

Bill No. XXVIII of 2010

THE CHARTERED ACCOUNTANTS (AMENDMENT)
BILL, 2010

A

BILL

further to amend the Chartered Accountants Act, 1949.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Chartered Accountants (Amendment) Act, 2010.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

38 of 1949.

2. In the Chartered Accountants Act, 1949 (hereinafter referred to as the principal Act), in section 2,—

Amendment
of section 2.

(i) in sub-section (1),—

(a) after clause (c), the following clause shall be inserted, namely:—

9 of 1932.

‘(ca) “firm” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932, and includes,—

6 of 2009.

(i) the limited liability partnership as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008;

(ii) the sole proprietorship,
registered with the Institute;’;

(b) after clause (ea), the following clauses shall be inserted, namely:—

‘(eb) “partner” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 or in clause (q) of sub-section (I) of section 2 of the Limited Liability Partnership Act, 2008, as the case may be; 9 of 1932. 6 of 2009.

(ec) “partnership” means—

(A) a partnership as defined in section 4 of the Indian Partnership Act, 1932; or 9 of 1932.

(B) a limited liability partnership which has no company as its partner;’;

(c) after clause (ha), the following clause shall be inserted, namely:—

‘(haa) “sole proprietorship” means an individual who engages himself in the practice of accountancy or offers to perform services referred to in clauses (ii) to (iv) of sub-section (2);’;

(ii) in sub-section (2),—

(a) after the words “chartered accountants in practice”, the words “or in partnership with members of such other recognised professions as may be prescribed” shall be inserted;

(b) in the *Explanation*, for the words “a firm of such chartered accountants”, the words “a firm of such chartered accountants or firm consisting of one or more chartered accountant and members of any other professional body having prescribed qualifications” shall be substituted.

Amendment of section 25. 3. In section 25 of the principal Act, in sub-section (I), the following *Explanation* shall be inserted, namely:—

‘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.’.

STATEMENT OF OBJECTS AND REASONS

The Chartered Accountants Act, 1949 has been enacted to make provision for the regulation of the profession of the chartered accountants. The said Act was amended in 2006 by the Chartered Accountants (Amendment) Act, 2006, *inter alia*, to enable the members of the Institute of Chartered Accountants of India to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner.

2. Subsequently, the Limited Liability Partnership Act, 2008 has been enacted to make provisions for the formation and regulation of limited liability partnerships and for matters connected therewith or incidental thereto. The limited liability partnership will be a separate legal entity, liable to the full extent of its assets, with the liability of the partners being limited to their agreed contribution in the limited liability partnership which may be of tangible or intangible nature or both tangible and intangible in nature.

3. It is proposed to extend the benefits of the Limited Liability Partnership Act, 2008 to the firms of chartered accountants under the Chartered Accountants Act, 1949 and to amend the provisions of that Act.

4. The Chartered Accountants (Amendment) Bill, 2010, *inter alia*, proposes to amend the Chartered Accountants Act, 1949 to,—

(i) apply certain provisions of the Limited Liability Partnership Act, 2008 to the Chartered Accountants Act, 1949 in order to allow the members of the professional institute governed by the Chartered Accountants Act, 1949 to form the limited liability partnership and insert new definitions of "firm", "partner", "partnership" and "sole proprietorship" for the said purpose;

(ii) amend the Chartered Accountants Act, 1949 on lines similar with the provisions of the Company Secretaries Act, 1980 so as to allow the professionals of the Institute of Chartered Accounts of India to form partnership with members of such other recognised professions.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 15th April, 2010.

SALMAN KHURSHID.

FINANCIAL MEMORANDUM

Clause 2 and clause 3 of the Bill seeks to extend the benefits of the Limited Liability Partnership Act, 2008 to the firms of chartered accountants under the Chartered Accountants Act, 1949. The provisions of the Bill will not involve any expenditure of recurring or non-recurring nature from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to amend sub-section (2) of section 2 of the Chartered Accountant Act, 1949 to empower the Council of the Institute of Chartered Accountants of India to make regulations for recognition of other professions with whom members of the Institute can enter into partnership.

2. The matters in respect of which the said regulations may be made are matters of procedure and administrative detail, and it is not practicable to provide for them in the proposed Bill itself.

3. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE CHARTERED ACCOUNTS ACT, 1949

(38 OF 1949)

	*	*	*	*	*
Interpretation.	2.	(1)	In this Act, unless there is anything repugnant in the subject or context,—		
	*	*	*	*	*

(2) A member of the Institute shall be deemed "to be in practice", when individually or in partnership with chartered accountants in practice, he, in consideration of remuneration received or to be received—

(i) engages himself in the practice of accountancy; or

(ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts or records, or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or

(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or

(iv) renders such other services as, in the opinion of the council, are of may be rendered by a chartered accountant in practice; and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—An associate or a fellow of the Institute who is a salaried employee of a chartered accountant in practice or a firm, of such chartered accountants shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articled assistants.

*	*	*	*	*
---	---	---	---	---

RAJYA SABHA

A

BILL

further to amend the Chartered Accountants Act, 1949.

(Shri Salman Khurshid, Minister of Corporate Affairs)