to determine and levy certain types of fees, on its own, up to the respective limit/ceiling fixed for the purpose.
- One more layer of upper limit/ceiling fixed and the Central Government empowered to accord permission to fix respective fees up to that limit/ceiling against the request of the Council.

## Section 6: Certificate of Practice

- The Council specifically empowered to cancel the Certificate of Practice earlier issued by it.

## Section 7: Members to be known as Chartered Accountants

## Section 8: Disabilities

No change

## Section 9: Constitution of the Council of the Institute

- The Council to be composed of not more than 32 elected members and 8 nominated members.
- Rules to be framed by the Central Government to specify the manner in which the election to the Council be conducted.
- The following categories of fellow members made ineligible to contest the election to the Council for the respective period:-
  - debarred for three years in case found guilty of misconduct falling under First Schedule
  - debarred for six years in case found guilty of misconduct falling under Second Schedule  
*[The disqualification(s) to commence from the completion of period of removal of name or payment of fine, as the case may be.]*
  - debarred for three years after cessation as the Institute's auditor.
  - holding a post under the Central or a State Government.

## Section 10: Re-election or re-nomination to

\*The provisions as contained in the Amendment Act, 2006 shall come into force on such date as the Central Government may, by notification in the official Gazette appoint and for the purpose it has been provided that different dates may be appointed for different provisions of this Act.

**Council**

- Bar on Past Presidents of the Institute to seek election/nomination.
- Bar on holding office of Council Member for more than three consecutive terms.

**Section 10A: Settlement of dispute regarding election**

- Election dispute application to be forwarded to the Secretary of the Institute, who shall forward the same to the Central Government.

**Section 10B: Establishment of Tribunal**

- A Tribunal established by the Central Government would decide the election dispute(s) and the decision of the Tribunal is final.
- Composition and qualification(s) of the presiding officer and two other members of the Tribunal.

**Section 11: Nomination in default of election or nomination**

No change

**Section 12: President and Vice-President**

- On expiration of the duration of a Council, the President and the Vice-President, at the time of such expiration, would continue to hold Office and discharge such administrative and other duties, as are prescribed until such time a new President and Vice-President are elected and take over the charge of their duties.

**Section 13: Resignation of membership and casual vacancies**

- A member of the Council found guilty of any professional or other misconduct and/or awarded penalty of fine, be deemed to have vacated his seat.
- No bye-election is required to be held to fill a casual vacancy occurring within one year prior to the date of expiration of the duration of the Council.

**Section 14: Duration and dissolution of Council**

No change.

**Section 15: Functions of Council**

- Certain new duties like, consideration of recommendations of Quality Review Board and publication of details of action taken thereon in the Council's Annual Report, inserted.
- Exercise of disciplinary powers deleted from the list of duties assigned to the Council.

**Section 15A: Imparting education by Universities and other bodies**

- Blanket permission accorded to any University established by law or any body affiliated to the Institute to impart education on the subjects covered by the academic courses of the Institute.
- The Universities or bodies referred to above, while awarding degree, diploma or certificate or bestowing any designation, is required to ensure that the award or designation do not resemble or is not identical to the one awarded by the Institute.
- Ban on adoption by Universities/affiliated bodies of name or nomenclature which is, in any way, similar to that of the Institute.

**Section 16: Officers and employees, salary, allowances, etc.**

- Council to appoint a Director (Discipline) to perform such functions as are assigned to him under the Amendment Act, 2006 and the Rules and Regulations to be framed thereunder.

**Section 17: Committees of the Council**

- Deletion of Disciplinary Committee from the existing list of Standing Committees.
- Requirement of constitution of a new Standing Committee, viz., Finance Committee.
- Composition of the Standing Committees, viz., Executive Committee, Examination Committee and Finance Committee, changed so as to consist of President and Vice-President (ex-officio) and minimum of three and maximum of five members to be elected by the Council.
- The number of members to be co-opted on each of the Non-Standing Committees reduced from two-third to one-third of the strength of Council members in each such Committees.

**Section 18: Finances of the Council**

- The Council required to keep proper accounts, prepare annual budget and prepare annual accounts in the manner to be prescribed through Regulations.
- The Council required to circulate audited accounts among its members at least 15 days in advance and consider and approve the same at a special meeting to be convened for the purpose.
- If it is brought to the notice of the Council that the annual accounts do not represent a true and fair view of its finances, then the Council may itself cause a special audit to be

conducted.

- If the information that the accounts of the Council do not represent a true and fair view of its finances is sent by the Central Government, then the Council may, wherever appropriate, cause a special audit or take such other action as it considers necessary and furnish an action taken report on it to the Central Government.

**Section 19: Register**

- Annual List of Members made a priced publication.
- Council empowered to determine annual membership fee differing in amounts even among associates and/or fellows.

**Section 20: Removal from the Register**

- Mainly deals with the fees payable at the time of restoration of the name of a member.

**Section 21: Disciplinary Directorate**

**Section 21A: Board of Discipline**

**Section 21B: Disciplinary Committee**

**Section 21C: Authority, Disciplinary Committee, Board of Discipline and Director (Discipline) to have powers of civil court**

**Section 21D: Transitional provisions**

**Section 22: Professional or other misconduct defined**

**Section 22A: Constitution of Appellate Authority**

**Section 22B: Term of office of Chairperson and members of Authority**

**Section 22C: Allowances and conditions of service of Chairperson and members of Authority**

**Section 22D: Procedure to be regulated by Authority**

**Section 22E: Officers and other staff of Authority**

**Section 22F: Resignation and removal of Chairperson and members**

**Section 22G: Appeal to Authority**

- These new Sections are in place of existing Sections 21, 22 and 22A.
- They along with the Schedules deal with the new Disciplinary Mechanism.
- For the sake of brevity and better appreciation of the features of the new Disciplinary Mechanism, the related highlights are given at the end.

**Section 23: Constitution and Functions of Regional Councils**

No change

**Section 24: Penalty for falsely claiming to be a member, etc.**

No change

**Section 24A: Penalty for using name of the Council, awarding degree of chartered accountancy, etc.**

- Deletion of sub-section (3) consequent upon insertion of the subject matter under Section 15A.

**Section 25: Companies not to engage in accountancy**

No change

**Section 26: Unqualified persons not to sign documents**

- Stringent punishment to be in place.
- At first conviction, fine fixed at Rs.5000/- (minimum) and Rs.100,000/- (maximum).
- At second/subsequent conviction, imprisonment for a term to extend to one year or with fine Rs.10000/- (minimum) and Rs.200,000/- (maximum) or with both.

**Section 27: Maintenance of branch offices**

No change

**Section 28: Sanction to prosecute**

No change

**Section 28A: Establishment of Quality Review Board**

- Empowerment to the Central Government to constitute a Quality Review Board outside the framework of the Institute.
- The Board to be composed of a Chairperson and ten other members.
- Appointment of Chairperson and members of the Board would be from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy.
- While five members of the Board would be nominated by the Council, other five would be nominated by the Central Government.

**Section 28B: Functions of Board**

- The Board to perform the following functions:-
  - to make recommendations to the Council with regard to the quality of services provided by the members of the Institute;
  - to review the quality of services provided by the members of the Institute including audit services; and
  - to guide the members of the Institute

to improve the quality of services and adherence to the various statutory and other regulatory requirements.

**Section 28C: Procedure of Board**

- Procedure to be followed by the Board to be specified by Central Government through Rules.

**Section 28D: Terms and conditions of services of Chairperson and members of Board and its expenditure.**

- The expenditure of the Board to be borne by the Council.

**Section 29: Reciprocity**

No change

**Section 29A: Power of Central Government to make rules**

- Central Government to make Rules and the matters on which Rules may be made include the following:-
  - manner of election and nomination in respect of members to the Council.
  - terms and conditions of service of the Presiding Officer and members of Election Tribunal, place of meetings and allowance payable.
  - procedure of investigation to be made by the Disciplinary Directorate, procedure to be followed by the Disciplinary Committee and fixation of allowances of members nominated by the Central Government on the Disciplinary Committee.
  - allowances and terms and conditions of service of the Chairperson and members of the Appellate Authority.
  - manner of meeting the expenditure of the Appellate Authority by the Council.
  - procedure to be followed by the Quality Review Board in its meetings.
  - terms and conditions of service of the Chairperson and members of the Quality Review Board.

**Section 30: Power to make regulations**

- The requirement of sending a copy of any regulation made to each member of the Institute dispensed with.

**Section 30A: Powers of the Central Government to direct regulations to be made or to make or amend regulations**

No Change

**Section 30B: Rules, regulations and notifica-**

**tions to be laid before Parliament**

- Consequential changes made on account of empowerment given to Central Government to make Rules.

**Section 30C: Power of Central Government to issue directions**

- In the event of non-compliance by the Council of any provisions of the Act, the Central Government empowered to give to the Council such general or special directions, as it considers necessary, to ensure compliance and the Council required to comply with such directions.
- If, in the opinion of the Central Government, the Council has persistently made default in giving effect to the directions referred to above, the Central Government may, after giving an opportunity of being heard to the Council, dissolve the Council, whereafter a new Council is required to be constituted with effect from such date as may be decided by the Central Government.
- The Central Government to ensure constitution of a new Council within a period of one year from the date of its dissolution.
- Pending constitution of a new Council on dissolution, the Central Government to nominate any person or body of persons not exceeding five members to manage the affairs and discharge all or any of the functions assigned to the Council.

**Section 30D: Protection of action taken in good faith**

- Enabling provision regarding protection of action taken in good faith.

**Section 30E: Members, etc., to be public servants**

- The Chairperson, Presiding Officer, members and other officers and employees of the Appellate Authority, Disciplinary Committee, Election Tribunal, Quality Review Board, Board of Discipline or the Disciplinary Directorate, are deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

**Section 31: Construction of References**

**Section 32: Act not to affect right of accountants to practise as such in Acceding States**

**Section 33: [Repealed]**

No change

**First and Second Schedules**

The relevant matters have been covered under the new Disciplinary Mechanism detailed hereinbelow:-

## DISCIPLINARY MECHANISM IN BRIEF

Receipt of information or complaint (along with prescribed fee)

Investigations to be made by the Disciplinary Directorate to be established by the Council  
*[The procedure to be followed by the Disciplinary Directorate shall be specified by the Central Government]*

Prima facie opinion to be formed by the Director (Discipline)–  
 an Officer to be designated as such by the Council

### Functions

- To form prima facie opinion on the information or complaint received.
- In the event of a member being found prima facie guilty of professional and/or other misconduct falling only under the First Schedule, to place the case before the Board of Discipline for its opinion.
- In the event of a member being found prima facie guilty of professional and/or other misconduct falling only under the Second Schedule or under both the First and Second Schedules, to place the case before the Disciplinary Committee for its opinion.
- All information and complaints where he, i.e., the Director (Discipline), is of the opinion that the member(s) is/are prima facie not guilty, he should then place all such cases before the Board of Discipline and in the event of the latter disagreeing with his opinion, to further investigate the matter.
- To inquire into the conduct of any member of the Institute under any other circumstances, i.e., the conduct that may fall even outside the ambit of any of the two Schedules.
- In the event of receipt of a withdrawal of complaint from the Complainant, to place the same either before the Board of Discipline or the Disciplinary Committee, depending on the Schedule/Schedules to which the misconduct pertain(s).

### Powers

- Shall have same powers as are vested in a civil court under the Code of Civil Procedure in respect of the following :
  - summoning and enforcing attendance of any person and examining him on oath;
  - discovery and production of any document; and
  - receiving evidence on affidavit.

Enquiry by Board of Discipline or Disciplinary Committee

### Constitution by the Council of a Board of Discipline

Composition (Presiding officer and two other members)–

- Presiding Officer (person with experience in law and having knowledge of disciplinary matters and the profession).
- A member of the Council to be elected by the Council.
- A member to be nominated by the Central Government from amongst persons of eminence, having experience in the field of law, economics, business, finance or accountancy.

*[Director (Discipline) to act as the Secretary to the Board]*

### Powers

- Shall have same powers as are vested in a civil court under the Code of Civil Procedure in respect of the following :
  - summoning and enforcing attendance of any person and examining him on oath;
  - discovery and production of any document; and
  - receiving evidence on affidavit.

### Constitution by the Council of a Disciplinary Committee/Committees

Composition (Presiding officer and four other members)–

- Presiding Officer – President or Vice-President.
- Two members of the Council to be elected by the Council.
- Two members to be nominated by the Central Government from amongst persons of eminence, having experience in the field of law, economics, business, finance or accountancy.

### Powers

- Shall have same powers as are vested in a civil court under the Code of Civil Procedure in respect of the following :
  - summoning and enforcing attendance of any person and examining him on oath;
  - discovery and production of any document; and
  - receiving evidence on affidavit.

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<b>Functions of the Board of Discipline</b>	<b>Functions of the Disciplinary Committee</b>
<ul style="list-style-type: none"> <li>To deal with professional or other misconduct cases falling under the First Schedule culminating in the formation of opinion as to whether a member is guilty of professional and/or other misconduct falling under that Schedule.</li> </ul>	<ul style="list-style-type: none"> <li>To deal with professional or other misconduct cases falling only under the Second Schedule or falling under both the First and Second Schedules (i.e., a complaint or information containing allegations falling under both the Schedules) culminating in the formation of opinion as to whether a member is guilty of professional and/or other misconduct falling only under the Second Schedule or under both the Schedules.</li> </ul>
<ul style="list-style-type: none"> <li>In the event of a member being found guilty, to afford him an opportunity of being heard and (may) thereafter to make any one or more of the following actions:—                             <ul style="list-style-type: none"> <li>- reprimand</li> <li>- removal of name from Register upto three months</li> <li>- imposition of fine extendable upto rupees one lakh.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>In the event of a member being found guilty, to afford him an opportunity of being heard and (may) thereafter to take any one or more of the following actions:—                             <ul style="list-style-type: none"> <li>- reprimand</li> <li>- removal of name from Register for any specified period or permanently</li> <li>- imposition of fine extendable upto rupees five lakhs.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>To consider relevant information and complaints placed before it by the Director (Discipline) in respect of which the Director (Discipline) was of the opinion that the member(s) concerned is/are prima facie not guilty, and in the event of agreeing with the opinion of the Director (Discipline), to close the matter(s) or in the event of disagreement, to advise the Director (Discipline) to further investigate the matter.</li> </ul>	<ul style="list-style-type: none"> <li>To consider relevant information and complaints placed before it by the Director (Discipline) in respect of which the Director (Discipline) was of the opinion that the member(s) concerned is/are prima facie not guilty, and in the event of agreeing with the opinion of the Director (Discipline), to close the matter(s) or in the event of disagreement, to advise the Director (Discipline) to further investigate the matter.</li> </ul>
<ul style="list-style-type: none"> <li>To permit withdrawal of complaint, at any stage, if thought fit.</li> </ul>	<ul style="list-style-type: none"> <li>To permit withdrawal of complaint, at any stage, if thought fit.</li> </ul>
<ul style="list-style-type: none"> <li>[The Board of Discipline to follow summary disposal procedure]</li> </ul>	<ul style="list-style-type: none"> <li>[The procedure to be followed by the Disciplinary Committee shall be specified by the Central Government]</li> </ul>

**Appeal to the Appellate Authority**

**The Central Government to constitute the Authority**  
(i.e., outside the framework of the Council)

**Composition (Chairperson and four members)**

Chairperson : a person who is or has been a judge of a High Court  
(for a period of three years or attainment of age of 65 years, whichever is earlier)  
Two members : to be appointed from amongst persons who have been members of the Council for at least one full term (excluding sitting Council members)  
(for a period of three years or attainment of age of 62 years, whichever is earlier)  
Two members : to be nominated by the Central Government from amongst persons having knowledge and practical experience in the field of law, economics, business, finance or accountancy.  
(for a period of three years or attainment of age of 62 years, whichever is earlier)  
[Chairperson and other members shall be part-time members]

**Appellants**

- Members of the Institute aggrieved by any of the order of the Board of Discipline or Disciplinary Committee, as the case may be.
- Director (Discipline), if authorised by the Council, against the decision of the Board of Discipline or Disciplinary Committee, as the case may be.

**Time-limit**

- Within 90 days of the date on which the order concerned is communicated.
- If satisfied that there was sufficient cause for not filing the appeal in time, the Authority may entertain an appeal even after expiry of the 90 days.

**Powers**

- After giving an opportunity of being heard to the parties concerned, the Authority may—
  - (a) confirm, modify or set aside any order made by the Board of Discipline or the Disciplinary Committee;
  - (b) impose any penalty or set aside, reduce or enhance the penalty imposed by the order concerned;
  - (c) remit the case to the Board of Discipline or the Disciplinary Committee for such further enquiry as it considers proper in the circumstances of the case; or
  - (d) pass such other order as it thinks fit.

**Transitional provision**

- All complaints pending before the Council or any enquiry initiated by the Disciplinary Committee or any reference or appeal made to a High Court prior to the commencement of the Chartered Accountants (Amendment) Act, 2006 shall continue to be governed by the pre-amended provisions of the Act, as if the latter had not been amended by the former.

## Certain Significant changes in the Schedules to the Act

### First Schedule

#### Part I: Professional misconduct in relation to chartered accountants in practice

- No bar for sharing (by a member of the Institute) fees or profits of professional business with certain categories of non-members, to be prescribed, from time to time, in the Regulations, for the purpose of rendering professional services in or outside India

*[Clause 2]*

- No bar for accepting (by a member of the Institute) share in profits of professional business or other similar arrangements with certain categories of non-members, to be prescribed, from time to time, in the Regulations. (Situation reversal of the preceding one)

*[Clause 3]*

- Multi-disciplinary partnership, in or outside India, with certain categories of non-members, to be prescribed, from time to time, in the Regulations, permitted. (The earlier condition of sharing of fee or profits of business between partners both in and outside India removed).

*[Clause 4]*

- Securing any professional business through certain categories of non-members, to be prescribed, from time to time, in the Regulations, permitted.

*[Clause (5). Consequent to changes in clauses (2), (3) and (4)]*

- Ban on solicitation relaxed in the following circumstances:-
  - if it occurs within the fraternity; or
  - in the event of responding to tenders or enquiries issued by various users.

*[Clause 6]*

- Limited advertisement (subject to guidelines to be issued by the Council) permitted.

*[Clause 7]*

- Ban on undercutting removed (earlier Clause 12)

#### Part II: Professional misconduct in relation to members of the Institute in service

Nothing new

#### Part III : Professional misconduct in rela-

#### tion to members of the Institute generally

- Non-supply of information called for even by Director (Discipline) would amount to professional misconduct

*[Clause (2)]*

#### Part IV : Other misconduct in relation to members of the Institute generally

- A new Part on (minor) other misconduct e.g., proved Civil/Criminal offenses with imprisonment upto six months, bringing disrepute to the profession, introduced in this Schedule.

### Second Schedule

#### Part I : Professional misconduct in relation to chartered accountants in practice

- With a disclosure of interest in his report, a member in practice, under the existing provision, is permitted to express his opinion on financial statements of any business/enterprise even though he, his firm or a partner in his firm has a substantial interest therein. The disclosure requirement has been deleted thereby, in the event of "substantial interest" as aforesaid, a member in practice cannot accept such an assignment.

*[Clause 4]*

- The amendment made does not bring out the intended purpose

*[Clause 5]*

- Exercise of due diligence (in addition to gross negligence), added.

*[Clause 7]*

#### Part II : Professional misconduct in relation to members of the Institute generally

- Supply of particulars knowing them to be false treated as a major offence.

*[Clause 3]*

#### Part III : Other misconduct in relation to members of the Institute generally

- This Schedule also contain act/omission falling under "other misconduct".
- Imprisonment awarded for a term exceeding six months in any civil/criminal matter treated as a major offence under "other misconduct" included in this Schedule.

*[NOTE: The Rules to be framed by the Central Government be referred for removal of any doubt.]*

## Stage-wise transformation of select Provisions forming part of the Chartered Accountants (Amendment) Act, 2006

### (I) Change of nomenclatures “articled clerks” and “audit clerks” as “articled assistants” and “audit assistants” respectively

- **Relevant Section(s) and subject matter(s):** Explanation to Section 2(2), Section 15(2)(c), 30(2)(j). Change of nomenclatures “articled clerks” and “audit clerks” as “articled assistants” and “audit assistants” respectively.
- **Current requirement(s):** Existing nomenclatures are “articled clerks” and “audit clerks”.

As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
● No change proposed	● No change	● The expressions “articled clerks” and “audit clerks” were replaced with the words “articled assistants” and “audit assistants” respectively.

### (II) Flexibility in Fixation of different types of fees payable by members

- ❖ **Relevant Section(s) and subject matter(s) :** Sections 4, 5, 6, 19 and 20. Flexibility in fixation of different types of fees payable by members.
- ❖ **Current requirement(s) :** Members are required to pay different types of fees. No fee can be levied by the Council without prior approval of the Government. While ceiling/upper limit in respect of certain fees has been fixed in the Act itself and that too in 1949, in other cases, the same is prescribed under the Regulations.

As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
● Upper limit fixed in 1949 upwardly revised, but the condition of seeking prior approval of the Central Government continued.	<ul style="list-style-type: none"> <li>● Council empowered to determine and levy certain types of fees, on its own, upto the limit/ceiling proposed.</li> <li>● One more layer of upper limit/ceiling fixed and the Central Government empowered to accord permission upto that ceiling/limit against request of the Council.</li> <li>● The Council empowered to determine annual membership fee, which may be differing in amounts even among the associates and/or fellows.</li> </ul>	● No change

**(III) Increase in the strength of the Council and manner of conduct of election to the Council**

- ❖ **Relevant Section(s) and subject matter(s) :** Section 9(2). Increased composition of the Council. Manner of conduct of election to the Council.
- ❖ **Current requirement(s) :** Elected=24, Nominated=06. Prescribed under the Regulations.

As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
<ul style="list-style-type: none"> <li>● Elected=30</li> <li>● Nominated=10</li> <li>● Central Government to frame Rules for the purpose.</li> </ul>	<ul style="list-style-type: none"> <li>● Elected=32</li> <li>● Nominated=08</li> <li>● No change</li> </ul>	<ul style="list-style-type: none"> <li>● No change</li> <li>● No change</li> <li>● No change</li> </ul>

**(IV) Change in the composition of Standing Committees (other than Disciplinary Committee)**

- ❖ **Relevant Section(s) and subject matter(s) :** Section 17. Change in the composition of Standing Committees (other than Disciplinary Committee).
- ❖ **Current requirement(s) :** Of the three Standing Committees, composition of Examination and Executive Committees is : President ex-officio, Vice-President ex-officio, and any three members of the Council elected by the Council to the respective Committee(s).

As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
<ul style="list-style-type: none"> <li>● Composition of Examination and Executive Committees to be as under : President ex-officio, Vice-President ex-officio, and Minimum of three and maximum of five Council members elected by the Council to the respective Committee(s), out of which one shall be a Government nominee.</li> </ul>	<ul style="list-style-type: none"> <li>● Same as of Bill, 2003 excepting deletion of the provision relating to a Government nominee to be made a member of each of the Standing Committees.</li> </ul>	<ul style="list-style-type: none"> <li>● No change</li> </ul>

**(V) Provision for special audit of accounts of the Institute, and prescription in the Regulations of the manner in which the accounts are to be kept, budget is to be prepared, accounts are to be prepared, etc.**

- ❖ **Relevant Section(s) and subject matter(s) :** Section 18. Provision for special audit of accounts of the Institute, and prescription in the Regulations of the manner in which the accounts are to be kept, the manner in which budget is to be prepared, the manner in which the accounts are to be prepared, etc.
- ❖ **Current requirement(s) :** No such provision.

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As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
<ul style="list-style-type: none"> <li>• No change proposed</li> </ul>	<ul style="list-style-type: none"> <li>• Council required to keep proper accounts, prepare annual budget and prepare annual accounts in the manner to be prescribed through Regulations.</li> <li>• Council required to circulate audited accounts among its members at least 15 days in advance and consider and approve the same at a special meeting to be convened for the purpose.</li> <li>• If it is brought to the notice of the Council that the annual accounts do not represent a true and actual view of its finances, then the Council may itself cause a special audit to be conducted.</li> <li>• If the information that the accounts of the Council do not represent the true and actual view of its finances is sent by the Central Government, the Council may cause a special audit and shall furnish an action taken on it to the Government.</li> </ul>	<ul style="list-style-type: none"> <li>• No change</li> <li>• No change</li> <li>• The expression “true and actual” has been changed as “true and fair”, others remaining same.</li> <li>• The expression “true and actual” has been changed as “true and fair”. Also modified to the extent that if the relevant information is sent by the Central Government, then the Council may, wherever appropriate, cause a special audit or take such other action as it considers necessary and shall furnish an action taken report on it to the Central Government.</li> </ul>

(VI) Appointment/nomination of persons from the fields not related to the profession on Disciplinary Committee / Appellate Authority / Quality Review Board

- ❖ **Relevant Section(s) and subject matter(s) :** Section 21B(1), Section 22A(1)(c), Section 28A(2). Appointment/ nomination of persons from the fields not related to the profession on Disciplinary Committee/Appellate Authority/Quality Review Board.
- ❖ **Current requirement(s) :** Council was required to constitute three Standing Committees, including Disciplinary Committee, composed of members of the Council only. The statute however required a nominee of the Central Government on the Council to be a member of the Disciplinary Committee. The Council was also empowered to constitute non-standing Committees, as were deemed necessary and such Committees were composed of Council members and co-opted members. Only members of ICAI were eligible for being appointed as co-opted members.

As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
<ul style="list-style-type: none"> <li>• In the Disciplinary Committee/ Appellate Authority/Quality Review Board, specified number of Government nominees be drawn from amongst the field of law, education, economics, business, finance, accountancy or public administration</li> </ul>	<ul style="list-style-type: none"> <li>• The fields were restricted to law, economics, business, finance or accountancy.</li> </ul>	<ul style="list-style-type: none"> <li>• No change</li> </ul>

**(VII) Award of rigorous punishment to unqualified persons signing any professional document**

- ❖ **Relevant Section(s) and subject matter(s) :** Section 26(2). Award of rigorous punishment to unqualified persons signing any professional document.
- ❖ **Current requirement(s) :** A fine of Rs.1000/- for first conviction and on subsequent conviction, imprisonment extending to six months, with fine upto Rs.5000/- or both.

As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
<ul style="list-style-type: none"> <li>• No change proposed</li> </ul>	<ul style="list-style-type: none"> <li>• At first conviction, fine fixed at Rs.5000/- (minimum) and Rs.100,000/- (maximum)</li> <li>• At second/ subsequent conviction, imprisonment for a term to extend to one year or with fine Rs.10000/- (minimum) and Rs.200,000/- (maximum) or with both.</li> </ul>	<ul style="list-style-type: none"> <li>• No change</li> <li>• No change</li> </ul>

**(VIII) Quality Review Board set up outside the ICAI framework not to fix standards for the services provided by members of the Institute**

- ❖ **Relevant Section(s) and subject matter(s) :** Section 28B. Deletion of empowerment to Quality Review Board set up outside the ICAI framework to fix standards for the services provided by members of the Institute.
- ❖ **Current requirement(s) :** No such provision.

As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
<ul style="list-style-type: none"> <li>• One of the duties assigned to Quality Review Board set up outside ICAI framework was to fix standards for services provided by members of the Institute</li> </ul>	<ul style="list-style-type: none"> <li>• The task of fixing standards by Quality Review Board removed from its scope/ functions.</li> <li>• The scope of the Board is restricted to:                             <ul style="list-style-type: none"> <li>- make recommendations to the Council with regard to the quality of services provided by the members of the Institute;</li> <li>- review the quality of services provided by the members of the Institute including audit services; and</li> <li>- guide the members of the Institute to improve the quality of services and adherence to the various statutory and other regulatory requirements.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• No change</li> <li>• No change</li> </ul>

**(IX) Empowerment to the Government to make Rules, in addition to the existing provision for Regulations**

- ❖ **Relevant Section(s) and subject matter(s) :** Section 29A. Empowerment to the Central Government to make Rules, in addition to the existing provision for Regulations.
- ❖ **Current requirement(s) :** No such provision.

**CA (AMENDMENT) ACT, 2006**

As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
<ul style="list-style-type: none"> <li>Empowerment to the Central Government to make Rules additionally.</li> </ul>	<ul style="list-style-type: none"> <li>While the proposed power to make Rules by the Government has been retained, the areas are however pruned.</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>

**(X) Power to Government to issue Directions, general or specific, and to dissolve a duly elected Council**

- ❖ **Relevant Section(s) and subject matter(s) :** Section 30C. Empowerment to Central Government to issue directions, general or specific, and to dissolve a duly elected Council.
- ❖ **Current requirement(s) :** No such provision.

As per Bill, 2003	As per Bill, 2005	As per Amendment Act, 2006
(1)	(2)	(3)
<ul style="list-style-type: none"> <li>Central Government empowered to give to the Council such general or special directions, as it thinks fit, and the Council is required to comply with such directions.</li> <li>If in the opinion of the Central Government, the Council has persistently made default in giving effect to the directions referred to above, it may, after giving an opportunity of being heard to the Council, dissolve the Council, whereafter a new Council shall be constituted.</li> <li>Pending constitution of a new Council, the Central Government empowered to authorise any person or body of persons to take over the management of the affairs of the Council.</li> </ul>	<ul style="list-style-type: none"> <li>In the event of non-compliance by the Council of any provisions of the Act, the Central Government empowered to give to the Council such general or special directions, as it considers necessary, to ensure compliance and the Council required to comply with such directions.</li> <li>No change</li> <li>The Central Government to ensure constitution of a new Council within a period of one year from the date of its dissolution.</li> <li>Pending constitution of a new Council on dissolution, the Central Government to nominate any person or body of persons not exceeding five members to manage the affairs and discharge all or any of the functions assigned to the Council.</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> <li>No change</li> <li>No change</li> <li>No change</li> </ul>