

# **Board of Discipline U/s 21A (1)**

## **Presiding Officer**

**1. CMA Rakesh Singh**

## **Member**

**2. CMA (Dr) K Ch A V S N Murthy**

## **Secretary**

**CMA S.C. Gupta, Director (Discipline)**

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### **Provisions relating to Board of Discipline**

#### **The Cost and Works Accountants ACT, 1959**

Section 21A. Board of Discipline.

- (1) The Council shall constitute a Board of Discipline consisting of:-
  - (a) a person with experience in law and having knowledge of disciplinary matters and the profession, to be its Presiding Officer;
  - (b) two members one of whom shall be a member of the Council elected by the Council and the other member shall be the person designated under clause (c) of sub-section (1) of section 16;
  - (c) the Director (Discipline) shall function as the Secretary of the Board.
- (2) The Board of Discipline shall follow summary disposal procedure in dealing with all the cases before it.
- (3) Where the Board of Discipline is of the opinion that a member is guilty of a professional or other misconduct mentioned in the First Schedule, it shall afford to the member an opportunity of being heard before making any order against him and may thereafter take any one or more of the following actions, namely:-
  - (a) reprimand the member;
  - (b) remove the name of the member from the Register up to a period of three months;
  - (c) impose such fine as it may think fit which may extend to rupees one lakh.

(4) The Director (Discipline) shall submit before the Board of Discipline all information and complaints where he is of the opinion that there is no prima facie case and the Board of Discipline may, if it agrees with the opinion of the Director (Discipline), close the matter or in case of disagreement, may advise the Director (Discipline) to further investigate the matter.

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

For the purposes of an inquiry under the provisions of this Act, the Authority, the Disciplinary Committee, Board of Discipline and the

Director (Discipline) shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) the discovery and production of any document; and
- (c) receiving evidence on affidavit.

Explanation.-For the purposes of sections 21, 21A, 21B, 21C and 22, “member of the Institute” includes a person who was a member of the Institute on the date of the alleged misconduct although he has ceased to be a member of the Institute at the time of the inquiry.

## **Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007**

### **CHAPTER IV BOARD OF DISCIPLINE**

#### **13. Functioning of Board of Discipline.-**

- (1) All questions which come up before the Board of Discipline shall be decided by a majority of the members present and voting, and in the event of an equality of votes, the Presiding Officer or in his absence, the person presiding, shall have a second or casting vote.
- (2) The quorum for any meeting of the Board of Discipline shall be two members.
- (3) In the event of the Presiding Officer not being able to attend a meeting of the Board of Discipline, the member of the Council appointed under clause (b) of sub-section (1) of section 21A of the Act shall act as the Presiding Officer.

#### 14. Procedure to be followed by the Board of Discipline.-

- (1) The Board of Discipline shall follow summary disposal procedure in dealing with all cases before it, as laid down in this Chapter.
- (2) If the Board of Discipline decides to proceed further under clause (b) of subrule (2) of rule 9 or under clause (b) of sub-rule (3) of rule 9, it shall expeditiously cause to deliver to the respondent and the complainant, a copy each of the following:
  - (a) *prima facie* opinion formed by the Director; and
  - (b) Particulars or documents relied upon by the Director, if any, during the course of formulation of *prima facie* opinion.
- (3) The Board of Discipline shall inform the respondent to file a written statement, within such time as may be specified:

Provided that the Board of Discipline may give him additional time for submitting his written statement on application by the respondent on his adducing sufficient reasons to the satisfaction of the Board of Discipline for seeking additional time:

Provided further that such additional time shall not be given more than once and if the respondent still does not submit a written statement, the Board of Discipline shall presume that he has no further submissions to make and shall proceed to decide the case on merits.

- (4) The respondent shall send a copy of his written statement, along with supporting documents, to the Director and the complainant within the stipulated time.
- (5) The complainant or the Director may, after receipt of the written statement, submit a rejoinder to the Board of Discipline, with a copy to the respondent, along with supporting documents, if any.
- (6) The Presiding Officer of the Board of Discipline shall fix a date, hour and place of hearing, which shall not ordinarily be later than 45 days from the date of receipt of *prima facie* opinion and the Board of Discipline shall cause a notice to be sent of such date, hour and place to the Director, respondent and complainant and require them to appear before it in person to make oral submissions, if any.

*Explanation.*—For the purpose of this rule, the appearance includes, unless and otherwise directed, appearance by an advocate or through any authorized representative, who may be a Chartered Accountant, Cost Accountant or Company Secretary.

- (7) On the date of hearing, if the respondent, in spite of the service of notice, under sub-rule (6), does not appear either in person or through his authorized representative, the Board of Discipline may proceed *ex parte* and pass such orders as it may think fit or direct fresh notice to be served.

- (8) The Board of Discipline may, on such terms as it thinks fit, and at any stage of the proceedings, adjourn the hearing:  
Provided that such adjournment shall not be given more than once at any stage of the proceedings.
- (9) The Board of Discipline shall consider the written representations, including the written statements; rejoinder and supporting documents, and the oral submission, if any made by the Director, the complainant and the respondent, and arrive at a finding on whether the respondent is guilty or not of any professional or other misconduct.

**15. Orders of the Board of Discipline.-**

- (1) On arriving at a finding under sub-rule (9) of rule 14 that the respondent is guilty of professional or other misconduct, the Board of Discipline shall give the respondent an opportunity to be heard before passing any order under sub-section (3) of section 21A of the Act :

Provided that if the respondent does not appear before the Board of Discipline at the time directed to do so when given such an opportunity to be heard, the Board of Discipline shall presume that he has nothing more to represent before it and shall pass orders under sub-section (3) of section 21A of the Act.

- (2) On arriving at a finding under sub-rule (9) of rule 14 that the respondent is not guilty of professional or other misconduct, the Board of Discipline shall pass orders closing the case.
- (3) The Board of Discipline shall send, free of charge, to the Director, respondent and the complainant, a certified copy of the final order.
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