

[TO BE PUBLISHED IN PART III SECTION 4 OF THE
GAZETTE OF INDIA EXTRAORDINARY]

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

New Delhi, dated the 26th April, 2007.

NOTIFICATION

No.1-CA(7)/102/2007(E).- The following draft of certain regulations further to amend the Chartered Accountants Regulations, 1988, which the Council of the Institute of Chartered Accountants of India (hereafter referred to as the Council) proposes to make, is hereby published, as required under sub-section (3) of section 30 of the Chartered Accountants Act, 1949 (38 of 1949) for the information of all persons likely to be affected thereby, and a notice is hereby given that the said draft will be taken into consideration on or after the expiry of period of forty-five days from the date on which the copies of the Gazette of India in which these draft regulations are published are made available to the public;

Any person, desiring to make any objection or suggestion in respect of the said draft regulations, may forward the same for consideration by the Council within the period so specified above to the Secretary, the Institute of Chartered Accountants of India, ICAI Bhawan, Indraprastha Marg, New Delhi – 110 002;

Any objection or suggestion which may be received from any person with respect to the said draft before the expiry of the period so specified will be taken into consideration by the said Council.

Draft Regulations

1. These regulations may be called the Chartered Accountants (Amendment) Regulations, 2007.
2. In the Chartered Accountants Regulations, 1988, -
 - (i) for regulation 43, the following regulation shall be substituted, namely:-

“43. Engagement of Articled Assistants

(1) Subject to the provisions of these Regulations and subject to such terms and conditions, as the Council may deem fit to impose in this behalf, the members designated as an associate or a fellow, who has been in practice continuously, whether in India or elsewhere or an associate or a fellow, who is deemed to be in practice within the meaning of Explanation to sub-section (2) of section 2 of the Act, shall only be eligible to engage an articled assistant or assistants:

Provided that in the case of an associate or a fellow practising outside India, the Council may impose such additional terms and conditions as it may deem fit.

(2) An associate or a fellow, covered by sub-regulation (1), shall be entitled to train such number of articled assistant or assistants, under such terms and conditions, as are specified in Tables I and II given hereinafter:

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 upto 3 years	1
(ii)	An associate or fellow in continuous practice for any period from 3 years to 5 years	3
(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)	Upto 100	1 per employee
(ii)	Between 101 and 500	100 + 50% of the number 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

(3) The entitlement to engage and train articled assistant or articled assistants under this regulation shall be subject to following conditions:-

(i) a full-time salaried employee shall be eligible to engage and train an articled assistant only if he has been in employment with the same employer for a continuous period of twelve months.

(ii) a member who ceases to be in practice or resigns his partnership or gives up salaried employment under a chartered accountant in practice or a firm of such chartered accountants and who, at the time of discontinuance of practice or paid employment, as the case may be, has one or more articled

assistants serving under him, shall not be eligible to take any articulated assistant, if he subsequently sets up practice or takes up salaried employment under a chartered accountant in practice or a firm of such chartered accountants, until such time as the articulated assistant or assistants serving under him previously complete the period of articles intended to be served under him, had he not given up his practice or the salaried employment.

(iii) a member shall be entitled to engage and train an articulated assistant only if he is in practice and such practice, in the opinion of the Council, is his main occupation and for the purposes of this sub-regulation, in ascertaining the number of years for which a member was in continuous practice, only the number of years in respect of which the member's practice was his main occupation shall be considered:

Provided that the Council may, in its discretion, condone any break in the continuity of practice, for a period not exceeding 182 days in the aggregate.

Explanation – For the purpose of this sub-regulation, a member who sets up practice, with practice as his main occupation, after having been in employment for a minimum period of six years in one or more financial, commercial or industrial undertakings approved under regulations 51 and 72, shall be deemed to have been in continuous practice for three years.

(4) The entitlement of a member to train articulated assistants under this regulation shall be subject to such decisions as may be made by the Council under regulation 67.”;

(ii) for regulation 44, the following regulation shall be substituted, namely:-

“44. Members not to engage articulated assistants under the bye-laws of any of the accountancy institutions or bodies outside India.-

A member entitled to engage and train articulated assistants, under regulation 43, shall not engage any other articulated clerk, articulated assistant or apprentice, by whatever name called, registered under the bye-laws of any other Institute or Society or Body:

Provided that such a member may engage any person who has been registered as a student with any of the accountancy institutions or bodies whose training is recognized by the Council as being equivalent to the training prescribed for members of the Institute under clause (v) of sub-section (1) of section 4 of the Act.”;

(iii) in regulation 45, for clause (a), the following shall be substituted, namely:-

“(a) he is entitled to train articulated assistants under regulation 43, and his professional practice or that of his employer, if he is an employee of chartered accountant in practice or a firm of such chartered accountants, is suitable for the purpose of training articulated assistants; and”;

(iv) in regulation 48, for sub-regulation (1), the following shall be substituted, namely:-

“(1) Every principal engaging and training articled assistant or assistants, under regulation 43, shall pay every month to such assistant a minimum monthly stipend, at the rates specified in the Table below:

Table

Classification of the normal place of service of the articled assistant (1)	During the first year of training (2)	During the second year of training (3)	During the remaining period of training (4)
(i) Cities/towns having a population of twenty lakhs and above.	Rs. 1000/-	Rs. 1250/-	Rs. 1500/-
(ii) Cities/towns having a population of four lakhs and above 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/-

Explanation 1– For the purposes of this regulation, no stipend shall be payable for any excess leave taken.

Explanation 2– For the purposes of determining the rates at which stipend is payable under this regulation, the period of articled training of the student under any previous principal or principals (not being any such period prior to 1st July, 1973) shall also be taken into account.

Explanation 3– For the purposes of this regulation, the figures of population shall be taken as per the last published Census Report of India.”;

(v) in regulation 53, for sub-regulation (1), the following shall be substituted, namely:-

“(1) A person of Indian origin, who has been a citizen of or a permanent resident in a foreign country for a minimum period of five years and who migrates to India and provides satisfactory proof that merely by reason of migration, he has not been able to pass such other examination or examinations or complete such other training without India prescribed by any of the accountancy institutions or bodies, as are recognised by the Council under clause (v) of sub-section (1) of section 4 of the Act and also proves to the satisfaction of the Council that he intends to settle down permanently in India and obtains citizenship, may be given such concession or relaxation in the matter of examination or practical training, as the Council deems fit, provided the Council is itself satisfied that the examination or examinations or training passed or undergone in that country are equivalent to the examination or examinations or training prescribed for the members of the Institute.”;

(vi) after regulation 54, the following regulations shall be inserted, namely: -

“54A. Practical Training under eligible members of Accountancy Institutions or Bodies outside India.-

(1) A principal, with the consent of the articled assistant, may depute the latter for training for a period not exceeding six months to a member eligible to engage and train an articled clerk or articled assistant or apprentice, by whatever name called, under the bye-laws of an institution or body etc. set up in the respective countries under the relevant Statutes.

(2) For the purpose of regulation 50, such period of training shall be deemed to be service as an articled assistant.

(3) During such period of training the provisions of regulation 48 shall not apply.

(4) The principal shall include the particulars of such training in the report to the Council under regulation 64.

(5) No deed of Articles need be executed for such training nor any intimation need be sent to the Institute in this regard.;

55. Change of status of Principal

(1) Where a salaried employee of a chartered accountant in practice or a firm of such chartered accountants set up practice independently, his articled assistant or articled assistants, as the case may be, shall remain with him from the date of setting up practice independently provided he is entitled to train the articled assistant or the articled assistants under regulation 43:

Provided that the President or the Vice-President of the Council may, in an appropriate case, direct that the articled assistant shall serve the chartered accountant in practice or the firm of such chartered accountants, as the case may be.

(2) Where the salaried employee aforesaid does not set up practice independently or he is not entitled to train the articled assistant or the articled assistants under regulation 43, the articled assistant or articled assistants, as the case may be, shall serve the chartered accountant in practice who has executed the deed of articles as required under sub-regulation (1) of regulation 46 as the second principal. The provision of sub-regulation (1) of regulation 46 shall not apply in such a case but a statement in the form approved by the Council shall be sent to the Secretary for registration so as to reach within thirty days of the change in the status of the principal or within such extended period as the Secretary may determine.

(3) In every case referred to in sub-regulation (1) or sub-regulation (2) no registration fee shall be payable by the articled assistant.”;

(vii) in regulation 56, for sub-regulation (1), the following shall be substituted, namely:-

“(1) Every article assistant executing the deed of articles for the full period of article training prescribed under these Regulations, shall be required to complete such articles only with the member, who has engaged him:

Provided that the articles so engaged may, by agreement between the article assistant and his principal, be terminated under such exceptional circumstances or conditions, as may be decided by the Council:

Provided further that on completion or termination of articles, the principal shall issue the certificate of service prescribed under regulation 61 within three months of such completion or termination:

Provided also that in cases where no such certificate is received by the Secretary within fifteen days of expiration of the period specified above, the certificate shall be deemed to have been issued on the date specified by the article assistant.

(viii) in regulation 57, for sub-regulation (4), the following shall be substituted, namely:-

“(4) In every case referred to in sub-regulation (1) or sub-regulation (2) above, the provisions of regulation 46 shall apply ‘mutatis mutandis’ except that no fee shall be payable by the article assistant:

Provided that in such cases, the request for permission to be taken as additional article assistant under another principal is sent, so as to reach the Secretary within thirty days and the statement in Form approved by the Council is sent so as to reach the Secretary within thirty days from the date of the letter of the Secretary granting such permission:

Provided further that in a case covered under category (c) of sub-regulation (1), the date of commencement of training under fresh articles shall be taken as the date following the date of the death of the principal.”;

(ix) in regulation 59,-

(a) for sub-regulation (2), the following shall be substituted, namely:-

“(2) An article assistant who has served as an audit assistant before the commencement of his articles shall, in addition to the leave earned under this regulation, be entitled to leave equal to one-half of the leave earned and not availed of as an audit assistant, subject to a maximum of three months.”;

(b) for sub-regulation (4), the following shall be substituted, namely:-

“(4) For the purposes of preparing for an examination of the Institute, the article assistant shall be granted by the principal leave for three months or to the extent due, whichever is less, provided an application for the leave has been made at least fifteen days in advance.”;

(c) for Explanation— (1), the following shall be substituted, namely:-

“Explanation—(1) For the removal of doubts, it is clarified that attendance by an article assistant with the consent of the principal, at a conference, including Course

on Information Technology Training, and Course on General Management and Communication Skills or seminar organised by the Institute including a regional council or a students' association or a branch of a regional council for the benefit of assistants, shall be treated as period actually served under articles.”;

(x) for regulation 60, the following regulation shall be substituted, namely:-

“60. Working hours of an Articled Assistant.-

The minimum working hours of an articled assistant shall be 35 hours per week (excluding lunch break) which shall be regulated by the Principal from time to time, subject to such directions and guidelines, as may be issued by the Council.”;

(xi) in regulation 64, for sub-regulation (1), the following shall be substituted, namely:-

“(1) The principal imparting training to articled assistants shall ensure that the training imparted is of such an order that the quality and standing of the profession are maintained as well as enhanced. For that purpose, he shall maintain a record about the progress and nature of training imparted by him to the articled assistant, in such form and manner, as may be determined by the Council.”;

(xii) in regulation 66, for sub-regulation (1), the following shall be substituted, namely:-

“(1) Where a complaint or information of any misconduct or breach of regulation 65 or breach of the Code of Conduct applicable to articled assistants or breach of any of the covenants contained in the articles is received against an articled assistant from his principal or any other person, the President or the Vice-President as the Executive Committee may decide from time to time, may cause an investigation to be made.”;

(xiii) in regulation 74, -

(a) for sub-regulation (2), the following shall be substituted, namely:-

“(2) An audit assistant who has served as an articled assistant before the commencement of his audit service shall, in addition to the leave earned under this regulation, be entitled to leave earned and not availed of by him as an articled assistant, subject to a maximum of three months.”;

(b) for sub-regulation (4), the following shall be substituted, namely:-

“(4) For the purpose of preparing for an examination of the Institute, the audit assistant shall be granted by the employer leave for three months or to the extent due, whichever is less, provided an application for leave has been made at least fifteen days in advance.”;

(c) for the Explanation, the following shall be substituted, namely:-

“Explanation— For the removal of doubts, it is clarified that attendance by an audit assistant, with the consent of the principal, at a conference, including Course on Information Technology Training, and Course on General Management and

Communication Skills or seminar organised by the Institute including a regional council or a students' association or a branch of a regional council for the benefit of students, shall be treated as period actually served as an audit assistant.”;

(xiv) in regulation 79, for sub-regulation (1), the following shall be substituted, namely:-

“(1) Where a complaint or information of any misconduct or breach of regulation 78 or breach of the Code of Conduct applicable to audit assistants is received against an audit assistant from his employer or any other person the President or the Vice-President as the Executive Committee may decide from time to time, may cause an investigation to be made.”;

File No.1-CA(7)/102/2007(E)

Dr. Ashok Haldia,
Secretary

Note: The principal regulations were published in the Gazette of India, Extraordinary, dated the 1st June, 1988 vide number 1-CA(7)/134/88 dated 1st June, 1988 and subsequently amended by the following numbers :-

- (i) Notification No.1-CA(7)/1/89 published in the Gazette of India dated 7th October, 1989
- (ii) Notification No.1-CA(7)/10/90 published in the Gazette of India dated 19th January,1991
- (iii) Notification No.1-CA(7)/11/90 published in the Gazette of India dated 19th January,1991
- (iv) Notification No.1-CA(7)/12/91 published in the Gazette of India dated 23rd February,1991
- (v) Notification No.1-CA(7)/13/90 published in the Gazette of India dated 2nd February,1991
- (vi) Notification No.1-CA(7)/19/92 published in the Gazette of India, dated 7th March, 1992.
- (vii) Notification No.1-CA(7)/28/95 published in the Gazette of India dated 1st September,1995
- (viii) Notification No. 1-CA(7)/30/95 published in the Gazette of India, Extraordinary dated 13th March, 1996
- (ix) Notification No. 1-CA(7)/31/97 published in the Gazette of India, dated 16th August, 1997

- (x) Notification No. 1-CA(7)/44/99 published in the Gazette of India dated 26th February, 2000
- (xi) Notification No.1-CA(7)/45/99 published in the Gazette of India, dated 26th February, 2000.
- (xii) Notification No.1-CA(7)/51/2000 published in the Gazette of India, Extraordinary, dated 17th August, 2001.
- (xiii) Notification No.1-CA(7)/59/2001 published in the Gazette of India, Extraordinary dated 28th September, 2001
- (xiv) Notification No.1-CA(7)/64/2002 published in the Gazette of India, Extraordinary dated 31st March, 2003
- (xv) Notification No.1-CA(7)/64A/2003 published in the Gazette of India, Extraordinary dated 4th December, 2003
- (xvi) Notification No.1-CA(7)/83/2005 published in the Gazette of India, Extraordinary dated 28th July, 2005
- (xvii) Notification No.1-CA(7)/84/2005 published in the Gazette of India, dated 17th June, 2006
