THE CHARTERED ACCOUNTANTS ACT AND REGULATIONS

THE CHARTERED ACCOUNTANTS ACT, 1949 (THE ACT)

It is an Act enacted by Parliament w.e.f. 1st July 1949 — as amended by Chartered Accountant (Amendment) Act, 2006 for the regulation of the profession of Chartered Accountancy in India. The regulation is exercised through the Institute of Chartered Accountants of India. For the management of the affairs and for discharging the functions assigned to it by the Act, there is a Council of the Institute.

The Act has eight chapters, which deal with provisions relating to membership of the Institute, Council and Regional Councils, misconduct, penalties, power to make various regulations etc.

The Act also has two Schedules relating to professional misconduct.

During the year The Council has issued guidelines for the members pursuant to the provisions of the Chartered Accountants Act, 1949. Important aspects of these guidelines have been suitably covered under appropriate heads the Chartered Accountants Regulations, 1988.

By virtue of Section 30 of the Chartered Accountants Act, 1949, the Council of the Institute has made regulations, which are called the Chartered Accountants Regulations, 1988.

The same came into force from 1st June, 1988 and have been amended from time to time. Some of the important regulations relevant for members and students are given hereinbelow:

ENROLMENT AS MEMBER (SECTIONS 4 & 8, REGULATION 4)

Eligibility Criteria

The applicant should have:

a. Completed the prescribed period of practical training
b. Passed the final C.A. Examinations
c. Has attained twenty one years of age
d. Undergone course on General Management and communication skills (Applicable to candidates passing Both Groups of Final C.A. Examinations held in May 2003 and thereafter).

ELIGIBILITY TO TRAIN ARTICLED ASSISTANTS (AS PER THE REVISED REGULATIONS)

The Chartered Accountants Regulations, 1988 with regard to the eligibility to train the articled assistants has been amended vide Notification dated 17th August, 2007. (Refer September 2007 issue of the CA Journal). As per the amended Regulations, the eligibility of practising member to train articled assistant/s is as under.

TABLE-I

(Applicable to members practising the profession of chartered accountants in his individual name or as proprietor or as partner)

Category	Period of continuous practice	Entitlement of articled assistant or assistants
(i)	An associate or fellow in continuous practice for a period up to 3 years.	1
(ii)	An associate or fellow in continuous practice for any period from 3 years to 5 years.	2
(iii)	An associate or fellow in continuous practice for any period from 5 years to 10 years.	7
(iv)	An associate or fellow in continuous practice for any period from 10 years.	10

TABLE-II

(Applicable to members who are in full time salaried employment under a chartered accountant in practice or a firm of such chartered accountants))

Category	Number of full time salaried employees —irrespective of whether associate or fellow	Entitlement of articled assistant or assistants
(i)	Up to 100	1 per employee
(ii)	Between 101 and 500	100 +50% of such employees above 100 (i.e., a maximum of 300)
(iii)	From 501 or more	300+20% of the number of such employees above 500

Stipend payable would be as under:

Sr. No.	Classification of the normal place of the service of the articled assistant	During the first year of training	During the second year of training	During the remaining period of training
(i)	Cities/towns having a population of twenty lakhs and above	Rs. 1000	Rs. 1250	Rs. 1500
(ii)	Cities/towns having a population of above four lakhs but less than twenty lakhs	Rs. 750	Rs. 1000	Rs. 1250
(iii)	Cities/towns having a population of less than four lakhs	Rs. 500	Rs. 750	Rs. 1000

For detailed guidelines, please refer the Notification dated 17th August, 2007.

Practical Training Record (Regn. 64)

A weekly record of practical training of the Articled/Audit Clerks is required to be maintained, specifying the areas in which the articled clerk has obtained work experience and a report of the practical training is to be enclosed with Form 108/109, in cases of completion/termination.

MAINTENANCE OF RECORD OF AUDIT ASSIGNMENTS

A chartered accountant in practice as well as firm of Chartered Accountants in practice shall maintain a record of the audit assignments accepted by him or by the firm of chartered accountants, or by any of the partners of the firm in his individual name or as a partner of any other firm, as far as possible, in the following format:

S.No.	***Name of the Company***	***Registration Number***	***Date of Appointment***	***Date of Acceptance***	***Date on which Form 23-B filed with Registrar of Companies***
1	2	3	4	5	6

CODE OF ETHICS — Salient provisions

A Chartered Accountant in practice is **PROHIBITED:**

- to pay commission/brokerage or share of profits of his professional business to/with any person other than a member of the Institute.
- from soliciting clients or professional work by circular, advertisement etc. except for advertisement as per the guidelines dt.14th May, 2008 issued by the Council
- from being Director of a Holding Company in whose subsidiary he is the auditor.
- from responding to advertisements inviting application for appointment of auditors, tenders or circulars or enquiry (made to more than one member) inviting quotation restricted to CA.

  However members can respond to tenders in the areas where they compete with non CAs. They can also respond to tenders in the audit field outside the country provided the fees are received in foreign currency. The members are permitted to pay a reasonable amount as price for tender/bid document. In general no earnest money/security deposit is permissible in areas which are exclusive to Chartered Accountants as per Law. However, in non-exclusive area the members are permitted to pay earnest money/security deposit. If only Chartered Accountants are invited in non-exclusive area, the members are permitted to pay reasonable amount towards earnest money/security deposit.
- from expressing his opinion on financial statements of any business or enterprise in which one or more persons who are his ‘relatives’ within the meaning of Section 6 of the Companies Act, 1956 have, either by themselves or in conjunction with such member, a substantial interest in the said business or enterprise.

A Chartered Accountant in practice **CANNOT:**

- Use any designation other than Chartered Accountant on professional documents, visiting cards, letterheads or signboard. The Council has decided that a member of the institute shall not be permitted to use initials "CPA" (standing for Certified Public Accountant) on his visiting card.
- Charge fees on a percentage of profits or which are contingent upon the findings, or results of such work provided that.

  a. In the case of a receiver or a liquidator, the fees may be based on a percentage of the realisation or disbursement of the assets.

b. In the case of an auditor of a co-operative society the fees may be based on a percentage of the paid-up capital or the working capital etc.

c. In the case of a valuer for the purposes of direct taxes and duties, the fees may be based on a percentage of the value of the property valued.

- Engage in any business other than the profession of chartered accountants unless permitted by the Council.
- Accept position as auditor previously held by another chartered accountant without first communicating with him in writing.
- Accept any other work/assignment/service on a remuneration, which exceeds the fees payable for statutory audit of the same undertaking. *(Applicable only in respect of statutory audits of public sector undertaking/Govt. Companies/Listed companies/other public companies with turnover of Rs. 50 crores or more in a year for appointments after 1st April, 2002 — Ref: Notification No. 1-CA(7)/60/2002 published in CA Journal-March, '02 issue).*
- Accept or carry out any audit work involving receipt of audit fees (excluding reimbursement of expenses, if any) for such work of an amount less than what is specified hereunder:—*(notification No.1-CA(7)/93/2006 published in CA journal on page 652 of October, '06 issue):*

	Cities	**Practising firm having 5 or more partners but less than 10 partners**	**Practising firm having 10 or more partners**
(i)	in cities with population of 3 million and above	Rs. 6,000/- p.a	Rs. 12,000/- p.a.
(ii)	in cities /towns with population of less than 3 million	Rs. 3,500/- p.a.	Rs. 8,000/-p.a.

Provided that such restrictions shall not apply in respect of the following:

i. Audit of accounts of charitable institutions, clubs, provident funds etc. where the appointment is honorary; i.e., without fees;
ii. statutory audit of branches of banks including regional rural banks;
iii. audit of newly formed concerns relating to two accounting years from the date of commencement of their operations;
iv. certification or audit under Income-Tax Act or other attestation work carried out by the Statutory Auditor;
v. Sales Tax Audit and VAT Audit

A Chartered Accountant should not accept appointment as an auditor of an entity in case the undisputed audit fees of outgoing auditor for carrying out statutory audit has remained unpaid. This is not applicable in case of sick units.

- Accept in a financial year, more than forty-five tax audit assignments under Section 44AB of the Income-tax Act, 1961.
- Accept appointment as auditor of a concern while indebted to the concern or has given a guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases amount exceeding Rs.10,000.

- Accept the appointment as Cost Auditor of a company under Section 233B of the Companies Act, 1956 while he —

    a. is an auditor of a Company appointed under Section 224 of the Companies Act or

    b. is an ofiicer or employee of the Company; or

    c. is a partner, of any employee or officer of the Company; or

    d. is a partner or is in the employment of the Company's auditor appointed under Section 224 of the Companies Act, 1956; or

    e. 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.

A member cannot accept appointment as Cost Auditor if after his appointment as Cost Auditor he becomes subject to any of the disabilities stated in points (a) to (e) above.

- Hold at anytime appointment of more than thirty audit assignments of Companies under Section 224 and/or Section 228 of the Companies Act, 1956.
- Accept the appointment as statutory auditor of Public Sector undertaking(s)/Government Company(ies) having turnover of Rs.50 crores or more in a year where he accepts any other work(s) or assignment(s) or service(s) in regard to the same undertaking(s)/Company(ies) on a remuneration which in total exceeds the fee payable carrying out the statutory audit of the same Undertaking/Company

Provided that in case appointing authority(ies)/regulatory body(ies) more stringent condition(s) restriction(s), the same shall apply instead of the conditions/restrictions specified under these Guidelines.

The above restrictions shall apply in respect of fees for other work(s) or service(s) or assignment(s) payable to the statutory auditors and their associate concern(s) put together.

- Without following the direction given by the Council or an appropriate committee or on behalf of any of them, accept the appointment as auditor(s), in the case of unjustified removal of the earlier auditor(s)

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1. Share profits of business or other similar arrangements with certain categories of non-members, to be prescribed, from time to time, in the Regulations.
2. Enter in to multi–disciplinary partnership, in or outside India, with certain categories of non-members, to be prescribed, from time to time, in the Regulations.
3. The members can use the Logo (released by the Institute on 1st July, 2007) which consists of the letters 'CA' and a tick mark upside down inside a rounded rectangle with white background. (members can use this Logo as per Institute's guideline available on its website/Refer The CA Journal July, 2007).
4. Advertise through a write up setting out their particulars of their firms and services provided by them subject to the Guidelines No.1–CA(7)/council guidelines/01/2008, Dated 14th May, 2008 issued by the Council pursuant to Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949. (Refer The CA Journal July, 2008 for the detailed guidelines).

5. Give his name and his firms name under specified groups in telephone directory viz., Yellow Pages brought by telephone authorities.
6. Use the designation ‘C.A.’ as well as the name of the firm in greeting cards and invitation cards.
7. Be a director *simpliciter* in a company without permission of the Council.
8. Be a promoter director in a company without prior permission of the Council.
9. Render Management Consultancy and Other Services in Corporate form, subject to the guidelines issued by the Institute in this regard. (Decision in the 261st Council meeting. Published on page 629 of October 2006 issue of C.A. Journal).
10. Create his own website subject to overall guidelines laid down by the Council and should ensure that their websites are run on a **"pull"** and not **"push"** method.
11. The members of ICAI who are also members of AICPA and are eligible to sign the financial statements as CPAs (i.e., as members of the AICPA), may do so. So far as ethical standards are concerned, the ICAI ethical standards will apply. When the ICAI members sign the financial documents as CPAs, they should indicate in an appropriate manner, that their firm is an Indian accounting firm registered with the Institute of Chartered Accountants of India under the Chartered Accountants Act, 1949 (Decision in the 257th Council meeting. Published on page 145 of July 2006 issue of C.A. Journal).

SELF REGULATORY MEASURES

1. Branch Audits of a Company not to be conducted by its statutory auditors consisting of ten or more members but to be entrusted to local firm of auditors consisting of less than 10 members except where accounting records of branches are maintained at the Head Office of the Company or significant operations are carried out at the branch office.
2. Where large Companies desire to appoint firm with less than five partners as joint auditors, the senior audit firms should not object to the same.
3. A practising firm of CAs engaged in audit work should have at least one member for five non-qualified members of the staff, excluding articled clerks, typists, peons and other persons not engaged directly in such professional work.
4. As a good and healthy practice, auditors should make a disclosure of payments received by them for other services through the medium of a different firm or firms in which the said auditor may be either partner or proprietor.
5. To ensure professional independence, fees for audit and other services received by a firm, its partners individually and by any other firm in which a partner or partners are partners, from one or more clients or companies under same management should not exceed 40% of the gross annual fees of firm, other firms and partners referred above. This restriction does not apply in cases where such fees do not exceed Rs. 2 lakhs from the group or where fees relate to audit of government companies or where appointment is made by the Government.

Recommended scale of fee chargeable for the work done by the members of the Institute

The Council of the Institute of Chartered Accountants of India recommends from time to time scale of fees chargeable for the work done by the member of the Institute. Such scale of fees were last revised by the Council at its meeting held in January, 2006, effective from 12th May, 2006.

		Between (Rs.)	**And (Rs.)**
1.	For giving expert evidence in courts of law in the Union of India to professional standing of the witness. (For each day or part thereof spent in attendance and/or travelling).	7,500	15,000

2.	Other work		
	a) Statutory Audit, Tax Audit, Internal Audit, Accountancy and Secretarial work. Principal Qualified Assistants Semi-Qualified/Other Assistant	 900 450 150 (Per Hour)	 1,800 900 300 (Per Hour)
	b) Taxation work. Principal Qualified Assistants Semi-Qualified/Other Assistants	 1,500 750 300 (Per Hour)	 3,000 1,500 600 (Per Hour)
	c) Investigation, Management Services or Special Assignment Principal Qualified Assistant Semi-Qualified/Other Assistant	 2,250 1,125 375 (Per Hour)	 4,500 2,250 750 (Per Hour).

Note :

1. Office time spent in travelling would be chargeable. In case of outstation work. Travelling and out of pocket. Expenses would also be chargeable
2. The Council issues for general information the above revised recommended scale of fees which it considers reasonable under present conditions. It will be appreciated that the actual fees charged in individual cases will be a matter of agreement between member and the client.

CHARTERED ACCOUNTANTS' BENEVOLENT FUND

The Chartered Accountants' Benevolent Fund was established in December, 1962 with the object of providing financial assistance for maintenance, education and other similar purposes to needy persons being members of the Institute of Chartered Accountants of India, their wives, widows, children and dependant relatives. The income from the fund is utilized in giving financial assistance to members and their families in distress.

MEMBER IN PART TIME PRACTICE

- The Council has decided that the members in part time practice shall not be entitled to perform attest function w.e.f. 1-4-2005. The Council in this connection also clarified that the attest function would cover services pertaining to audit, review, certification, agreed upon procedures and compilations as defined in the framework of statements on standard auditing practices and guidance notes on related services published in the July, 2001 issue of the Institute journal. The Council has also decided that a member in practice despite being a partner in firm within India and also employed outside the country may be permitted to undertake attest functions outside India so long as the said member remains outside India and during such stay abroad, his/her status also continues to be "2" in the Institute's record.
- A member who is not entitled to perform attest function shall not be entitled to train the articled assistants.

NETWORK, MERGER, DE-MERGER AMONGST THE FIRMS REGISTERED WITH THE INSTITUTE

The Council has accepted the report of the study group on capacity building measures of CA firms. The report as accepted has been hosted in the website of the Institute under the title "Capacity building measures 2004". The Council has also decided the rules of network amongst the firms registered with ICAI, rules of merger and de-merger etc. The Council has also decided that while, in the constitution certificate, the actual date(s) of (joining of partner)(s)) the merging firm(s) would continue to be the respective date(s) of joining the merged firm, however, against each such entry the clarificatory words "deemed date of joining" should be mentioned without fail.