

Important Sections of Chartered Accountant Act, 1949

Sec. 2(2)(iv)	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 renders such other services as, in the opinion of the Council, are or may be rendered by a Chartered Accountant in practice. Pursuant to Section 2(2)(iv), the Council has passed a resolution permitting a CA in practice to render entire range of "Management Consultancy and other Services". Accordingly "Management Consultancy and other Services" shall include the following: • Personnel recruitment and selection. • Acting as advisor or consultant to an issue, including such matters as Drafting of prospectus and listing agreement and completing formalities with Stock Exchanges, ROC and SEBI, Preparation of publicity budget, Advice regarding selection of various agencies connected with issue etc. Explanation - For removal of doubts, it is hereby clarified that the activities of broking, underwriting and portfolio management are not permitted.	
Sec. 6	→ No member of the Institute shall be entitled to practice unless he has obtained from the Council a COP. → Once a person becomes a member of ICAI, he is bound by the provisions of CA Act and its regulations. → If he appears before the Income Tax Tribunal as an Income tax representative after becoming a member he could appear so only in his capacity as a CA and a member of ICAI. → A member of ICAI can have no other capacity in which he can take up such practice, separable from his capacity to practice as a member of the Institute. → A member not in practice cannot accept any engagement for services prescribed for a practicing CA. Therefore if a CA has surrendered his certificate of practice due to misconduct he cannot in any other capacity take up any practice separable from his capacity to practice as a member of the institute.	
Sec. 7	→ Every member of the Institute in practice shall use the designation of a chartered accountant. → No member using such designation shall use any other description, whether in addition thereto or in substitution. → In case a member have more than one Certificate of practice, (subject to permission), for matters involving practice as Chartered Accountant, they should use designation C.A.	
Sec. 27	Office	A Place where a name board is fixed or where such place is mentioned in the letterhead or any other documents as a place of business.
	Use of Name Board at residence	Name board can be put in place of residence of member provided it is a name board of individual member and not of firm.
	Requirement of Separate In-charge	→ If a CA in practice or a firm of CA has more than one office in India, each one of such offices should be in the separate charge of a member of the institute, who may be either partner / employee. → The requirement of Section 27 in regard as to a member being in-charge of an office of a CA or a firm of such CAs shall be satisfied only if the member is actively associated with such office. → Such association shall be deemed to exist if the member resides in the place where the office is situated for a period of not less than 182 days in a year or if he attends the said office for a period of not less than 182 days in a year.
	Exemption from Separate In-charge	
	Members practicing in Hilly area	subject to following conditions: • Temporary office in plains may be opened for a period not exceeding 3 Months in winter season. • Name board of firm to be displayed at temporary office only during these 3 months. • Temporary office should not be mentioned as place of Business on office documents, • Regular office need not be closed and all correspondence may continue at permanent office, Before commencement of every winter and at the close of such temporary office, it shall be obligatory on member to inform ICAI
	Second office	If it is situated in • same premises in which first office is situated, or • in the same city, or • within 50 kms. from the municipal limits of city in which first office is situated

First Schedule to CA Act, 1949

Part – I (Professional Misconduct - CA in Practice)	A CA in Practice is deemed to be guilty of professional Misconduct if he							
	Clause 1	Allows any person to practice in his name as a Chartered Accountant, unless such person is also a Chartered Accountant in practice, and is in partnership with, or employed by himself.						
	Clause 2	→ Pays or allows or agrees to pay or allow, directly or indirectly, → any share, commission or brokerage in fees or profits → of his professional business to any person other than • a member of the Institute, or • partner / retired partner, or • legal representative of deceased partner (If partnership deed provides), or • member of any other professional bodies (ICSI, ICWAI, Bar Council of India, Indian Institute of Architects, Institute of Actuaries of India) or • with such other persons having prescribed qualifications (CS, CWA, Actuary, B.E. Bachelor in Technology, Bachelor in Architecture, Bachelor in Law; MBA). Sale of Goodwill: In case of sole proprietorship, the Council of ICAI has resolved that the sale / transfer of goodwill shall be permitted in case of death of the proprietor provided: • ICAI's permission to practice in the deceased's firm name is sought within a year of death. (In such a case, name of the firm is kept in abeyance till one year from the date of death). • In case there exist a dispute as to the legal heir, information as to the existence of the dispute is received by the Institute within a year of the death. (In such a case, name of the firm is kept in abeyance till one year from the date of settlement of dispute). Note: In case of a partnership firm when all the partners die at the same time, the above council decision would also be applicable.						
	Clause 3	Accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of Institute. However, such restriction does not apply in respect of following persons: → member of any other professional bodies (as specified in Clause 2), or → with such other persons having prescribed qualifications (as specified in Clause 2).						
	Clause 4	Enters into partnership in or outside India, with any person other than the following: 1. C.A. in practice, or 2. Member of any other professional body having prescribed qualifications, or 3. a person who but for his residence abroad would be entitled to be registered as member, or 4. a person whose qualifications are recognized by CG or Council for the purpose of permitting such partnerships. Persons Qualified in India for purpose of Membership (Regulation 53A): CS, CWA, Actuary, B.E., B. Tech, B. Arch, LLB or MBA (from recognised Universities or Institutes) . Permitted memberships for Partnership (Regulation 53B): Members of ICSI, ICWAI, Bar Council of India, Institution of Engineers, Indian Institute of Architects, Institute of Actuaries of India and professional Bodies outside India whose qualifications are recognised by the Council.						
	Clause 5	Secures any professional business through the services of a person who is not an employee or not his partner or by means which are not open to a CA.						
	Clause 6	→ Solicits clients or professional work, either directly or indirectly, → by circular, advertisement, personal communication or by any other means. However, solicitation is relaxed in following cases: → Securing professional work from another CA in practice. → Responding to tenders or enquiries issued by various users of professional services. Council Guidelines w.r.t. Permitted and Prohibited forms of Solicitation <table><tr><td>Empanelment for allotment of audit / professional work</td><td> → In respect of organisations, where a panel of CA's exists, a member is free to request to place his name on the panel. → Roving enquiries for existence of such panel is not permitted. → It is permissible to quote fees on enquiries being received from such organisations, which maintains such panel. </td></tr><tr><td>Scope of representation u/s 140(4) of Companies Act 2013</td><td> → Representation should not be used to secure needless publicity and soliciting for his continuance as an auditor. → I may set out in a dignified manner how he has been acting independently through his term of office and his willingness to continue as an auditor. </td></tr><tr><td>Public Interviews</td><td>→ permitted subject to condition that it should not result in publicity.</td></tr></table>	Empanelment for allotment of audit / professional work	→ In respect of organisations, where a panel of CA's exists, a member is free to request to place his name on the panel. → Roving enquiries for existence of such panel is not permitted. → It is permissible to quote fees on enquiries being received from such organisations, which maintains such panel.	Scope of representation u/s 140(4) of Companies Act 2013	→ Representation should not be used to secure needless publicity and soliciting for his continuance as an auditor. → I may set out in a dignified manner how he has been acting independently through his term of office and his willingness to continue as an auditor.	Public Interviews	→ permitted subject to condition that it should not result in publicity.
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		Guidelines for Posting the particulars on Website	
		- No standard format is prescribed and no restriction on use of colours. - Website should run on 'pull' model not on 'push' model of technology. - Mention of Website Address on professional stationery is permitted. - Members are not allowed to use logo (other than prescribed by ICAI) on website. - Photographs of any sort (other than passport size photo of member) is not permitted. - Details should be so designed that it does not amount to soliciting client or advertisement of professional attainments or services. - Website may provide a link to the website of ICAI, its regional councils and branches and also to the websites of Government/Government departments/Regulatory Authorities only. - Address of the website may be different from the name of the firm. - Name of clients and fees charged is not permitted to be given on website.	
	Clause 7	→ Advertises his professional attainments or services, or → uses any designation or expressions other than CA → on professional documents, visiting cards, letter heads or sign boards. However, recognized degree of university or membership recognized institution may be used. (a) Words like income-tax consultant, cost consultant or management consultant - not allowed. (b) Persons eligible otherwise, subject to permission may practice as advocates but can't use designation "Chartered Accountant" and "Advocate" simultaneously. (c) A member may appear on T.V. and films and etc. and describe themselves as CA, but no reference, as to name/address/services of firm should be made. (d) Name of CA acting as director in the company is permissible to appear in the prospectus of the company, however descriptions regarding his expertise and knowledge is not permitted.	
	Clause 8	→ accept a position as Auditor, previously held by another chartered accountant, → without first communicating with him, in writing. (a) Professional reasons for not accepting Audit: (i) Non-compliance of provisions of Sec. 139 & 140 of Companies Act 2013. (ii) Non-payment of undisputed audit fee (except sick unit). (iii) Issuance of a qualified Report. In first two, acceptance of audit amounts to professional misconduct. In (iii), member may accept audit if he thinks that attitude of retiring auditor wasn't proper and justified. (b) Mode of communication: Registered post acknowledgement due or by hand against an acknowledgement in writing. Mere posting of a letter under certificate of posting is not sufficient to establish communication. (c) The requirement for communicating would apply to all types of audit i.e. statutory audit, tax audit, internal audit, concurrent audit or any other kind of audit.	
	Clause 9	→ accepts an appointment as auditor of a company, without ascertaining → whether requirements of Sec. 224 & 225 of Companies Act, 1956 (Sec. 139 & 140 of Companies Act 2013), in respect of such appointment have been duly complied with.	
	Clause 10	→ Charges or offers to charge, accepts or offers to accept, → in respect of any professional employment, → fee which is based on a %age of profits or which are contingent upon findings, or results of such employment, except as permitted under regulations.	
		Regulation 192 (Restriction on Fees)	In respect of below mentioned cases fees may be fixed as specified below: In the case of receiver or liquidator: on the basis of %age of realisation or disbursement of assets. In the case of co-operative society: on the basis of %age of paid up capital or working capital or gross/net income or profits. In the case of valuer for purposes of direct taxes and duties: on the basis of %age of value of property valued.
	Clause 11	→ Engages in any Business or occupation, other than profession of C.A → unless permitted by council so to engage. Note: However, a member may become director (not being M.D. or Whole time director) in a company provided he or any of his partner is not interested in such company as an auditor.	
	Clause 12	→ Allows a person not being a member of Institute in practice or a member not being his partner, to sign on his behalf or on behalf of his firm, → any Balance Sheet, P&L A/c, Report or Financial Statements	

Part – II (Professional Misconduct - CA in Service)	A CA in Service shall be deemed to be guilty of professional misconduct if he:	
	Clause 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.
	Clause 2	Accepts or agrees to accept any part of fees, profits or gains from a lawyer, a chartered 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 - CA Generally)	A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he	
	Clause 1	Not being a fellow of the Institute, but acts as a fellow of the Institute.
	Clause 2	Does not supply the information called for, or does not comply 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.
	Clause 3	While inviting professional work from another chartered accountant or while responding to tenders or enquiries or while advertising through a write up or anything as provided for in clauses (6) and (7) of Part I of this schedule, gives information knowing it to be false.
Part – IV (Other Misconduct – CA Generally)	A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he	
	Clause 1	is held guilty of any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months.
	Clause 2	In the opinion of the Council brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.
	Illustrative Cases of Other Misconduct: 1. Retaining of books of account and documents of the client without a reasonable cause. 2. Misappropriation by office-bearer of a Regional Council, of funds for his personal use. 3. Keeping assessment records of income tax department belonging to the client at home. 4. Adopting coercive methods on a bank for having a loan sanctioned to him.	

Second Schedule to CA Act, 1949

Part – I (Professional Misconduct - CA in Practice)	A CA in Practice is deemed to be guilty of professional Misconduct if he	
	Clause 1	→ discloses the 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.
	Clause 2	→ Certifies or submits in his name or in the name of his firm → a report of an examination of financial statements → unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another CA in practice.
	Clause 3	→ Permits his name or the name of his firm, → to be used in connection with an estimate of earnings → contingent upon future transactions in manner which may lead to the belief that he vouches for the accuracy of the forecast. Participation in preparation of forecasts & their review: SAE 3400 "The Examination of Prospective Financial Information" allows to a member to participate in the preparation of profit or financial forecasts and can review them subject to following conditions: (a) He indicates the source of information. (b) He indicates the basis of forecasts. (c) He gives in his report the major assumptions made in arriving at the forecasts. (d) He does not vouch for the accuracy of the forecasts.
	Clause 4	→ expresses his opinion, on financial statements of any business or enterprise → in which he, his firm or a partner in his firm has a substantial interest (1) Sec. 141 of Companies Act 2013 also prohibits a member from auditing the accounts of a company in various situations. (2) A member of the Institute can not express the opinion in the following cases: (a) Where the member himself is owner / partner of concerned business. (b) Where the partner / relative (within the meaning of AS 18) of CA has substantial interest in concerned business. (c) Where the member himself or his partner or relative is a director. (3) Members are not permitted to write books of accounts of their auditee clients.
	Clause 5	→ fails to disclose a material fact, known to him, which is not disclosed in a financial statement, → but disclosure of which is necessary, in making such financial statement not misleading → where he is concerned with that financial statement in a professional capacity.

	Clause 6	→ fails to report a material misstatement. known to him, to appear in a financial statement → with which he is concerned in a professional capacity.
	Clause 7	→ Does not exercise due diligence, or is grossly negligent → in the conduct of his professional duties.
	Clause 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.
	Clause 9	→ Fails to invite attention to any material departure → from the generally accepted procedure of audit applicable to the circumstances.
	Clause 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 - CA Generally)	A member of the Institute will be held guilty of professional misconduct if he	
	Clause 1	→ Contravenes any of the provisions of this act or → the regulations made there under or any guidelines issued by the council.
	Clause 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 or except as permitted by the employer.
	Clause 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.
	Clause 4	Defalcates or embezzles money received in his professional capacity.
Part – III (Other Misconduct – CA Generally)	Clause 1	→ A member of the Institute, whether in practice or not, → shall be deemed to be guilty of other misconduct, → if he is guilty by any civil or criminal court for an offence which is punishable for a term exceeding 6 months.

Council General Guidelines, 2008

Heading	Provision
Opinion on financial statements when there is substantial interest	- A member of the Institute shall not express his opinion on financial statements of any business or enterprise in which one or more persons who are his "relatives" within the meaning of AS 18 has/have, either by themselves or in conjunction with such member, a substantial interest in the said business or enterprise. - Explanation: For this purpose and for the purpose of compliance of Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, the expression "substantial interest" shall have the same meaning as is assigned thereto under Appendix (9) to the Chartered Accountants Regulations, 1988. Points to remember Relative as per AS 18, in relation to an individual, means the spouse, son, daughter, brother, sister, father and mother who may be expected to influence, or be influenced by, that individual in his/her dealings with the reporting enterprise.
Maintenance of books of accounts	A member of the Institute in practice or the firm of CAs of which he is a partner, shall maintain and keep in respect of his / its professional practice, proper books of account including the following:- (i) a Cash Book; (ii) a Ledger.
Tax Audit assignments u/s Section 44 AB of the Income-tax Act, 1961	- A member of the Institute in practice shall not accept, in a financial year, more than the "specified number of tax audit assignments" u/s 44AB of the Income-tax Act, 1961. "The specified number of tax audit assignments" means - (a) in the case of a CA in practice or a proprietary firm of CA, 60 tax audit assignments. (b) in the case of firm of CAs in practice, 60 tax audit assignments per partner in the firm.
Appointment of an Auditor in case of non-payment of undisputed fees	- A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid: - In the case of sick unit (Negative net worth), the above prohibition of acceptance shall not apply.

Specified number of audit assignments	• A member of the Institute in practice shall not hold at any time appointment of more than the “specified number of audit assignments” of Companies u/s 139 of the Companies Act, 2013. • 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: <table><tr><td>S.No</td><td>Name of the Company</td><td>Registration No.</td><td>Date of Appointment</td><td>Date of Acceptance</td><td>Date on which Form ADT-1 Filed with ROC</td></tr><tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>	S.No	Name of the Company	Registration No.	Date of Appointment	Date of Acceptance	Date on which Form ADT-1 Filed with ROC	1	2	3	4	5	6						
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Appointment as Statutory auditor	→ A member of the Institute in practice shall not accept the appointment as statutory auditor of PSU(s)/ Government Company(ies)/Listed Company(ies) and other Public 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 for carrying out the statutory audit of the same Undertaking/company. → For the above purpose, the term “other work(s)” or “service(s)” or “assignment(s)” shall include Management Consultancy and all other professional services permitted by the Council pursuant to Section 2(2)(iv) of the Chartered Accountants Act, 1949.																		
Appointment of an auditor when he is indebted to a concern	→ A member of the Institute in practice or a partner of a firm in practice or a firm shall not accept appointment as auditor of a concern while indebted to the concern or given any 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 for amount exceeding Rs. 10,000/-																		

KYC (Know Your Client) norms for a CA

Norms to be observed by Member Practice	Entity Information	General Information	- Name of the Entity - Type of Entity - Business Description
		Corporate Structure	- Name of ultimate parent company - Name of Parent company - Name of Affiliates
		Regulatory Information	- Company PAN No. - Company Identification No. - Directors' Identification No. - Directors' Names & Addresses - Name(s) and Addresses of Companies, in which above person is director
		Engagement Information	Type of Engagement
	Other Information	- Entities financial Information - Name of the ultimate parent Auditor - Any known violation of any Law/Regulations.	
Importance of KYC Norms	- The financial services industry globally is required to obtain information of their clients and comply with KYC norms. - Keeping in mind the highest standards of Chartered Accountancy profession in India, the Council of ICAI recommended such norms to be observed by the members of the profession who are in practice. - Cconsidering the spirit underlying these measures, it is expected that every Chartered Accountant carrying out attest function is encouraged to follow them and implementation of these measures would go a long way in ensuring equitable flow of work among the members and would also further enhance the prestige of the profession in the society. - These Know Your Client (KYC) Norms are also important in order to ensure a healthy growth of the profession and an equitable flow of professional work among the members.		

(* For details - refer 5th Edition of Advanced Auditing & Professional Ethics (Taxmann Publications))