
**THE COST AND WORKS ACCOUNTANTS
ACT, 1959**
(as amended in 2011)

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THE COST AND WORKS ACCOUNTANTS ACT, 1959
[AS AMENDED BY THE COST AND WORKS ACCOUNTANTS
(AMENDMENT) ACT, 2011]

[23 of 1959]

An Act to make provision for the regulation of the profession of cost and works accountants. Be it enacted by Parliament in the Tenth Year of the Republic of India as follows :-

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement

- (1) This Act may be called the Cost and Works Accountants Act, 1959.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date* as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions and interpretation

- (1) In this Act, unless the context otherwise requires:-
 - (a) “associate” means an associate member of the Institute;
 - ¹[(aa) “Authority” means the Appellate Authority referred to in section 22A;
 - (aaa) “Board” means the Quality Review Board constituted under section 29A;]
 - (b) “cost accountant” means a person who is a member of the Institute;
 - (c) “Council” means the Council of the Institute;
 - (d) “dissolved company” means the Institute of Cost and Works Accountants registered under the Companies Act, 1956 (1 of 1956);
 - (e) “fellow” means a fellow of the Institute;
 - ²[(ea) “firm” shall here the meaning assigned to it in section 4 of the Indian Partnership Act, 1932, and includes—

¹Inserted, by the Cost and Works Accountants (Amendment) Act, 2006 w.e.f. 8-8-2006.

²Inserted, by the Cost and Works Accountants (Amendment) Act, 2011 w.e.f. 1-2-2012.

* 23-5-1959

- (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;]
- (f) “Institute” means the ¹[Institute of Cost Accountants of India] constituted under this Act;
- ²[(fa) “notification” means a notification published in the Official Gazette;]
- ³[(fb) “partner” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 or in clause (q) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, as the case may be;
- (fc) “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;]
- (g) “prescribed” means prescribed by regulations made under this Act;
- (h) “President” means the President of the Council;
- (i) “Register” means the Register of members maintained under this Act;
- ⁴[(ia) “specified” means specified by rules made by the Central Government under this Act;
- ⁵{(iaa) “sole proprietorship” means an individual who engages himself in the practice of cost accountancy or offers to perform services referred to in clauses (ii) to (iv) of sub-section (2);}
- (ib) “Tribunal” means a Tribunal established under sub-section (1) of section 10B;]
- (j) “Vice-President” means the Vice-President of the Council;
- (k) “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.

¹Substituted for “Institute of Cost and Works Accountants of India”, by the Cost and Works Accountants (Amendment) Act, 2011, w.e.f. 1-2-2012.

²Inserted, by the Cost and Works Accountants (Amendment) Act, 2006 w.e.f. 8-8-2006.

³Inserted, by the Cost and Works Accountants (Amendment) Act, 2011 w.e.f. 1-2-2012.

⁴Inserted, by the Cost and Works Accountants (Amendment) Act, 2006 w.e.f. 8-8-2006.

⁵Inserted, by the Cost and Works Accountants (Amendment) Act, 2011 w.e.f. 1-2-2012.

- (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 ¹[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 ²[cost accountancy;] or
 - (ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or ³[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.

CHAPTER II THE INSTITUTE OF COST ACCOUNTANTS

3. Incorporation of the Institute.

- (1) All persons whose names are entered in the Register at the commencement of this Act and all persons who may hereafter have their names entered in the Register under the provisions of this Act, so long as they continue to have their names borne on the said Register, are hereby constituted a body corporate by the name of the ⁴[Institute of Cost Accountants of India,] and all such persons shall be known as members of the Institute.

¹Inserted, by the Cost and Works Accountants (Amendment) Act, 2011 w.e.f. 1-2-2012.

²Substituted for “Cost and Works Accountancy”, by the Cost and Works Accountants (Amendment) Act, 2011, w.e.f. 1-2-2012.

³Substituted for “Certification of Cost Accounting and related Statements or holds himself out to the public as a cost accountant in practice;” by the Cost and Works Accountants (Amendment) Act, 2011, w.e.f. 1-2-2012.

⁴Substituted for “Institute of Cost and Works Accountants”, by the Cost and Works Accountants (Amendment), Act 2011, w.e.f. 1-2-2012.

- (2) The Institute shall have perpetual succession and a common seal, and shall have power to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue or be sued.

4. Entry of names in the Register

- (1) Any of the following persons shall be entitled to have his name entered in the Register, namely :
- (i) any person who was an associate or a fellow of the dissolved company (other than an honorary associate or honorary fellow thereof) immediately before the commencement of this Act, except any such person who is not a permanent resident of India and is not at such commencement practising as a cost accountant in India;
 - (ii) any person who has passed such examination and completed such training as may be prescribed for members of the Institute;
 - (iii) any person who, at the commencement of this Act, is engaged in the practice of cost accountancy in India and who fulfils such conditions as the Central Government or the Council may specify in this behalf;
 - (iv) any person who has passed such other examination and completed such other training without India as is recognised by the Central Government or the Council as being equivalent to the examination and training prescribed for members of the Institute :
 Provided that in the case of any person who is not permanently residing in India, the Central Government or the Council may impose such further conditions as it may deem fit;
 - (v) any person domiciled in India, who at the commencement of this Act is studying for any foreign examination and is at the same time undergoing training, whether within or without India, or, who, having passed such examination, is at such commencement undergoing training whether within or without India :

Provided that such foreign examination and training are recognised by the Central Government or the Council in this behalf :

Provided further that the person passes the examination and completes his training within five years from the commencement of this Act.

- (2) Every person belonging to the class mentioned in clause (i) of sub-section (1) shall have his name entered in the Register without the payment of any entrance fee.
- ¹[(3) Every person belonging to any of the classes mentioned in clauses (ii), (iii), (iv) and (v) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner and on payment of such fees, as may be determined, by notification, by the Council, which shall not exceed rupees three thousand :

Provided that the Council may with the prior approval of the Central Government, determine the fee exceeding rupees three thousand, which shall not in any case exceed rupees six thousand.]

- (4) The Central Government shall take such steps as may be necessary for the purpose of having the names of all persons belonging to the class mentioned in clause (i) of sub-section (1) entered in the Register at the commencement of this Act.

5. Fellows and Associates

- (1) The members of the Institute shall be divided into two classes designated respectively as associates and fellows.
- (2) Any person other than a person to whom the provisions of sub-section(3) apply shall, on his name being entered in the Register, be deemed to have become an associate member of the Institute and so long as his name remains so entered, shall be entitled to use the letters ²[ACMA] after his name to indicate that he is an associate member of the ³[Institute of Cost Accountants of India.]

¹Substituted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006. Prior to its substitution, sub-section (3) read as under :

“(3) Every person belonging to any of the classes mentioned in clauses (ii), (iii), (iv) and (v) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner and on payment of the prescribed entrance fee, which shall not exceed rupees three hundred in any case.”

²Substituted for “AICWA”, by the Cost and Works Accountants (Amendment) Act, 2011, w.e.f. 1-2-2012.

³Substituted for “Institute of Cost and Works Accountants”, by the Cost and Works Accountants (Amendment) Act, 2011, w.e.f. 1-2-2012

(3) Any person who was a fellow of the dissolved company and who is entitled to have his name entered in the Register under clause (i) of sub-section (1) of section 4, shall be entered in the Register as a fellow of the Institute.

¹[(4) A member, being an associate who has been in continuous practice in India for at least five years, whether before or after the commencement of this Act, or whether partly before and partly after the commencement of this Act, and a member who has been an associate for a continuous period of not less than five years and who possesses such qualifications as the Council may prescribe with a view to ensuring that he has experience equivalent to the experience normally acquired as a result of continuous practice for a period of five years as a cost accountant shall, on payment of such fees, as may be determined, by notification, by the Council, which shall not exceed rupees five thousand, and on application made and granted in the prescribed manner, be entered in the Register as a fellow of the Institute:

Provided that the Council may with the prior approval of the Central Government, determine the fee exceeding rupees five thousand, which shall not in any case exceed rupees ten thousand.

Explanation I.-For the purposes of this sub-section, a person shall be deemed to have practised in India for any period for

¹Substituted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006. Prior to its substitution, sub-section (4) read as under :

“(4) A member, being an associate who has been in continuous practice in India for at least five years, whether before or after the commencement of this Act, or whether partly before and partly after the commencement of this Act, and a member who has been an associate for a continuous period of not less than five years and who possesses such qualifications as the Council may prescribe with a view to ensuring that he has experience equivalent to the experience normally acquired as a result of continuous practice for a period of five years as a cost accountant shall, on payment of the prescribed entrance fee, which shall not exceed rupees two hundred in any case, and on application made and granted in the prescribed manner, be entered in the Register as a fellow of the institute.

Explanation I : For the purposes of this sub-section, a person shall be deemed to have practised in India for any period for which he has held a certificate of practice under section 6, notwithstanding that he did not actually practise during that period.

Explanation II : In computing the continuous period during which a person has been an associate of the Institute, there shall be included any continuous period during which the person has been an associate of the dissolved company immediately before he became an associate of the Institute.”

which he has held a certificate of practice under section 6, notwithstanding that he did not actually practise during that period.

Explanation II.-In computing the continuous period during which a person has been an associate of the Institute, there shall be included any continuous period during which the person has been an associate of the dissolved company immediately before he became an associate of the Institute.]

- (5) Any person whose name is entered in the Register as a fellow of the institute and so long as his name remains so entered, shall be entitled to use the letters ¹[FCMA] after his name to indicate that he is a fellow of the ²[Institute of Cost Accountants of India.]

6. Certificate of Practice

- (1) 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.

- ³[(2) Every such member shall make an application in such form, and pay such annual fee, for his certificate as may be determined, by notification, by the Council, which shall not exceed rupees three thousand and such fee shall be payable on or before the 1st day of April in each year:

Provided that the Council may with the prior approval of the Central Government, determine the fee exceeding rupees three thousand, which shall not in any case exceed rupees six thousand:

Provided further that if a member of the Institute, who was in practice immediately before the commencement of this Act, has made within one month of such commencement an application

¹Substituted for "FICWA", by the Cost and Works Accountants (Amendment), Act, 2011, w.e.f. 1-2-2012.

²Substituted for "Institute of Cost and Works Accountants", by the Cost Accountants (Amendment), Act, 2011, w.e.f. 1-2-2012.

³Substituted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006. Prior to its substitution, sub-section (2) read as under :

"(2) Every such member shall make application in such form and pay such annual fee, for his certificate as may be prescribed, and such fee shall be payable on or before the 1st day of April in each year :

Provided that if a member of the Institute who was in practice immediately before the commencement of this Act has made within one month of such commencement an application for the grant of certificate of practice, he shall not be deemed to have contravened the provisions of sub-section (1) by reason of his having practised during the period between such commencement and the disposal of the application."

for the grant of certificate of practice, he shall not be deemed to have contravened the provisions of sub-section (1) by reason of his having practised during the period between such commencement and the disposal of the application.]

¹[(3) The certificate of practice obtained under sub-section (1) may be cancelled by the Council under such circumstances as may be prescribed.]

7. Members to be known as cost accountants

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

Provided that nothing in this section shall be deemed to prohibit any such member 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 recognised 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 cost accountants.

8. Disabilities

Notwithstanding anything contained in section 4, a person shall not be entitled to have his name entered in, or borne on, the Register if he :—

- (i) has not attained the age of twenty-one years at the time of his application for the entry of his name in the Register; or
- (ii) is of unsound mind and stands so adjudged by a competent court; or
- (iii) is an undischarged insolvent; or
- (iv) being a discharged insolvent, has not obtained from the court a

¹Inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006

certificate stating that his insolvency was caused by misfortune without any misconduct on his part; or

- (v) has been convicted by a competent court whether within or without India, of an offence involving moral turpitude and punishable with imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing removed the disability; or
- (vi) has been removed from membership of the Institute on being found on inquiry to have been guilty of professional or other misconduct :

Provided that a person who has been removed from membership for a specified period, shall not be entitled to have his name entered in the Register until the expiry of such period.

CHAPTER III

COUNCIL OF THE INSTITUTE

9. Constitution of the Council of Institute

- (1) There shall be a Council of the Institute for the management of the affairs of the Institute and for discharging the functions assigned to it by or under this Act.
- ¹[(2) The Council shall be composed of the following persons, namely :
 - (a) not more than fifteen persons elected by the members of the Institute, from amongst the fellows of the Institute

¹Substituted by the Cost and Works Accountants (Amendment) Act, 2006, with effect from 17.11.2006. Prior to its substitution, sub-section (2) read as under :

“(2) The Council shall be composed of :—

- (a) not more than twelve persons elected by members of the Institute from amongst the fellows of the Institute chosen in such manner and from such regional constituencies as may be specified in this behalf by the Central Government by notification in the Official Gazette; and
- (b) not more than four persons nominated by the Central Government.”

chosen in such manner and from such regional constituencies as may be specified :

Provided that a fellow of the Institute, who has been found guilty of any professional or other misconduct, and whose name is removed from the Register or has been awarded penalty of fine, shall not be eligible to contest the election,—

- (i) in case of misconduct falling under the First Schedule of this Act, for a period of three years;
- (ii) in case of misconduct falling under the Second Schedule of this Act, for a period of six years, from the completion of the period of removal of name from the Register or payment of fine, as the case may be;
- (b) not more than five persons nominated in the specified manner by the Central Government.]

¹[(3) No person holding a post under the Central Government or a State Government shall be eligible for election to the Council under clause (a) of sub-section (2).

(4) No person who has been auditor of the Institute shall be eligible for election to the Council under clause (a) of sub-section (2) for a period of three years after he ceases to be an auditor.]

10. ²[Re-election or re-nomination to Council.

A member of the Council, elected or nominated under sub-section

¹Sub-sections (3) and (4) inserted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f 17.11.2006.

²Substituted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f 8-8-2006.

Prior to its substitution, section 10 read as under :

“10. Mode of election to Council. — (1) Elections under clause (a) of sub-section (2) of section 9 shall be conducted in the prescribed manner :

Provided that the first election under the said clause shall be held in such manner as the Central Government may specify in this behalf.

(2) Where any dispute arises regarding any such election, the matter shall be referred by the Council to a Tribunal appointed by the Central Government in this behalf and the decision of such Tribunal shall be final :

Provided that no such reference shall be made except on an application made to the Council by an aggrieved party within thirty days from the date of the declaration of the result of the election.

(3) The expenses of the Tribunal shall be borne by the Council.”

(2) of section 9, shall be eligible for re-election or as the case may be, re-nomination :

Provided that no member shall hold the office for more than two consecutive terms :

Provided further that a member of the Council, who is or has been elected as President under sub-section (1) of section 12, shall not be eligible for election or nomination as a member of the Council.]

10A.¹[Settlement of disputes regarding election.

In case of any dispute regarding any election under clause (a) of sub-section (2) of section 9, the aggrieved person may make an application within thirty days from the date of declaration of the result of election to the Secretary of the Institute, who shall forward the same to the Central Government.

10B. Establishment of Tribunal

- (1) On receipt of any application under section 10A, the Central Government shall, by notification, establish a Tribunal consisting of a Presiding Officer and two other Members to decide such dispute and the decision of such Tribunal shall be final.
- (2) A person shall not be qualified for appointment,-
 - (a) as a Presiding Officer of the Tribunal unless he has been a member of the Indian Legal Service and has held a post in Grade I of the service for at least three years;
 - (b) as a Member unless he has been a member of the Council for at least one full term, and who is not a sitting member of the Council or who has not been a candidate in the election under dispute; or
 - (c) as a Member unless he holds the post of a Joint Secretary to the Government of India or any other post under the Central Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India.

¹Sections 10A and 10B inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f 17.11.2006.

- (3) The terms and conditions of service of the Presiding Officer and Members of the Tribunal, their place of meetings and allowances shall be such as may be specified.
- (4) The expenses of the Tribunal shall be borne by the Council.]

11. Nomination in default of election

If the members of the institute fail to elect any member under clause (a) of sub-section (2) of section 9 from any of the regional constituencies that may be specified under that clause, the Central Government may nominate any duly qualified person from such constituency to fill the vacancy, and any person so nominated shall be deemed to be a duly elected member of the Council.

12. President and Vice-President

- (1) The Council at its first meeting shall elect two of its members to be respectively the President and the Vice-President thereof, and so often as the office of the President or the Vice-President becomes vacant, the Council shall choose a person to be the President or the Vice-President, as the case may be :

Provided that on the first constitution of the Council a member of the Council nominated in this behalf by the Central Government shall discharge the functions of the President, until such time as a President is elected under the provisions of this sub-section.

- (2) The President shall be the ¹[Head] of the Council.
- (3) The President or the Vice-President shall hold office for a period of one year from the date on which he is chosen but so as not to extend beyond his term of office as a member of the Council, and, subject to his being a member of the Council at the relevant time, he shall be eligible for re-election ²[under sub-section (1)]:

Provided that the President ³[and the Vice-President] of the Council at the time of the expiration of its duration shall continue to hold

¹Substituted for "Chief Executive Authority" by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

²Inserted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

³Inserted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

office until a new Council is constituted in accordance with the provisions of this Act.

13. Resignation of membership and casual vacancies

- (1) Any member of the Council may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall become vacant when such resignation is notified in the Official Gazette.
- (2) A member of the Council shall be deemed to have vacated his seat if he is declared by the Council to have been absent without sufficient excuse from three consecutive meetings of the Council ¹[or he has been found guilty of any professional or other misconduct and awarded penalty of fine,] or if his name is, for any cause, removed from the Register under the provisions of section 20.
- (3) A casual vacancy in the Council shall be filled by fresh election from the constituency concerned or by nomination by the Central Government, as the case may be, and the person elected or nominated to fill the vacancy shall hold office until the dissolution of the Council :

Provided that no election shall be held to fill a casual vacancy occurring within ¹[one year] prior to the date of the expiration of the duration of the Council, but such a vacancy may be filled by nomination by the Central Government after consultation with the President of the Council.

- (4) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Council.

14. Duration and dissolution of Council

- (1) The duration of any Council constituted under this Act shall be ²[four] years from the date of its first meeting.

¹Substituted for "six months", by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006.

²Substituted for "three", by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 22-7-2007.

- (2) Notwithstanding the expiration of the duration of a Council (hereinafter referred to as the former Council), the former Council shall continue to exercise its functions under this Act until a new Council is constituted in accordance with the provisions of this Act, and on such constitution, the former Council shall stand dissolved.

15. ¹Functions of Council

- (1) The Institute shall function under the overall control, guidance and supervision of the Council and the duty of carrying out the provisions of this Act shall be vested in the Council.
- (2) In particular, and without prejudice to the generality of the foregoing powers, the duties of the Council shall include :
- (a) to approve academic courses and their contents;
 - (b) the prescribing of fees for the examination of candidates for enrolment;
 - (c) the prescribing of qualifications for entry in the Register;

¹Substituted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to its substitution, section 15 read as under :

“15. Functions of the Council:-

- (1) The duty of carrying out the provisions of this Act shall be vested in the Council.
- (2) In particular, and without prejudice to the generality of the foregoing power, the duties of the Council shall include-
 - (a) the examination of candidates for enrolment and the prescribing of fees therefor;
 - (b) the registration and training of students;
 - (c) the prescribing of qualifications for entry in the Register;
 - (d) the recognition of foreign qualifications and training for purposes of enrolment;
 - (e) the granting or refusal of certificates of practice under this Act;
 - (f) the maintenance and publication of a Register of persons qualified to practise as cost accountants;
 - (g) the levy and collection of fees from members, examinees and other persons;
 - (h) the removal of names from the Register and restoration to the Register of names which have been removed;
 - (i) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;
 - (j) the carrying out, by financial assistance to persons other than members of the Council or in any other manner, of research in accountancy;
 - (k) the maintenance of libraries and publication of books and periodicals relating to cost accountancy and allied subjects; and
 - (l) the exercise of disciplinary powers conferred by this Act.”

- (d) the recognition of foreign qualifications and training for the purposes of enrolment;
- (e) the prescribing of guidelines for granting or refusal of certificates of practice under this Act;
- (f) the levy of fees from members, examinees and other persons;
- (g) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;
- (h) the carrying out, by granting financial assistance to persons other than members of the Council or in any other manner, of research in accountancy;
- (i) to enable functioning of the Director (Discipline), the Board of Discipline, the Disciplinary Committee and the Appellate Authority constituted under the provisions of this Act;
- (j) to enable functioning of the Quality Review Board;
- (k) consideration of the recommendations of the Quality Review Board made under clause (a) of section 29B, action taken thereon with a report to the Central Government within a period of three months, and their inclusion in the annual report; and
- (l) to ensure the functioning of the Institute in accordance with the provisions of this Act and in performance of other statutory duties as may be entrusted to the Institute from time to time.]

15A. ¹[Functions of Institute.

The functions of the Institute shall include —

- (a) the examination of candidates for enrolment;
- (b) the regulation of training of students;
- (c) the maintenance and publication of a Register of persons qualified to practice as Cost Accountants;

¹Sections 15A inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006.

- (d) collection of fees from members, examinees and other persons;
- (e) subject to the orders of the appropriate authorities under this Act, the removal of names from the Register and the restoration to the Register of names which have been removed;
- (f) the maintenance of a library and publication of books and periodicals relating to accountancy and allied subjects;
- (g) the conduct of elections to the Council of the Institute; and
- (h) the granting or refusal of certificates of practice as per guidelines issued by the Council.]

15B.¹[Imparting education by Universities and other bodies.

- (1) Subject to the provisions of this Act, any University established by law or any body affiliated to the Institute, may impart education on the subjects covered by the academic courses of the Institute.
- (2) The Universities or bodies referred to in sub-section (1) shall, while awarding degree, diploma or certificate or bestowing any designation, ensure that the award or designation do not resemble or is not identical to one awarded by the Institute.
- (3) Nothing contained in this section shall enable a University or a body to adopt a name or nomenclature which is in any way similar to that of the Institute.]

16.²[Officers and employees, salary, allowances, etc.

- (1) For the efficient performance of its duties, the Council shall-

¹Section 15B inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

²Substituted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to its substitution, section 16 read as under :

“16. Staff remuneration and allowances:—

- (1) For the efficient performance of its duties, the Council, may:-
 - (a) appoint a Secretary who may also, if so decided by the Council, act as Treasurer;
 - (b) appoint such other persons on its staff as it deems necessary;
 - (c) require and take from the Secretary or from any other employee of the Council such security for the due performance of his duties as the Council considers necessary;
 - (d) fix the salaries, fees, allowances and other conditions of service of the Secretary and other employees of the Council;
 - (e) with the previous sanction of the Central Government fix the allowances of the President, Vice-President and other members of the Council and its Committees.

- (2) The Secretary of the Council shall be entitled to participate in the meetings of the Council and the Committees thereof but shall not be entitled to vote thereat.”

- (a) appoint a Secretary of the Council to perform such duties as may be prescribed;
 - (b) appoint a Director (Discipline) to perform such functions as assigned to him under this Act and the rules and regulations framed thereunder;
 - (c) designate an officer of the Council or the Institute to carry out the administrative functions of the Institute as its chief executive.
- (2) The Council may also :—
- (a) appoint such other officers and employees to the Council and the Institute as it considers necessary;
 - (b) require and take from the Secretary or from any other officer or employee of the Council and the Institute such security for the due performance of his duties, as the Council considers necessary;
 - (c) prescribe the salaries, fees, allowances of the officers and employees of the Council and the Institute and their terms and conditions of service;
 - (d) with the previous sanction of the Central Government, fix the allowances of the President, Vice-President and other members of the Council and members of its Committees.
- (3) The Secretary of the Council shall be entitled to participate in the meetings of the Council but shall not be entitled to vote thereat.]

17. Committees of the Council

- (1) The Council shall constitute from amongst its members the following Standing Committees, namely :-
- (i) an Executive Committee;
 - (ii) a ¹[Finance] Committee; and

¹Substituted for “Disciplinary”, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006.

(iii) an Examination Committee.

(2) The Council may also form a Training and Educational Facilities Committee and such other Committees from amongst its members as it deems necessary for the purpose of carrying out the provisions of this Act.

¹[(3) Each of the Standing Committees shall consist of the President and the Vice-President ex officio, and minimum of three and maximum of five members to be elected by the Council from amongst its members.]

(4) ²[***]

(5) ²[***]

(6) Notwithstanding anything contained in this section, any Committee formed under sub-section (2), may, with the sanction of the Council, co-opt such other members of the Institute not exceeding ³[one-third] of the total membership of the Committee as the Committee thinks fit, and any member so co-opted shall be entitled to exercise all the rights of a member of the Committee.

(7) The President shall be the Chairman of every Committee of which he is a member, and in his absence, the Vice-President, if he is a member of the Committee, shall be the Chairman.

(8) The Standing Committees and other Committees formed under

¹Substituted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to its substitution, sub-section (3) read as under :

“(3) The Executive Committee shall consist of the President, and the Vice-President, ex officio, and three other members of the Council elected by the Council.”

²Omitted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to their omission, sub-sections (4) and (5) read as under :

“(4) The disciplinary Committee shall consist of the President, ex officio, one member to be nominated by the Central Government from amongst the members nominated to the Council by that Government and one member to be elected by the Council.

(5) The Examination Committee shall consist of the President or the Vice-President, ex officio, as the Council may decide, and two other members of the Council elected by the Council.”

³Substituted for “two-thirds”, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006.

this section shall exercise such functions and be subject to such conditions in the exercise thereof as may be prescribed.

18. Finances of the Council.

- (1) There shall be established a fund under the management and control of the Council into which shall be paid all moneys received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council.
- (2) The Council may invest any money for the time being standing to the credit of the fund in any Government security or in any other security approved by the Central Government.
- ¹[(3) The Council shall keep proper accounts of the fund distinguishing capital from revenue in the manner prescribed.
- (4) The Council shall prepare in the manner prescribed and approve, prior to the start of the financial year, an annual financial statement (the budget) indicating all its anticipated revenues as well as all proposed expenditures for the forthcoming year.
- (5) The annual accounts of the Council shall be prepared in such manner as may be prescribed and be subject to audit by a chartered accountant in practice to be appointed annually by the Council :

Provided that no member of the Council or a person who has been a member of the Council during the last four years or a person who is

¹Substituted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to their substitution, sub-sections (3), (4) and (5) read as under :

“(3) The Council shall keep proper accounts of the funds distinguishing capital from revenue.

(4) The annual accounts of the Council shall be subject to audit by a chartered accountant in practice within the meaning of the Chartered Accountants Act, 1949 (38 of 1949), to be appointed annually by the Council :

Provided that no member of the Council who is a chartered accountant or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section.

(5) As soon as may be practicable at the end of each year, but not later than the 30th day of September of the year next following, the Council shall cause to be published in the Gazette of India a copy of the audited accounts and the Report of the Council for that year and copies of the said accounts and Report shall be forwarded to the Central Government and to all the members of the Institute.”

in partnership with such member shall be eligible for appointment as an auditor under this sub-section:

Provided further that, in the event it is brought to the notice of the Council that the accounts of the Council do not represent a true and fair view of its finances, then, the Council may itself cause a special audit to be conducted :

Provided also that if such information, that the accounts of the Council do not represent a true and fair view of its finances, is sent to the Council 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.]

¹[(5A) As soon as may be practicable at the end of each year, the Council shall circulate the audited accounts to its members at least fifteen days in advance and consider and approve these accounts in a special meeting convened for the purpose.

(5B) The Council shall cause to be published in the Gazette of India not later than the 30th day of September of the year next following, a copy of the audited accounts and the Report of the Council for that year duly approved by the Council and copies of the said accounts and Report shall be forwarded to the Central Government and to all the members of the Institute.]

(6) The Council may borrow from a scheduled bank as defined in the Reserve Bank of India Act, 1934 (2 of 1934), or from the Central Government :

- (a) any money required for meeting its liabilities on capital account on the security of the fund or on the security of any other assets for the time being belonging to it; or
- (b) for the purpose of meeting current liabilities pending the receipt of income by way of temporary loan or overdraft.

¹Sub-sections (5A) and (5B) inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006.

CHAPTER IV

REGISTER OF MEMBERS

19. Register.

- (1) The Council shall maintain in the prescribed manner a Register of the members of the Institute.
- (2) The Register shall include the following particulars about every member of the Institute, namely:-
 - (a) his full name, date of birth, domicile, residential and professional addresses;
 - (b) the date on which his name is entered in the Register;
 - (c) his qualifications;
 - (d) whether he holds a certificate of practice; and
 - (e) any other particulars which may be prescribed.
- (3) The Council shall cause to be published in such manner as may be prescribed a list of members of the Institute as on the 1st day of April of each year, and shall, if requested to do so by any such member, send him a copy of such list ¹[on payment of such amount as may be prescribed].
- ²[(4) Every member of the Institute shall, on his name being entered in the Register, pay such annual membership fee as may be determined, by notification, by the Council, which shall not exceed rupees five thousand :

Provided that the Council may with the prior approval of the Central Government, determine the fee exceeding rupees five thousand which shall not in any case exceed rupees ten thousand.]

¹Inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

²Substituted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006. Prior to its substitution, sub-section (4) read as under :

“(4) Every member of the Institute shall, on his name being entered in the Register, pay such annual membership fee differing in amount according as he is an associate or a fellow as may be prescribed.”

20. Removal from the Register.

- (1) The Council may remove from the Register the name of any member of the Institute,-
 - (a) who is dead; or
 - (b) from whom a request has been received to that effect; or
 - (c) who has not paid any prescribed fee required to be paid by him; or
 - (d) who is found to have been subject at the time when his name was entered in the Register, or who at any time thereafter has become subject, to any of the disabilities mentioned in section 8, or who for any other reason has ceased to be entitled to have his name borne on the Register.
- (2) The Council shall remove from the Register the name of any member in respect of whom an order has been passed under this Act removing him from membership of the Institute.
- ¹[(3) If the name of any member has been removed from the Register under clause (c) of sub-section (1), on receipt of an application, his name may be entered again in the Register on payment of the arrears of annual fee and entrance fee along with such additional fee, as may be determined, by notification, by the Council which shall not exceed rupees two thousand:

Provided that the Council may with the prior approval of the Central Government, determine the fee exceeding rupees two thousand which shall not in any case exceed rupees four thousand.]

¹Inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

CHAPTER V MISCONDUCT

21. ¹[Disciplinary Directorate.

(1) The Council shall, by notification, establish a Disciplinary Directorate headed by an officer of the Institute designated as Director (Discipline) and such other employees for making investigations in respect of any information or complaint received by it.

¹Substituted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to its substitution, section 21 read as under :

21. Procedure in inquiries relating to misconduct of members of Institute.-

(1) Where on receipt of information by, or a complaint made to, it, the Council is prima facie of opinion that any member of the Institute has been guilty of any professional or other misconduct, the Council shall refer the case to the Disciplinary Committee constituted under section 17, and the Disciplinary Committee shall thereupon hold such inquiry and in such manner as may be prescribed and shall report the result of its inquiry to the Council.

(2) If on receipt of such report the Council finds that the member of the Institute is not guilty of any professional or other misconduct, it shall record its finding accordingly and direct that the proceedings shall be filed, or the complaint shall be dismissed, as the case may be.

(3) If on receipt of such report the Council finds that the member of the Institute is guilty of any professional or other misconduct, it shall record a finding accordingly, and shall proceed in the manner laid down in the succeeding sub-sections.

(4) Where the finding is that a member of the Institute has been guilty of a professional misconduct specified in the First Schedule, the Council shall afford to the member an opportunity of being heard before orders are passed against him on the case, and may thereafter make any of the following orders, namely :-

(a) reprimand the member;

(b) remove the name of the member from the Register for such period, not exceeding five years, as the Council thinks fit :

Provided that where the Council is of opinion that the case is one in which the name of the member ought to be removed from the Register for a period exceeding five years or permanently, it shall not make any order referred to in clause (a) or clause (b), but shall forward the case to the High Court with its recommendations thereon.

(5) Where the misconduct in respect of which the Council has found any member of the Institute guilty is a misconduct other than any such misconduct as is referred to in sub-section (4), it shall forward the case to the High Court with its recommendations thereon.

(6) On receipt of any case under sub-section (4) or sub-section (5), the High Court shall fix a date for the hearing of the case and shall cause notice of the date so fixed to be given to the member of the Institute concerned, the Council and to the Central Government, and shall afford such member, the Council and the Central Government an opportunity of being heard and may thereafter make any of the following orders, namely :-

(contd. on page 30)

- (2) On receipt of any information or complaint along with the prescribed fee, the Director (Discipline) shall arrive at a prima facie opinion on the occurrence of the alleged misconduct.
- (3) Where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct mentioned in the First Schedule, he shall place the matter before the Board of Discipline and where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct mentioned in the Second Schedule or in both the Schedules, he shall place the matter before the Disciplinary Committee.
- (4) In order to make investigations under the provisions of this Act, the Disciplinary Directorate shall follow such procedure as may be specified.

(contd. from page 29)

- (a) direct that the proceedings be filed, or dismiss the complaint, as the case may be;
- (b) reprimand the member;
- (c) remove him from membership of the Institute either permanently or for such period as the High Court thinks fit;
- (d) refer the case to the Council for further inquiry and report.

(7) Where it appears to the Court that the transfer of any case pending before it to another High Court, will promote the ends of justice or tend to the general convenience of the parties, it may so transfer the case, subject to such conditions, if any, as it thinks fit to impose, and the High Court to which such case is transferred shall deal with it as if the case had been forwarded to it by the Council.

Explanation I : In this section "High Court" means the highest civil court of appeal, not including the Supreme Court, exercising jurisdiction in the area in which the person whose conduct is being inquired into carries on business, or has his principal place of business at the commencement of the inquiry :

Provided that where the cases relating to two or more members of the Institute have to be forwarded by the Council to different High Courts, the Central Government shall, having regard to the ends of justice and the general convenience of the parties, determine which of the High Courts to the exclusion of others shall hear the cases against all the members.

Explanation II : For the purposes of this section "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.

(8) For the purposes of any inquiry under this section the Council and the Disciplinary Committee 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 :-

- (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 affidavits.

- (5) Where a complainant withdraws the complaint, the Director (Discipline) shall place such withdrawal before the Board of Discipline or as the case may be, the Disciplinary Committee, and the said Board or Committee may, if it is of the view that the circumstances so warrant, permit the withdrawal at any stage.]

21A. ¹[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

¹Sections 21A to 21D inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006.

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.

21B. Disciplinary Committee.

- (1) The Council shall constitute a Disciplinary Committee consisting of the President or the Vice-President of the Council as the Presiding Officer and two members to be elected from amongst the members of the Council and two members to be nominated by the Central Government from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy: Provided that the Council may constitute more Disciplinary Committees as and when it considers necessary.
- (2) The Disciplinary Committee while considering the cases placed before it, shall follow such procedure as may be specified.
- (3) Where the Disciplinary Committee is of the opinion that a member is guilty of a professional or other misconduct mentioned in the Second Schedule or both the First Schedule and the Second 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 permanently or for such period, as it thinks fit;
 - (c) impose such fine as it may think fit, which may extend to rupees five lakhs.
- (4) The allowances payable to the members nominated by the Central Government shall be such as may be specified.

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.

21D. Transitional provisions.

All complaints pending before the Council or any inquiry initiated by the Disciplinary Committee or any reference or appeal made to a High Court prior to the commencement of the Cost and Works Accountants (Amendment) Act, 2006 shall continue to be governed by the provisions of this Act, as if this Act had not been amended by the Cost and Works Accountants (Amendment) Act, 2006.]

22. ¹[Professional or other misconduct defined.

For the purposes of this Act, the expression “professional or other

¹Substituted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to its substitution, section 22 read as under :

’22. Misconduct defined.-For the purposes of this Act, the expression “professional misconduct” shall be deemed to include any act or omission specified in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Council under sub-section (1) of section 21 to inquire into the conduct of any member of the Institute under any other circumstances.’

(2) The Authority may, after calling for the records of any case, revise any order made by the Board of Discipline or the Disciplinary Committee under sub-section (3) of section 21A and sub-section (3) of section 21B and may:-

- (a) confirm, modify or set aside the order;
- (b) impose any penalty or set aside, reduce, or enhance the penalty imposed by the order;
- (c) remit the case to the Board of Discipline or Disciplinary Committee for such further enquiry as the Authority considers proper in the circumstances of the case; or
- (d) pass such other order as the Authority thinks fit:

Provided that the Authority shall give an opportunity of being heard to the parties concerned before passing any order.]

misconduct” shall be deemed to include any act or omission provided in any of the Schedules but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Director (Discipline) under sub-section (1) of section 21 to inquire into the conduct of any member of the Institute under any other circumstances.]

22A. ¹ [Constitution of Appellate Authority.

The Appellate Authority constituted under sub-section (1) of section 22A of the Chartered Accountants Act, 1949 (38 of 1949), shall be deemed to be the Appellate Authority for the purposes of this Act subject to the modification that for clause (b) of said sub-section (1), the following clause had been substituted, namely :-

“(b) the Central Government shall, by notification appoint two part-time members from amongst the persons who have been members of the Council of the ²[Institute of Cost Accountants of India] for at least one full term and who is not a sitting member of the Council;”

22B. Term of office of members of Authority.

A person appointed as a member shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

22C. Procedure, etc., of Authority.

The provisions of section 22C, section 22D and section 22F of the Chartered Accountants Act, 1949 (38 of 1949) shall apply to the Authority in relation to allowances and terms and conditions of service of its Chairperson and members and in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Chartered Accountants Act, 1949.

22D. Officers and other Staff of Authority.

(1) The Council shall make available to the Authority such officers and other staff members as may be necessary for the efficient performance of the functions of the Authority.

¹Sections 22A to 22E inserted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006.

²Substituted for “Institute of Cost and Works Accountants of India”, by the Cost and Works Accountants (Amendment) Act, 2011 w.e.f. 1-2-2012

- (2) The salaries and allowances and conditions of service of the officers and other staff members of the Authority shall be such as may be prescribed.

22E. Appeal to Authority.

- (1) Any member of the Institute aggrieved by any order of the Board of Discipline or the Disciplinary Committee imposing on him any of the penalties referred to in sub-section (3) of section 21A and sub-section (3) of section 21B, may within ninety days from the date on which the order is communicated to him, prefer an appeal to the Authority:

Provided that the Director (Discipline) may also appeal against the decision of the Board of Discipline or the Disciplinary Committee to the Authority if so authorised by the Council, within ninety days:

Provided further that the Authority may entertain any such appeal after the expiry of the said period of ninety days, if it is satisfied that there was sufficient cause for not filing the appeal in time.

- (2) The Authority may, after calling for the records of any case, revise any order made by the Board of Discipline or the Disciplinary Committee under sub-section (3) of section 21A and sub-section (3) of section 21B and may—

- (a) confirm, modify or set aside the order;
- (b) impose any penalty or set aside, reduce, or enhance the penalty imposed by the order;
- (c) remit the case to the Board of Discipline or Disciplinary Committee for such further enquiry as the Authority considers proper in the circumstances of the case; or
- (d) pass such other order as the Authority thinks fit :

Provided that the Authority shall give an opportunity of being heard to the parties concerned before passing any order.]

CHAPTER VI REGIONAL COUNCILS

23. Constitution and functions of Regional Councils.

- (1) For the purpose of advising and assisting it on matters concerning its functions, the Council may constitute such Regional Councils as and when it deems fit for one or more of the regional

constituencies that may be specified by the Central Government under clause (a) of sub-section (2) of section 9.

- (2) The Regional Councils shall be constituted in such manner and exercise such functions as may be prescribed.

CHAPTER VII

PENALTIES

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

Any person who,-

- (i) not being a member of the Institute-
 - (a) represents that he is a member of the Institute; or
 - (b) uses the designation cost accountant; or
- (ii) being a member of the Institute, but not having a certificate of practice, represents that he is in practice or practises as a cost accountant, shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

25. Penalty for using name of the Council, awarding degrees of cost accountancy, etc.

- (1) Save as otherwise provided in this Act, no person shall,-
 - (i) use a name or a common seal which is identical with the name or the common seal of the Institute or so nearly resembles it as to deceive or as is likely to deceive the public;
 - (ii) award any degree, diploma or certificate or bestow any designation which indicates or purports to indicate the position or attainment of any qualification or competence in cost accountancy similar to that of a member of the Institute; or
 - (iii) seek to regulate in any manner whatsoever the profession of ¹[cost accountants.]
- (2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable on first conviction with fine which may

¹Substituted for "Cost and Works Accountants", by the Cost and Works Accountants (Amendment) Act, 2011, w.e.f. 1-2-2012

extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

(3) ¹[***]

(4) If the Central Government is satisfied that any diploma or certificate or any designation granted or conferred by any person other than the Institute, which purports to be a qualification in cost accountancy but which, in the opinion of the Central Government, falls short of the standard of qualifications prescribed for cost accountants and does not in fact indicate or purport to indicate the position or attainment of any qualification or competence in cost accountancy similar to that of a member of the Institute, it may, by notification in the Official Gazette and subject to such conditions as it may think fit to impose, declare that this section shall not apply to such diploma or certificate or designation.

26. Companies not to engage in cost accountancy.

- (1) No company, whether incorporated in India or elsewhere, shall practise as cost accountants.
- (2) Any contravention of the provisions of sub-section (1) shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction to five thousand rupees.

²[**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.]

27. Unqualified persons not to sign documents.

- (1) No person other than a member of the Institute shall sign any document on behalf of a cost accountant in practice or a firm of such cost accountants in his or its professional capacity.

¹Omitted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006. Prior to its omission, sub-section (3) read as under:

“(3) Nothing contained in this section shall apply to any University established by law or to any body affiliated to the Institute.”

²Inserted, by the Cost and Works Accountants (Amendment) Act, 2011, w.e.f. 1-2-2012.

¹[(2) Any person who contravenes the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable on first conviction with a fine not less than five thousand rupees but which may extend to one lakh rupees, and in the event of a second or subsequent conviction with imprisonment for a term which may extend to one year or with a fine not less than ten thousand rupees but which may extend to two lakh rupees or with both.]

28. Offences by companies.

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

¹Substituted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006. Prior to its substitution, sub-section (2) read as under :

“(2) Any person contravening the provision of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.”

Explanation: For the purposes of this section,-

- (a) “company”, with respect to an offence under section 24, section 25 or section 27, means any body corporate and includes a firm or other association of individuals; and with respect to an offence under section 26 means a body corporate; and
- (b) “director”, in relation to a firm, means a partner in the firm.

29. Sanction to prosecute.

No person shall be prosecuted under this Act except on a complaint made by or under the order of the Council or of the Central Government.

¹[CHAPTER VIIA
QUALITY REVIEW BOARD

29A. Establishment of Quality Review Board.

- (1) The Central Government shall, by notification, constitute a Quality Review Board consisting of a Chairperson and four other members.
- (2) The Chairperson and members of the Board shall be appointed from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy.
- (3) Two members of the Board shall be nominated by the Council and other two members shall be nominated by the Central Government.

29B. Functions of Board.

The Board shall perform the following functions, namely:-

- (a) to make recommendations to the Council with regard to the quality of services provided by the members of the Institute;
- (b) to review the quality of services provided by the members of the Institute including cost audit services; and

¹Chapter VIIA, consisting of sections 29A to 29D, inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006.

- (c) to guide the members of the Institute to improve the quality of services and adherence to the various statutory and other regulatory requirements.

29C. Procedure of Board.

The Board shall meet at such time and place and follow in its meetings such procedure as may be specified.

29D. Terms and conditions of service of Chairperson and members of Board and its expenditure.

- (1) The terms and conditions of service of the Chairperson and the members of the Board, and their allowances shall be such as may be specified.
- (2) The expenditure of the Board shall be borne by the Council.]

CHAPTER VIII

DISSOLUTION OF THE INSTITUTE OF COST AND WORKS ACCOUNTANTS REGISTERED UNDER THE COMPANIES ACT, 1956

(1 OF 1956)

30. Dissolution of the Institute of Cost and Works Accountants registered under the Companies Act, 1956.

On the commencement of this Act,-

- (a) the company known as the Institute of Cost and Works Accountants registered under the Companies Act, 1956 (1 of 1956), shall be dissolved and thereafter no person shall make, assert or take any claims, demands or proceedings against the dissolved company or against any officer thereof in his capacity as such officer except insofar as may be necessary, for enforcing the provisions of this Act;

- (b) the right of every member to or in respect of the dissolved company shall be extinguished, and thereafter no member of that company shall make, assert or take any claims or demands or proceedings in respect of that company except as provided in this Act.

31. Transfer of assets and liabilities of the dissolved company to the Institute.

- (1) On the commencement of this Act, there shall be transferred to and vested in the Institute all the assets and liabilities of the dissolved company.
- (2) The assets of the dissolved company shall be deemed to include all rights and powers, and all property, whether movable or immovable of the company, including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in or arising out of such property as may be in the possession of the dissolved company and all books of accounts or documents of the dissolved company; and the liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind then existing of that company.
- (3) All contracts, debts, bonds, agreements and other instruments of whatever nature to which the dissolved company is a party, subsisting or having effect immediately before the commencement of this Act, shall be of as full force and effect against or in favour of the Institute, as the case may be, and may be enforced as fully and effectively as if instead of the dissolved company, the Institute had been a party thereto.
- (4) If, on the commencement of this Act, any suit, appeal or other legal proceeding of whatever nature by or against the dissolved company is pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Institute of the assets and liabilities of the dissolved

company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Institute, in the same manner and to the same extent as it would or may be continued, prosecuted and enforced by or against the dissolved company if this Act had not been passed.

32. Provisions respecting employees of the dissolved company.

- (1) Every person employed in the dissolved company prior to the 1st day of September, 1958, and still in its employment immediately before the commencement of this Act shall, as from such commencement, become an employee of the Institute, shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held the same under the dissolved company if this Act had not been passed, and shall continue to do so unless and until his employment in the Institute is terminated or until his remuneration, terms and conditions of employment are duly altered by the Institute.
- (2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any employee of the dissolved company to the Institute shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IX MISCELLANEOUS

Appeals

33. ¹[***]

34. Alteration in the Register and cancellation of certificate.

- (1) Where an order is made under this Act reprimanding a member a record of the punishment shall be entered against his name in the Register. (2) Where the name of any member is removed, the certificate of practice granted to him under this Act shall be recalled and cancelled.

35. Directions of the Central Government.

- (1) The Central Government may from time to time issue such directions to the Council as in the opinion of the Central Government are conducive to the fulfillment of the objects of this Act and in the discharge of its functions, the Council shall be bound to carry out any such directions.

¹Omitted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to its omission, section 33 read as under:

¹33. Appeals.-(1) Any member of the Institute aggrieved by any order of the Council imposing on him any of the penalties referred to in clause (a) or clause (b) of sub-section (4) of section 21, may, within thirty days of the date on which the order is communicated to him, prefer an appeal to the High Court :

Provided that the High Court may entertain any such appeal after the expiry of the said period of thirty days, if it is satisfied that the member was prevented by sufficient cause from filing the appeal in time.

(2) The High Court may, on its own motion or otherwise, after calling for the records of any case, revise any order made by the Council under sub-section (2) or sub-section (4) of section 21 and may-

- (a) confirm, modify or set aside the order;
- (b) impose any penalty or set aside, reduce, confirm or enhance the penalty imposed by the order;
- (c) remit the case to the Council for such further enquiry as the High Court considers proper in the circumstances of the case;
- (d) pass such other order as the High Court thinks fit :

Provided that no order of the Council shall be modified or set aside unless the Council has been given an opportunity of being heard and no order imposing or enhancing a penalty shall be passed unless the person concerned has been given an opportunity of being heard.

Explanation: In this section “High Court” and “member of the Institute” have the same meanings as in section 21.’

- (2) Directions issued under sub-section (1) may include directions to the Council to make any regulations or to amend or revoke any regulations already made.
- (3) If, in the opinion of the Central Government the Council has persistently made default in giving effect to the directions issued under this section, the Central Government may, after giving an opportunity to the Council to state its case, by order, dissolve the Council, whereafter a new Council shall be constituted in accordance with the provisions of this Act with effect from such date as may be specified by the Central Government.
- (4) Where the Central Government passes an order under sub-section (3) dissolving the Council, it may, pending the constitution of a new Council in accordance with the provisions of this Act, authorise any person or body of persons to take over the management of the affairs of the Institute and to exercise such functions as may be specified in this behalf by the Central Government.

36. ¹[Protection of action taken in good faith.

No suit, prosecution or other legal proceeding shall lie against the Central Government or the Council or the Authority or the Disciplinary Committee or the Tribunal or the Board or the Board of Discipline or the Disciplinary Directorate or any officer of that Government, Council, Authority, Disciplinary Committee, Tribunal, Board, Board of Discipline or the Disciplinary Directorate, for anything which is in good faith done or intended to be done under this Act or any rule, regulation, notification, direction or order made thereunder.]

¹Substituted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to its substitution, section 36 read as under :

“36. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Council in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any regulations or orders made thereunder.”

36A.¹[Members, etc., to be public servants.

The Chairperson, Presiding Officer, members and other officers and employees of the Authority, Disciplinary Committee, Tribunal, Board, Board of Discipline or the Disciplinary Directorate shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

37. Maintenance of Branch Offices.

- (1) Where a cost accountant in practice or a firm of such cost 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 cost accountant in practice or firm of such cost accountants from the operation of this sub-section.
- (2) Every cost accountant in practice or firm of such cost 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.

38. Reciprocity.

- (1) Where any country, specified by the Central Government in this behalf by notification in the Official Gazette, prevents persons of Indian domicile from becoming members of any institution similar to the Institute established under this Act or from practising the profession of cost accountancy or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to become a member of the Institute or practise the profession of cost accountancy, in India.
- (2) Subject to the provisions of sub-section (1), the Council may prescribe the conditions, if any, subject to which foreign qualifications relating to cost accountancy shall be recognised for the purposes of entry in the Register.

¹Inserted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006.

38A. ¹[Power of Central Government to make rules.

- (1) The Central Government may, by notification, make rules to carry out the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-
- (a) the manner of election and nomination in respect of members to the Council under sub-section (2) of section 9;
 - (b) the terms and conditions of service of the Presiding Officer and Members of the Tribunal, place of meetings and allowances to be paid to them under sub-section (3) of section 10B;
 - (c) the procedure of investigation under sub-section (4) of section 21;
 - (d) the procedure while considering the cases by the Disciplinary Committee under sub-section (2) and fixation of allowances of the nominated members under sub-section (4) of section 21B;
 - (e) the procedure to be followed by the Board in its meetings under section 29C; and
 - (f) the terms and conditions of service of the Chairperson and members of the Board under sub-section (1) of section 29D.]

39. Power to make Regulations.

- (1) The Council may, by notification in the Gazette of India, make regulations for the purpose of carrying out the objects of this Act ²[***]. (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

¹Inserted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

²Words “, and a copy of such regulations shall be sent to each member of the Institute” omitted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

- (a) the standard and conduct of examinations under this Act;
- (b) the qualifications for the entry of the name of any person in the Register as a member of the Institute;
- (c) the qualification required for the purposes of sub-section (4) of section 5;
- (d) the conditions under which any examination or training may be treated as equivalent to the examination or training prescribed for members of the Institute;
- (e) the conditions under which any foreign qualification may be recognised;
- (f) the manner in which and the conditions subject to which applications for entry in the Register may be made;
- (g) the fees payable for membership of the Institute and the annual fees payable by associates and fellows of the Institute in respect of their certificates;
- (h) the manner in which elections to ¹[***] the Regional Councils may be held;
- (i) the particulars to be entered in the Register;
- (j) the functions of Regional Councils;
- (k) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;
- (l) the carrying out of research in accountancy;
- (m) the maintenance of libraries and publication of books and periodicals relating to cost accountancy and allied subjects;
- (n) the management of the property of the Council and the maintenance and audit of its accounts;
- (o) the summoning and holding the meetings of the Council and committees thereof, the times and places of such meetings, the procedure to be followed thereat and the number of members necessary to form a quorum;

¹Words "the Council and" omitted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

- (p) the manner in which the annual list of members of the Institute shall be published;
 - (q) the powers, duties and functions of the President and the Vice-President of the Council;
 - (r) the functions of the Standing and other committees and the conditions subject to which such functions shall be discharged;
 - (s) the terms of office, and the powers, duties and functions of the Secretary and other employees of the Council;
 - (t) ¹[***]
 - (u) the terms and conditions of service of persons who have become employees of the Institute under section 32 of this Act;
 - (v) the registration and training of students and the fees to be charged therefor, and
 - (w) any other matter which is required to be, or may be, prescribed under this Act.
- (3) All regulations made by the Council under this Act shall be subject to the condition of previous publication and to the approval of the Central Government.
- (4) Notwithstanding anything contained in sub-sections (1) and (2), the Central Government may frame the first regulations for the purposes mentioned in this section, and such regulations shall be deemed to have been made by the Council, and shall remain in force until they are amended, altered or revoked by the Council.

¹Omitted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006. Prior to its omission, clause (t) read as under :

“(t) the exercise of disciplinary powers conferred by this Act;”

(5) ¹[***]

40. ²[Rules, regulations and notifications to be laid before Parliament.

Every rule and every regulation made and every notification issued under this Act shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or notification, or both Houses agree that the rule, regulation or notification should not be made or issued, the rule, regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation or notification.]

¹Omitted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006. Prior to its omission, sub-section (5), as inserted by the Delegated Legislation Provisions (Amendment) Act, 1983, w.e.f. 15-3-1984, read as under:

“(5) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”

²Inserted, by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 8-8-2006.

¹[THE FIRST SCHEDULE

[See sections 21(3), 21A(3) and 22]

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-

- (1) allows any person to practice in his name as a cost accountant unless such person is also a cost accountant in practice and is in partnership with or employed by him;
- (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.

¹Substituted by the Cost and Works Accountants (Amendment) Act, 2006, w.e.f. 17-11-2006. Prior to their substitution, the First and the Second Schedules read as under:—

‘THE FIRST SCHEDULE

[See sections 21(4) and 22]

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:-

- (1) allows any person to practise in his name as a cost accountant unless such person is also a cost accountant in practice and is in partnership with or employed by himself;
- (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 work, 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.

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;

(contd. on page 51)

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;

- (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;

- (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;

(contd. from page 50)

- (3) accepts or agrees to accept any part of the profits of the professional work of a lawyer, auctioneer, broker or other agent who is not a member of the Institute;
- (4) enters into partnership with any person other than a cost accountant in practice or a person resident without India who but for his residence abroad would be entitled to be registered as a member of the Institute 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, provided that the cost accountant shares in the fees or profits of the professional work of the partnership both within and without India;
- (5) secures, either through the services of a person not qualified to be his partner or by means which are not open to a cost accountant, any professional work;
- (6) solicits clients or professional work either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means;
- (7) advertises his professional attainments or services, or uses any designation or expression other than cost accountant on professional documents, visiting cards, letter-heads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Cost and Works Accountants of India or of any other institution that has been recognised by the Central Government or may be recognised by the Council;

(contd. on page 52)

- (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;

- (6) solicits clients or professional work, either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means:

Provided that nothing herein contained shall be construed as preventing or prohibiting-

- (i) any cost accountant from applying or requesting for or inviting or securing professional work from another cost accountant in practice;
- (ii) a member from responding to tenders or enquiries issued by various users of professional services or organisations from time to time and securing professional work as a consequence;

(contd. from page 51)

- (8) accepts a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing;
- (9) charges or offers to charge, accepts or offers to accept in respect of any professional employment fees which are based on a percentage of profits or which are contingent upon the findings or results of such employment, except in cases which are permitted under any regulations made under this Act;
- (10) engages in any business or occupation other than the profession of cost accountant unless permitted by the Council so to engage :

Provided that nothing contained herein shall disentitle a cost accountant from being a director of a company unless he or any of his partners is interested in such company as accountant;

- (11) accepts a position as cost accountant previously held by some other cost accountant in practice in such conditions as to constitute under-cutting;
- (12) 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 cost or pricing statements or any other statements related thereto.

PART II

PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE IN SERVICE

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person:-

(contd. on page 53)

- (7) advertises his professional attainments or services, or uses any designation or expressions other than cost accountant on professional documents, visiting cards, letter heads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the ¹[Institute of Cost Accountants of India] or of any other institution that has been recognised by the Central Government or may be recognised by the Council :

Provided that a member in practice may advertise through a write up, setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council;

- (8) accepts a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing;
- (9) charges or offers to charge, accepts or offers to accept in respect of any professional employment, fees which are based on a percentage of profits or which are contingent upon the findings or results of such employment, except as permitted under any regulation made under this Act;

¹Substituted for "Institute of Cost Accountants of India", by the Cost and Works Accountants (Amendment) Act, 2011, w.e.f. 1-2-2012

(contd. from page 52)

- (1) pays or allows or agrees to pay directly or indirectly, to any person any share in the emoluments of the employment undertaken by the member;
- (2) accepts or agrees to accept any part of fees, profits or gains from a lawyer, a cost accountant or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification;
- (3) discloses confidential information acquired in the course of his employment otherwise than as required by any law for the time being in force or as permitted by his employer.

PART III

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) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false;
- (2) not being a fellow styles himself as a fellow;
- (3) does not supply the information called for or does not comply with the requirements asked for by the Council or any of its Committees.

(contd. on page 54)

(10) engages in any business or occupation other than the profession of cost accountant unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle a cost accountant from being a director of a company (not being a managing director or a whole-time director) unless he or any of his partners is interested in such company as accountant;

(11) 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 cost or pricing statements or any other statements relating thereto.

PART II

PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE IN SERVICE

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person—

(contd. from page 53)

THE SECOND SCHEDULE

[See sections 21(5) and 22]

PART I

PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE REQUIRING ACTION BY A HIGH COURT

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

- (1) discloses information acquired in the course of his professional engagement to any person other than the client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force;
- (2) certifies or submits in his name or in the name of his firm a report of an examination of cost accounting and related statements, unless the examination of such statements has been made by him or by a partner or an employee in his firm or by another cost accountant in practice;
- (3) permits his name or the name of his firm to be used in connection with an estimate of cost or earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast;
- (4) expresses his opinion on cost or pricing statements of any business or any enterprise in which he, his firm or a partner in his firm has a substantial interest, unless he discloses the interest also in his report;

(contd. on page 55)

- (1) pays or allows or agrees to pay, directly or indirectly, to any person any share in the emoluments of the employment undertaken by him;
- (2) accepts or agrees to accept any part of fees, profit or gains from a lawyer, a cost accountant or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification.

PART III

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) not being a fellow of the Institute acts as a fellow of the Institute;
- (2) does not supply the information called for, or does not comply

(contd. from page 54)

- (5) fails to disclose in a cost or pricing statement a material fact known to him, which is not disclosed in a cost or pricing statement, but disclosure of which is necessary to make such statement not misleading;
- (6) fails to report a material mis-statement known to him to appear in a cost or pricing statement with which he is concerned in a professional capacity;
- (7) is grossly negligent in the conduct of his professional duties;
- (8) fails to obtain sufficient information to warrant the expression of an opinion or makes exceptions which are sufficiently material to negate the expression of an opinion;
- (9) fails to invite attention to any material departure from the generally accepted procedure of costing and pricing applicable to the circumstances;
- (10) fails to keep moneys of his client in a separate banking account or to use such moneys for purposes for which they are intended.

PART II

PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY REQUIRING ACTION BY A HIGH COURT

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;
- (2) is guilty of such other act or omission as may be specified by the Council in this behalf, by notification in the Gazette of India.

with the requirements asked for by the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority;

- (3) while inviting professional work from another cost accountant or while responding to tenders or enquiries or while advertising through a write up, or anything as provided for in items (6) and (7) of Part I of this Schedule, gives information knowing it to be false.

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.

THE SECOND SCHEDULE

[See sections 21(3), 21B(3) and 22]

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:—

- (1) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of his client, or otherwise than as required by any law for the time being in force;

- (2) certifies or submits in his name, or in the name of his firm, a report of an examination of cost accounting and related statements unless the examination of such statements has been made by him or by a partner or an employee in his firm or by another cost accountant in practice;
- (3) permits his name or the name of his firm to be used in connection with an estimate of cost or earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast;
- (4) expresses his opinion on cost or pricing statements of any business or enterprise in which he, his firm or a partner in his firm has a substantial interest;
- (5) fails to disclose a material fact known to him in a cost or pricing statement, which is not disclosed in a cost or pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity;
- (6) fails to report a material mis-statement known to him to appear in a cost or pricing statement with which he is concerned in a professional capacity;
- (7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;
- (8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion;
- (9) fails to invite attention to any material departure from the generally accepted procedure of costing and pricing applicable to the circumstances;
- (10) fails to keep moneys of his client other than fees or remuneration or money meant to be expended in a separate banking account or to use such moneys for purposes for which they are intended within a reasonable time.

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;
- (2) being an employee of any company, firm or person, discloses confidential information acquired in the course of his employment, except as and when required by any law for the time being in force or except as permitted by the employer;
- (3) includes in any information, statement, return or form to be submitted to the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false;
- (4) defalcates or embezzles moneys received in his professional capacity.

PART III

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 is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months.]

APPENDICES

Appendix No. I

Published in Part II Section 3 sub-section (i) of the Gazette of India Extraordinary dated 25th May 1959

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Company Law Administration)

GOVERNMENT OF INDIA

NOTIFICATION

Cost Accountants
New Delhi, the 25th May 1959

G.S.R. 610-In pursuance of sub-section (3) of Section I of the Cost and Works Accountants Act, 1959 (23 of 1959), the Central Government hereby appoints the 28th day of May, 1959 as the date on which the said Act shall come into force. [No. 10(13)-Inst./59.]

D. L. MAJUMDAR
Secretary

Appendix No. 2

Published in Part II Section 3. Sub-section (ii) of the Gazette of India dated 20th May, 1972

GOVERNMENT OF INDIA

DEPARTMENT OF COMPANY AFFAIRS

NOTIFICATION

Cost and Works Accountants
New Delhi, the 8th May 1972

S.R.O. 1242-In pursuance of clause (iii) of sub-section (1) of Section 4 of the Cost and Works Accountants Act, 1959 (23 of 1959), the Central Government hereby specifies the following conditions which a person who, at the commencement of the said Act, was engaged in the practice of cost accountancy in India, shall fulfill, to be entitled to have his name entered in the Register, namely :

1. He must have passed the Intermediate Examination of a recognised University or an equivalent examination.
2. He must have been mainly in continuous practice as a Cost Accountant for a period of five years prior to the 28th May 1959.

3. He must have had as clients five concerns on an average per annum during two years immediately preceding the date of his application and in judging the volume of his practice, each of five concerns should have had as fixed assets of the aggregate value of not less than rupees fifteen lakhs and should have employed not less than 100 workers in that concern.

Explanation : -The word "concern" shall for the purposes of this notification mean a concern engaged in production, processing, manufacturing or mining activities. [No. 10/27/70-IGC.]

M.C. VARMA

Under Secretary to the Government of India

Appendix No. 3

Resolution passed by the Council of the Institute of Cost and Works Accountants of India under clause (iv) and clause (v) of sub-section (1) of Section 4 of the Cost and Works Accountants Act, 1959 at its 253rd Meeting held on April 17-18, 2009

The Council of the Institute of Cost and Works Accountants of India has signed a Memorandum of Understanding with the Chartered Institute of Management Accountants, UK on 3rd December 2008 whereby it has been agreed between the parties to the agreement to allow reciprocal exemptions in different subjects as laid down in the MoU. Consequently, granting of membership directly to Indian Nationals having appeared at and passed, without India, the Final Examination of the Chartered Institute of Management Accountants, UK, subject to fulfillment the requirement of practical training, is hereby withdrawn for the purpose of admission of persons to membership of the Institute of Cost and Works Accountants of India under Section 4(1)(iv) of the Cost and Works Accountants Act, 1959.

The Council of the Institute of Cost and Works Accountants of India has also entered into a mutual recognition agreement with the Institute of Management Accountants, USA on 30th March 2009 for the purpose of admission of persons to membership of the Institute of Cost and Works Accountants of India under Section 4(1)(iv) of the Cost and Works Accountants Act, 1959, so far as Indian and Foreign Nationals having acquired from outside India, the Certified Management Accountant membership qualification of the Institute of Management Accountants, USA are concerned. The membership will be contingent upon the persons having met, and continue to meet all the educational qualifications, experience, continuing education and ethics requirements of the Institute of Cost and Works Accountants of India as well as the Institute of Management Accountants, USA and having paid the appropriate fees and dues required for membership. The following further conditions have also been prescribed by the Council of the Institute for the persons who become members of the Institute of Cost and Works Accountants of India by virtue of Certified Management Accountant membership of the Institute of Management Accountants, USA:

- (a) That such persons will not be able to hold or entitled to hold certificate of practice in India as a Cost Accountant.
- (b) That such persons will be admitted as and continue to be a member of the Institute of Cost and Works Accountants of India, provided they continue to hold a valid CMA membership of the Institute of Management Accountants, USA.
- (c) That such persons shall be not eligible to contest election for membership of the Council or of the Regional Council or any of its Chapters nor shall they be entitled to the right of voting in the elections under the Cost and Works Accountants Act, 1959 (as amended).

The following further conditions have also been prescribed by the Council of the Institute under the proviso to sub-clause (iv) of clause (1) of Section 4 in the case of persons not permanently residing in India, viz.:

- (a) That such persons be required to reside in India to practise the profession of cost accountancy, provided the person is eligible to hold a certificate of practice;
- (b) That such persons be required to reside in India to serve as a salaried employee;
- (c) That such persons be not eligible for membership of the Council or of the Regional Council nor shall they be entitled to the right of voting in the elections held under the Cost and Works Accountants Act 1959 (as amended).

The above resolution is in supercession of the earlier resolution passed by the Council of the Institute under clause (iv) and clause (v) of sub-section (1) of Section 4 of the Cost and Works Accountants Act 1959 (as amended by the Cost and Works Accountants (Amendment) Act 2006

Appendix No. 4

(Notification No. 10 (13)-Inst. 59 dated 25th May 1959 of the Ministry of Commerce and Industry, Department of Company Law Administration, published in Part II Section 3 (ii) of Gazette of India Extraordinary dated 25th May 1959 (G.S.R No. 612) and as amended from time to time and superseded by Notification No. 10/7/73-IGC dated 4th October 1973 of the Ministry of Law, Justice and Company Affairs, Department of Company Affairs, published in Part II Section 3 (ii) of Gazette of India dated 3rd November 1973 and further superseded by Notification No. 1/2/2001-I. G. C dated 17th February 2004 of the Ministry of Finance, Department of Company Affairs, published in Part II Section 3 (ii) of Gazette of India dated 20th November 2003)

MINISTRY OF FINANCE
DEPARTMENT OF COMPANY AFFAIRS
GOVERNMENT OF INDIA NOTIFICATION

Cost and Works Accountants

New Delhi, the 20th November 2003

S.O. 1331(E)- In pursuance of clause (a) of sub-section (2) of section 9 of the Cost and Works Accountants Act 1959 (23 of 1959), and in supersession of the notification of the Government of India in the Department of Company Affairs number S.O. 3084 dated 4th October 1973, the Central Government hereby specifies the following four regional constituencies for the purposes of elections to the Council of the Institute of Cost and Works Accountants of India under the said clause, namely :-

1. Western India Regional Constituency: Comprising the States of Chhattisgarh, Goa, Gujarat, Madhya Pradesh, Maharashtra and the Union territories of Dadra and Nagar Haveli and Daman and Diu.
2. Southern India Regional Constituency: Comprising the States of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu and the Union territories of Lakshadweep and Pondicherry.
3. Eastern India Regional Constituency: Comprising the States of Arunachal Pradesh, Assam, Bihar, Jharkhand, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Sikkim, Tripura, West Bengal and the Union territory of Andaman and Nicobar Islands.
4. Northern India Regional Constituency: Comprising the States of Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan, Uttaranchal, Uttar Pradesh and the Union territories of Delhi and Chandigarh.

(F. No. 1/2/2001 - IGC)

U. K. JINDAL

Under Secretary to the Government of India

Appendix No. 5

(Notification No. G/180(1)/12/69 dated 10th December 1969, published in Part III Section 4 of the Gazette of India dated 3rd January 1970, as amended by Notification No. G/180 (2)13/73 dated 23rd March 1973, published in Part III Section 4 of the Gazette of India dated 21st April 1973.)

THE INSTITUTE OF COST AND WORKS ACCOUNTANTS OF INDIA

NOTIFICATION

Cost Accountants

Calcutta, dated the 10th December 1969

G/180(1)/12/69 : In exercise of the powers conferred by clause (2) of Part II of the Second Schedule to the Cost and Works Accountants Act, 1959, the Council of the Institute of Cost and Works Accountants of India specifies that a member of the Institute shall be deemed to be guilty of professional misconduct if he accepts appointment as cost auditor of a company, while he:-

- (a) is an officer or employee of the company ; or
- (b) is a partner, or is in the employment, of an officer, or employee of the company or of the company's auditor appointed under Section 224 of the Companies Act, 1956 ; or
- (c) is indebted to the company for an amount exceeding one thousand rupees, or has given any guarantee or provided any security in connection with the indebtedness of any third person to the company for an amount exceeding one thousand rupees ; or
- (d) is a director or member of a private company, or is a partner of a firm, which is the managing agent or the secretaries and treasurers of the company; or
- (e) is a director, or the holder of shares exceeding five per cent in nominal value of the subscribed capital, of any body corporate which is the managing agent or the secretaries and treasurers of the company.
- * (f) is an employee of any of the partners of a firm of Chartered Accountants who is/are auditor(s) of the company appointed under Section 224 of the Companies Act, 1956.

S. N. GHOSE

Secretary

* Clause (f) was added by Notification No. G/180(2)73/73 dated 23rd March 1973.

