A COMPLETE GUIDE FOR ADVANCED AUDITING

(CA FINAL)

Applicable for CA Final November, 2016, Exams onwards

Short Notes for Quick Revision

It Covers :

> Upto date Amendments Including :
- CARO 2016
- Companies (Amendment) Act, 2015
- Companies (Audit & Auditor's) Amendment Rules, 2015
- Revised SA 610 & SAE 3420

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> Flow Chart on Standards on Auditing

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4th Edition

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Advanced Auditing and Professional Ethics

CA Sumit Aggarwal

A COMPLETE GUIDE FOR
ADVANCED AUDITING

(CA FINAL)

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- Tabular and graphic presentation to facilitate easy understanding and learning.
- Inclusion of flowcharts on various topics, including Standards on Auditing.
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  - > CARO 2016
  - > Companies (Amendment) Act, 2015
  - > Companies (Audit & Auditor's) Amendment Rules, 2015
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- Illustration of all "Audit Report" as per SA 700, SA 705 & SA 706 at one place (See Chapter 23) for quick understanding of "Audit Report" in different situations with minimum time frame & fast understandability.
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  - « Chapter wise/topic wise
  - « Standard of Auditing wise
  - « Accounting Standard wise
  - « Clause wise & Schedule wise (Chapter – Professional Ethics)
  - « Clause wise (Chapter – Audit under Fiscal Law (Form 3CD)
- Graphs at the beginning of every chapter, showing marks allotment in last twenty examinations.
- List of questions including case study's appeared in past 36 examinations given at the end of each chapter.
- Short Notes of all Chapters given at the end of the book (See Chapter – 25) for Quick revision.

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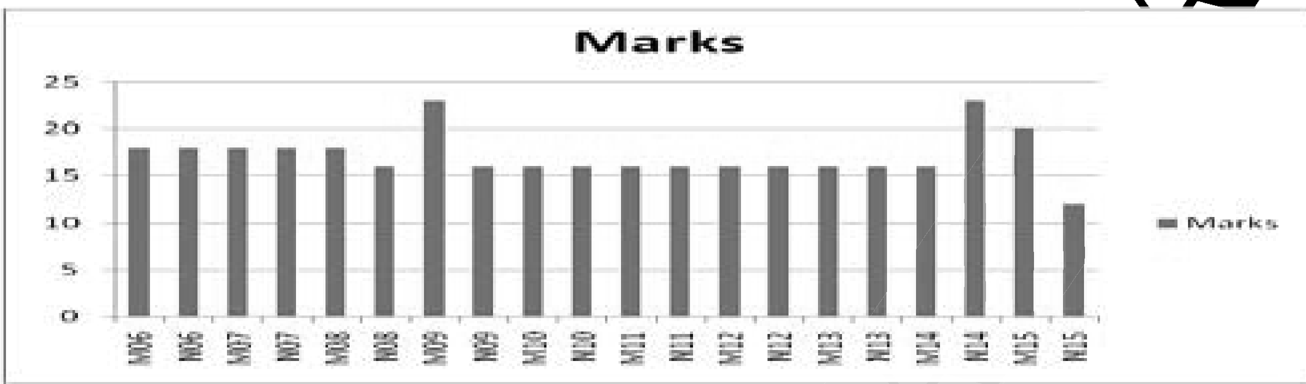
22	PROFESSIONAL ETHICS



22A	The Chartered Accountants Act, 1949 as amended by the Chartered Accountants (Amendment) Act, 2006 & 2011

No.	Particular	Section
1	Member deemed to be in Practice	2
2	Entry of names in the Register of Member	4
3	Class of Member	5
4	Significance of Certificate of Practice (COP)	6
5	A member in practice is prohibited from using any designation other than Chartered Accountant	7
6	Disqualification of Member	8
7	Removal of Name from the Register	20
8	Disciplinary Procedure	21
9	Other Misconduct	22
10	Appellate Authority	22
11	Penalty for falsely claiming to be a Member	24
12	Unqualified persons not to Sign Documents	26
13	Maintenance of Branch office by Practicing Member	27
14	Quality Review Board	28

1. Introduction - Code of Ethics

The "Code of Ethics" is essentially a set of professional ethical standards regulating the relationship of CAs with their clients, employers, employees, fellow members of the group and the public in general. The CA Act, 1949 and the Schedules to the Act set out the acceptable forms of behavior of the members of the profession.

2. Entry of Names in the Register of Member [Section 4]

Requirements:

- Pass Final Examination of CA Course
- Completed Practical Training as an articled/audit assistant
- Complete GMCS course or any other course specified by the council.

Status of Member:

- member in practice (must have COP)
- Member in service or member (may not be in practice or service) just having a degree.

Member can practice in his individual names or in his sole proprietorship firm or partnership firm.

3. Class of Member [Section 5]

- **ACA:** - any person shall on his name being entered in Register of member, become Associate member & can use letter A.C.A. after his name.
- **FCA:**- On an application, Associate member in continue practice in India for at least 5 years or associate member for continuous period of not less than 5 years and who posses such qualifications as may be prescribed by the Council, shall be entered in Register of fellow members & can use letters F.C.A. after his name.

Case Study-1: Whether an Associate Member of the Institute practicing abroad is eligible to become Fellow Member?

Hint: No. Only member who being associates and who have been in continuous pracrtice in India for atleast 5 years are eligible to apply for admission to fellowship on payment of prescribed fee and submission of Form 3.

4. A member in practice is prohibited from using any designation other than Chartered Accountant [Sec. 7]

- All member (whether in practice or not) can use prefix CA before their name.
- Member in practice can't use any other designation other then "CHARTERED ACCOUNTANT", but they can use any other letter or description indicating membership of Accounting body approved by Council; e.g. Member in practice can't designate himself as 'COST ACCOUNTANT' but can use letter AICWA, if he is a member of ICWA.
- If member have more than one COP (CA & Advocate), then he/she can't use two designations simultaneously. For matter involving practice as Advocate he should use designation 'ADVOCATE' & for matter involving practice as CA, he should use designation 'CHARTERED ACCOUNTANT'.
- A member who is not in practice and does not use designation of a Chartered Accountant may use any other description.
- The members may apply for and obtain registration as category IV Merchant Banker under the SEBI's rules and regulations and act as Advisor or Consultant to an issue. In client Companies' offer documents and advertisements regarding capital issue, name and address of the Chartered Accountant or firm of CA acting as Advisor or Consultant to the Issue could be indicated under the caption "Advisor/ Consultant to the Issue". However, the name and address of such CA/firm of CA should not appear prominently. CA or firms of CA acting as Advisor or Consultant to an Issue should ensure that the description 'Merchant Banker' is not associated with their names in the offer documents and/or advertisements regarding capital issue of their client Companies. The mention of the name of Chartered Accountant/firm under the caption 'Merchant Banker' could be misleading, as there were four categories of Merchant Bankers and the members of the profession were permitted to register only as category IV 'Merchant Bankers', i.e. to act only as Advisor or Consultant to an issue. Further, such members and firms should not use the designation of either 'Merchant Banker' or Advisor/Consultant to Issue' in their own letterheads, visiting cards, professional documents, etc. As per Regulation 3(2A) of SEBI (Merchant Bankers) Regulations, 1992, with effect from 9th December, 1997 registration as category IV Merchant Banker has been dispensed with.

5. Disqualification of Member (Section 8)

- Age <21 years at time of application.
- Unsound mind as per competent court.
- Un-discharged insolvent.

- Discharged insolvent but has not obtained a certificate from court stating that his insolvency was due to misfortune without any misconduct on his part.
- Removed from membership by ICAI due to misconduct.
- Convicted by competent court of offence involving moral turpitude, or offence not of technical nature, committed by him in his professional capacity, but this disqualification is not attracted if he has been granted a pardon or CG has removed his disability.

If the person fails to disclose the fact that he suffers from any of the above disabilities, it will constitute professional misconduct on his part. The name of the member, who is found to have been subject at any time of the disabilities mentioned above, can be removed from the register of members by the Council.

6. Member deemed to be in Practice (Section 2)

A) When he (Individually or in Partnership) in consideration of Remuneration:

- Engage him-self in practice of accountancy, or
- Offer to Perform audit and related services, or
- Holds himself out to the public as an accountant, or
- Renders professional services or assistance in or about matters relating to accounting procedure or the recording, presentation or certification of financial facts or data; or
- Renders such other services as in the opinion of the Council may be rendered by CA in practice.

(B) When he accepts any of the following in his Professional Capacity:

- Act as Liquidator, trustee, executor, administrator, arbitrator, receiver, advisor or representation for costing, financial or taxation matter.
- Appointment by Central govt. or State govt. or court or legal authority.
- Act as Secretary, unless his employment is on a salary-cum-full time basis.

Proviso: If such work as in **[B]** is accepted in personal/employee capacity, he will not be deemed to be in practice.

(C) Other Services (which include Management Consultancy Services) which are in the opinion of the council may be rendered by CA in practice [Council resolution u/s 2(2)]:

- Financial management planning and financial policy determination.
- Capital structure planning and advice regarding raising finance.
- Working capital management.
- Feasibility study & project reports.
- Budgeting (Capital and Revenue).
- Inventory management, material handling and storage.
- Market research and demand studies.
- Price-fixation and managerial decision making.
- Management accounting system, cost control & value analysis.
- Control methods and management information and reporting.
- Personnel recruitment & selection.
- Setting up incentive plan etc.
- Management & operation audits.
- Valuation of shares and business and advice regarding amalgamation, merger and acquisition.
- Business policy, corporate planning, organization development, growth and diversification.
- Organization structure & behavior, employee training, job evaluation.

- System analysis and design and computer related services and other EDP services.
- Acting as advisor to issue.
- Investment counseling.
- Acting as registrar to issue.
- Quality audit, Environment audit, Energy audit.
- Acting as recovery consultant in banking sector.
- Insurance financial advisory services (including insurance brokerage).

Explanation: For removal of doubt, it is hereby clarified that the activities of broking, underwriting and portfolio management are not permitted.

Management Consultancy Services shall not include the functions of:

- Statutory or Periodical audit.
- Tax (both direct and indirect taxes) representation or advice concerning tax matters.
- Acting as Liquidator, Trustee, Executor, Administrator, Arbitrator or Receiver.

(D) Points to Remember:

- CA who is salaried employee of CA in practice shall be deemed to be in practice for limited purpose of training articled clerk.
- Once a person become a member of ICAI, he is bound by the provisions of CA Act and its regulations.
- A member of the Institute 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. If he appears before the Income Tax authorities 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. Therefore, a Chartered Accountant whose name has been removed from the membership for professional and or other misconduct, during such period of removal, will not appear before the various tax authorities or other bodies whom he could have appeared in his capacity as a member of this Institute.

Note: The above provision need to be correlated with the provisons of section 144 of the Companies Act, 2013 which prohibits an auditor of the company from rendering certain services directly or indirectly to the company or its holding company or its subsidiary company.

7. Penalty for falsely claiming to be a Member [Section 24 & 25]

- **[Section 24]** : Any person, not being CA, represents that he is CA or use designation CA or any person being CA not having COP, represents that he is in practice or practice as a CA, shall be penalized on first conviction up to Rs. 1000/- and on any subsequent conviction with imprisonment which may extend up to 6 months or fine which may extent to Rs 5000/- or both.
- **[Section 25] :** No company, whether incorporated in India or elsewhere, shall practice as CA. If any company contravenes this provision then, without prejudice to any other proceedings which may be taken against the company, every director, secretary, manager and any other officer thereof who is knowingly a party to such contravention shall be punishable with fine which may extend on first conviction to Rs. 1000/- and on any subsequent conviction to Rs 5000/-

[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 purpose of this section.]

In addition, as per section 141 (2) of the Co. Act, 2013, where a firm (including a limited liability partnership) is appointed as an auditor of a company, then, only the partners who are chartered accountants shall be authorised to act and sign on behalf of the firm.

On throughly studying the provisons of both the Acts, the LLPs though allowed to be appointed as an auditor in accordance with the Companies Act, 2013, however, it cann't be engaged in to practice, if it has company as it partner as per the Chartered Accountant Act, 1949.

Therefore, in short, the LLP not having any company as its partner, can be engaged into practicing and thus take audit assignemnts.

8. Unqualified persons not to Sign Documents [Section 26]

- No person other than a member of the institute shall sign any document on behalf of a CA in practice or a firm of such CA in his or its professional capacity.
- Any person contravenes this provision shall, without prejudice to any other proceedings, which may be taken against him, be punishable on first conviction with a fine not less than Rs 5000/- but which may extend to Rs. 1 lakh rupees, and in the event of a second or subsequent conviction with imprisonment for a term which may extend to 1 year or with fine not less than Rs 10000/- but which may extent to Rs 2 lakh rupees or with both.

9. Significance of Certificate of Practice (COP) (Sec 6)

- A CA not holding Certificate of Practice (COP) can't take up any other work PRESCRIBED for a practicing CA. thus if CA has surrendered his COP due to misconduct he can't appear before taxation authorities etc' (even though he is having law degree) during his removal because once a member becomes a member of the institute; he is bound by the provisions of the CA Act 1949 and regulations made there under.
- But he can appear in a civil court as advocate because appearing in civil court is not a prescribed service for CA in practice.

Case Study -1: Can a member in Salaried employment abroad hold C.O.P?

Hint: Yes, he can hold but his status would be treated as a member in part-time practice.

Case Study-2: Can a member of the Institute holding C.O.P. residieng outside India, do any attest functions?

Hint: Yes. He can do attest functions outside India, subject to the local laws permitting him to do so.".

Case Study-3: Whether a member residing abroad can be a partner of a firm of Chartered Accountant in India.

Hint: Yes, a member can be a partner in a firm of Chartered Accountants in India provided he holds C.O.P. Because Clause says CA Should be in practice it doesn't specify "In India".

10. Removal of Name from the Register [Section 20]

The Council may remove, from the Register, the name of any member of the Institute in the following cases:

- who is dead; or
- from whom a request has been received to that effect; or
- who has not paid any prescribed fee required to be paid by him; or
- 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.

The Council shall remove the name of any member from the Register in respect of whom an order has been passed under this Act removing him from membership of the Institute.

If the name of any member has been removed from the Register for non-payment of prescribed fee as required to be paid by him, then, 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 the Council.

The effective date in case of restoration of cancelled membership, in different situations, shall be in the following manner:

1	Application for restoration and requisite fees are made within the same year of Removal	Restoration shall be with effect from the date on which it was removed from the Register
2	Removal of name under the orders of the Board of Discipline or the Disciplinary Committee or the Appellate Authority or the High Court	Restoration shall be in accordance with such orders.
3	In other cases	Restoration shall be with effect from the date on which the application and fee are received.

11. Cancellation and Restoration of Certificate of Practice [Regulation 10]

Certificate of Practice (COP) shall be liable for cancellation, if:

- the name of the holder of the certificate is removed from the Register; or
- the Council is satisfied, after giving an opportunity of being heard to the person concerned, that such certificate was issued on the basis of incorrect, misleading or false information, or by mistake or inadvertence; or
- a member has ceased to practise; or
- a member has not paid annual fee for certificate of practice till 30th day of September of the relevant year.

Where a COP is cancelled, the holder shall surrender the same to the Secretary.

Further, Regulation 11 on restoration of COP states that, on an application made in the approved Form and on payment of such fee, the Council may restore the COP with deemed to be in Practice in accordance with the provisions of the Chartered Accountants Act, 1949.

12. Maintenance of Branch Office by Practicing Member [Section 27]

A CA in practice or a firm of CAs has more than one office in India provided each one of such offices should be in the separate charge of a member of the institute (CA) either as a partner or in whole time employment. Separate charge means, member either attends the said office or resides in the city where such office is situated, at least for 182 days in a year.

Exception (No separate incharge is needed): Each branch must have separate CA in charge, but in following cases no separate incharge is required for branch office:

A) Exemption has been given to members, practicing in hill areas subject to certain conditions. The conditions are:

- Temporary office may be opened in plains in winter season only for maximum 3 month a year.
- The regular office need not be closed during this period and all correspondence can continue to be made at the regular office.
- Temporary office address not to be mentioned as place of business on professional stationary (visiting cards, letter head etc).
- Before opening & close of such temporary office inform ICAI.
- Name board of firm to be displayed at temporary office only for the period allowed as above.

(**B**) Member can be in-charge of two offices if **(a)** second office located in same premises in which first office (Head Office) is situated OR **(b)** in the same city in which first office (Head Office) is situated or **(c)** within 50 Kms from municipal limits of city in which first office (Head Office) situated.

Case Study: Can a member outside India retain his proprietary firm.

Hint:

- No, as per section 27 of the CA Act, each office or firm of CA in India shall be under the separate charge of the member.

- A member working abroad can have a proprietary firm in India provided the member is actively associated with the firm in India.
- Such association shall be deembed to exist if the member resided in the place where the firm is situated for a period of not less than 182 in a year.
- Alternativelyy, he can engage a member as paid assistant to be incharge of his firm in India.
- If either of these conditions is not satisfied the member is not permitted to retain his proprietary firm in India.".

13. Other Misconduct [Section 22]

- Other misconduct has been defined in part IV of the First Schedule and Part III of the Second Schedule in the CA (Amendment Act) 2006, which have been discussed in detail later under "Schedule to CA, Act, 1949".
- A member is liable to disciplinary action u/s 21 of the Chartered Act, 1949, if he is found guilty of any professional or "other misconduct".
- Other misconduct relates to any misconduct of a member if it does not arise out of his professional work.
- This provision empowers the council to inquire into any misconduct of a member even if it does not arise out of his professional work. This is considered necessary because a CA is expected to maintain the highest standards of integrity even in his personal affairs, any deviation, even in his non-professional work would expose him to disciplinary action.
- Other misconduct would also relate to conviction by a competent court for an offence involving moral turpitude punishable with cause transportation or imprisonment to an offence not of a technical nature committed by the member in his professional capacity.
- In the absence of statutory definition of "other misconduct", the question whether a particular act or omission constitutes "other misconduct" has to be decided on the facts and circumstances of each case.

14. Disciplinary Procedure [Section 21]

14.1 Disciplinary Directorate

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

14.2 Board of Discipline

- **The Council shall constitute a Board of Discipline consisting of:**
  - ◊ A person with experience in law and having knowledge of disciplinary matters and the profession, to be its presiding officer.

- ◊ Two members one of whom shall be a member of the Council elected by the Council and the other member shall be nominated by the Central Government from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy.
- ◊ The Director (Discipline) shall function as the Secretary of the Board.

- The Board of Discipline shall follow summary disposal procedure in dealing with all cases before it.
- Where the Board of Discipline is of the opinion that a member is guilty of a professional or other misconduct in First Schedule, it shall afford to the member an opportunity of being heard before making any order against him and may thereafter take anyone or more of the following actions, namely:
  - ◊ Reprimand the member.
  - ◊ Remove the name of the member from the Register up to a period of three months.
  - ◊ Impose such fine as it may think fit, which may extend to Rs. 1 lakh.
- The Director (Discipline) shall submit before the Board of Discipline all information and complaints where he is of the 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 into the matter.

14.3 Disciplinary Committee

- **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.
- The Disciplinary Committee, while considering the cases placed before it, shall follow such procedure as may be specified.
- Where the Disciplinary Committee is of the opinion that a member is guilty of a professional or other misconduct in Second Schedule or both the schedule, it shall afford to the member an opportunity of being heard before making any order against him and may thereafter take anyone or more of the following actions, namely: -
- Reprimand the member.
- Remove the name of the member from the Register permanently or for such period, as it thinks fit.
- Impose such fine as it may think fit, which may extend to Rs. 5 lakhs.
- The allowances payable to the members nominated by the CG shall be such as may be specified.

14.4 Authority, Disciplinary Committee, Board of Discipline and Director (Discipline) to have powers of Civil Court

For the purposes of an inquiry under 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, in respect of the following matters, namely.

- Summoning and enforcing the attendance of any person and examining him on oath;
- The discovery and production of any document; and
- Receiving evidence on affidavit.

15. Appellate Authority [Section 22]

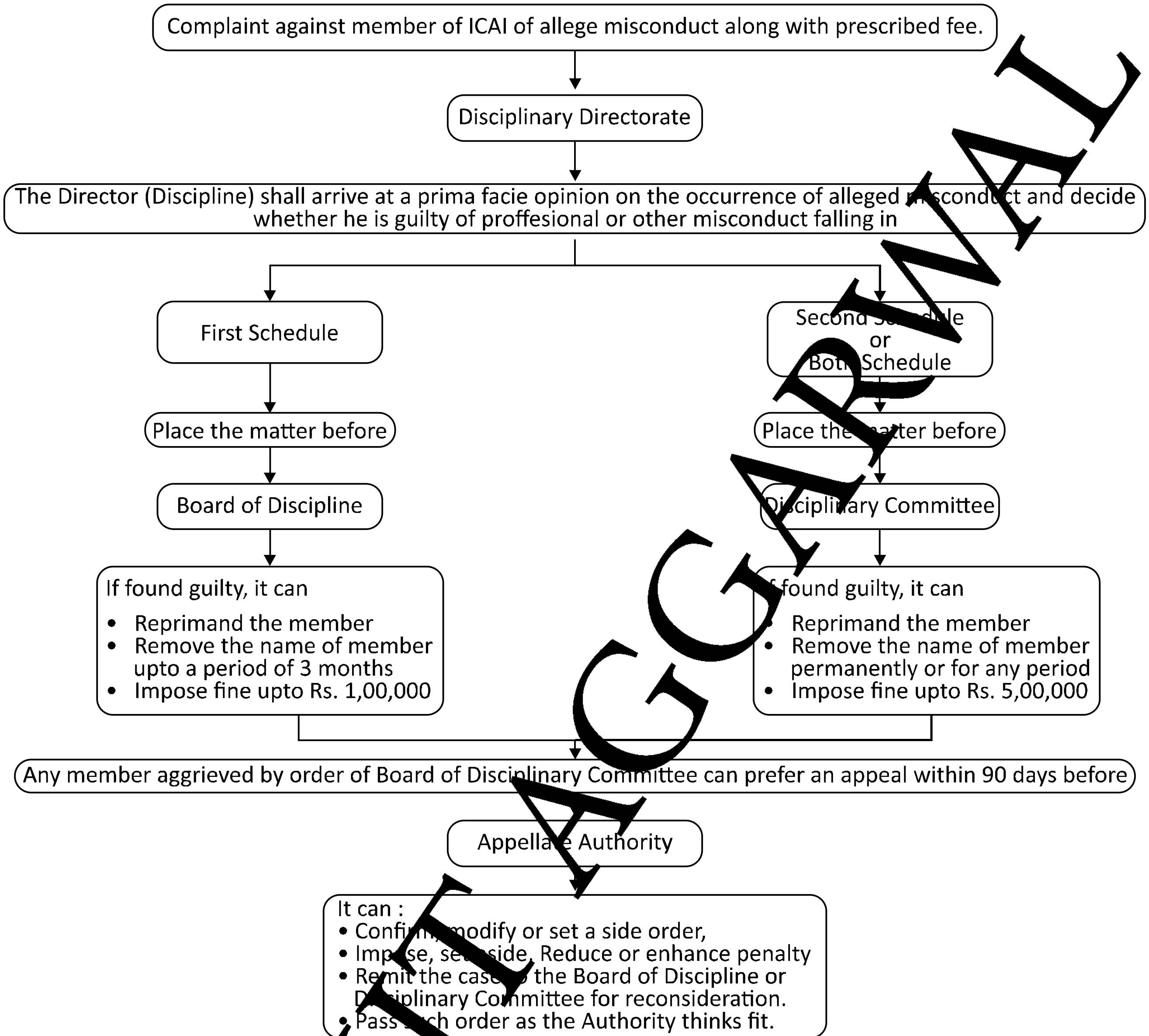
15.1 Constitution of Appellate Authority

- The CG shall, by notification, constitute an Appellate Authority consisting of-
  - ◊ A person who is or has been a Judge of a High Court, to be its Chairperson;
  - ◊ Two members to be appointed from amongst the persons who have been members of the Council for at least one full term and who is not a sitting member of the Council;
  - ◊ Two members to be nominated by the CG from amongst persons having knowledge and practical experience in the field of law, economics, business, finance or accountancy.
- The Chairperson and other members shall be part-time members.

15.2 Appeal to Authority

- 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 section 21, may within 90 days from the date on which the order is communicated to him, file an appeal to the Authority.
- It may be noted 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 90 days.
- The Authority may also entertain any such appeal after the expiry of the said period of 90 days, if it is satisfied that there was sufficient cause for not filing the appeal in time.
- The Authority may, after calling for the records of any case, revise any order made by the Board of Discipline or the Disciplinary Committee and may: -
  - ◊ Confirm, modify or set aside the order.
  - ◊ Impose any penalty or set aside, reduce, or enhance the penalty imposed by the order.
  - ◊ 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
  - ◊ Pass such other order as the Authority thinks fit.

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



14.	**Quality Review Board [Section 28]**
14.1	**Establishment of Quality Review Board [Section 28A]**
	• The CG shall by notification, constitute a Quality Review Board consisting of a Chairperson and ten other members. • The Chairperson and member of the board shall be appointed from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy. • Five members of the Board shall be nominated by the Council and other five members shall be nominated by the Central Government.
14.2	**Functions of Board [Section 28B]**
	The Board shall perform the following functions, namely: • To make recommendations to the council with regard to the quality of services provided by the member of the institute. • To review the quality of services provided by the members of the institute including audit services; and • To guide the members of the Institute to improve the quality of services and adherence to the various statutory and other regulatory requirements.

14.3	Procedure of Board [Section 28C]
	The board shall meet at such time and place and follow in its meetings such procedure as may be specified.
14.4	**Terms and Conditions of services of Chairperson and Member of the Board, and its Expenditure [Section 28D]**
	• The terms and conditions of service of the chairperson and the member of the Board and their allowances shall be such as may be specified. • The expenditure of the Board shall be borne by the Council.

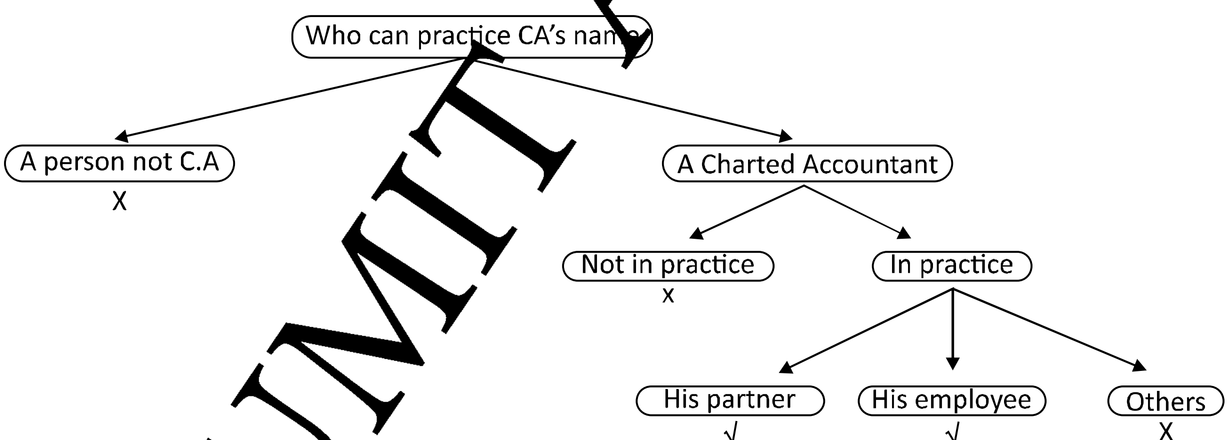
22B First Schedule to the Chartered Accountant Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006 & 2011)

	Part I	Part II	Part III	Part IV
Misconduct	Professional	Professional	Professional	Other
Applicability	CAs in practice	CAs in service	CAs in general	
No. of Clause	12	2	3	2

Part I of First Schedule (Applicable for CA in practice)

Clause 1

CA in practice shall be deemed to be guilty of professional misconduct if he allows any person to practice in his name as a chartered accountant unless such person is also a CA in practice and is in partnership with or employed by him.



Clause 2

- CA in practice shall be deemed to be guilty of professional misconduct if he Share his fees or profit of his professional business through commission or brokerage (directly or indirectly) 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 (as prescribed) or member of professional bodies or institutions outside India whose qualification relating to accountancy are recognized

by the council); 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.

- Objective of this clause is that practicing CA should get his professional work, not through services of agent or 3rd parties, but due to his own competent.
- CA can't engage in any business other than the profession of CA unless permitted by the Council for the same.
- Where government or government authority require the auditor to deposit a percentage of their audit fees in the state treasury, for recovering administrative and other expenses, auditor can do so [Council's Decision]

For the purpose of clause (2), (3) and (5) of Part I of First Schedule to the Act, The Council has prescribed the following professional bodies:

◊ The Institute of Company Secretaries of India;

◊ The Institute of Cost and Works Accountants of India;

◊ Bar Council of India;

◊ The Indian Institute of Architects;

◊ The Institute of Actuaries of India.

For the purpose of clause (2) and (3) of Part I of First Schedule to the Act, the following shall be the persons qualified in India, namely:

◊ Company Secretary

◊ Cost Accountant

◊ Actuary

◊ Bachelor in Engineering

◊ Bachelor in Technology

◊ Bachelor in Architecture

◊ Bachelor in Law

◊ Master in Business Administration

This amendment has enabled members of the Institute to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner and thereby also going in sync with the concept of Limited liability Partnership (LLP).

Allowability of profit sharing in case of death of a partner/proprietor of firm

Death of Partner: Where, there are two or more partner and one of them dies, the widow or legal representative of the deceased partner can continue to receive a share of profit of the firm, only if the partnership agreement contains a specific provision to that effect.

Death of Proprietor (Sale of goodwill): There cannot be any fee sharing between the widow or the legal representative of the proprietor of a single member firm and the purchaser of goodwill of the Firm, on the death of the sole proprietor of that firm. Widow / legal representative of the deceased proprietor can receive payment for goodwill of the concern even in installment, provided that there is no linkage between such payment and the participation in the earning of the firm.

On death of sole proprietor, the firm name will be kept in abeyance by ICAI for one year so that widow of deceased can sell goodwill of the firm to another eligible CA. Such Sale must be completed within 1 year from death of sole proprietor & after sales another CA (Purchaser) can use the firm name. In case of dispute as to legal heir of deceased proprietor, intimation of dispute to be received by ICAI within one year of death of proprietor, on receipt of intimation within time, ICAI will keep the name of firm in abeyance till one year from the settlement of dispute.

Clause 3

CA in practice shall be deemed to be guilty of professional misconduct if he accepts or agree to accept any part of profits of professional work from a person, who is not a member of the Institute. However he can accept from:

- Member of such professional bodies or other persons having qualification as referred to in Clause 2 of Part I of First Schedule.

This amendment has enabled members of the Institute to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner and thereby also going in sync with the concept of Limited Liability Partnership (LLP).

Clause 4

- CA in practice shall be deemed to be guilty of professional misconduct if he enters into partnership, in or outside India, with any other person except:
  - ◊ CA In practice; or
  - ◊ a member of any other professional body (as prescribed) or member of professional bodies or institutions outside India whose qualification relating to accountancy are recognized by the council); or
  - ◊ The resident members of the institute residing abroad but entitled to be registered as a member of institute u/s 4(1) (v); or
  - ◊ Whose qualifications are recognized by Central Government/council for purpose of permitting such partnership.
- However, partnership between member of the institute and members of foreign professional bodies are permissible provided members of such bodies are eligible for the membership of the institute.
- Prescribed qualifications of a eligible partner who is not a member of ICAI [Regulation 53B]
  - ◊ Company Secretary
  - ◊ Cost Accountant
  - ◊ Actuary
  - ◊ Bachelor in Engineering
  - ◊ Bachelor in Architecture
  - ◊ Advocate

This amendment has enabled members of the Institute to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner and thereby also going in sync with the concept of Limited Liability Partnership (LLP).

COUNCIL GUIDELINES FOR CONVERSION OF CA FIRMS INTO LLPS
(Guidelines No.1-CA (7)/03/2011, dated 4th November, 2011)

In terms of the council decision dated 14 July, 2011, following guidelines for conversion of CA firms into LLPs and constitution of separate LLPs by the practicing CAs have been finalized which are applicable for conversion of CA firms into LLPs or formation of new LLPs by the members in practice of the Institute subject to the provisions of the Limited Liability Partnership (LLP) Act, 2008 and Rules & Regulations framed there under:-

(A) Conversion of CA firms into LLPs:

- All existing CA firms who want to convert themselves into LLPs are required to follow the provisions of Chapter-X of the Limited Liability Partnership Act, 2008 read with Second Schedule to the said Act containing provisions of conversion from existing firms into LLP.
- In terms of Rule 18(2) (xvi) of LLP Rules- 2009, if the proposed name of LLP includes the words

- 'Chartered Accountant' or chartered Accountants, as the case may be, as part of the proposed name, the same shall be referred to the ICAI by the Registrar of LLP and it shall be allowed by the Registrar only if the Secretary, ICAI approves it.
- If the proposed name of LLP of CA firm resemble with any other non-CA entity as per the naming Guidelines under LLP Act and its Rules, the proposed name of LLP of CA firms may include the word 'Chartered Accountant' or 'Chartered Accountants', as the case may be in the name of the LLP itself and the Registrar, LLP may allow the same name, subject to compliance to Rule 18(2) (xvi) of LLP Rules as referred above.
- For the purpose of registration of LLP with ICAI under regulation 190 of the CAs Regulations, 1988, the partners of the firm shall apply in ICAI Form No. '117' and the ICAI Form No. '18' along with copy of name registration received from the Registrar of LLP and submit the same with the concerned Regional office of the ICAI. These Forms shall contain all details of the officers and other particulars as called for together with the signatures of all partners or authorized partner of the proposed LLP.
- The names of the CA firms registered with the ICAI shall remain reserved for the partners as one of the options for LLP names subject to the provisions of LLP Act, Rules and Regulations
- framed there under.
- These guidelines of conversion of CA firms into LLP shall also be applicable to the conversion of proprietary firm into LLP subject to the provisions of LLP Act, Rules and Regulations framed there under. The conversion of proprietary firm shall be by way of incorporation of new LLPs.
- The registration number (with minimum 6 numbers) of LLP with ICAI, shall remain the same Firm Registration Number (FRN) allotted to the firm before the conversion by ICAI with the Regional Code like 'W' for Western, 'E' for Eastern, 'S' for Southern, 'N' for Northern and "C' for Central Region.
- Introduction of LLP, shall not affect the existing regulations in force as regards the name allotment to CA firms.

(B) Constitution of separate LLPs

- All members of ICAI in practice who want to constitute separate LLPs are required to follow the provisions of the Limited Liability Partnership Act, 2008 read with the Rules framed there under.
- In terms of Rule 18(2) (xvi) of LLP Rules- 2009, if the proposed name of LLP includes the words 'Chartered Accountant' or chartered Accountants, as the case may be, as part of the proposed name, the same shall be referred to the ICAI by Registrar of LLP and it shall be allowed by the Registrar only if the Secretary, ICAI approves it.
- For the purpose of registration of LLP with ICAI under regulation 190 of the Chartered Accountants Regulations, 1988, the partners of the firm shall apply in ICAI Form No. '117' and the ICAI Form No. '18' along with copy of name registration received from the Registrar of LLP and submit the same with the concerned Regional office of the ICAI. These Forms shall contain all details of the officers and other particulars as called for together with the signatures of all partners or authorized partner of the proposed LLP.
- These guidelines of conversion of CA firms into LLP shall also be applicable to the conversion of proprietary firm into LLP subject to the provisions of LLP Act, Rules and Regulations framed there under. The conversion of proprietary firm shall be by way of incorporation of new LLPs.
- The registration number with minimum 6 number 'of LLP with ICAI, shall be like the Firm Registration Number being allotted to the firms by ICAI with the Regional Code like 'W' for Western, 'E' for Eastern, 'S' for Southern, 'N' for Northern and 'C' for Central Region.
- The provisions of CA Act, 1949, Chartered Accountants Regulations, 1988 and Code of Ethics issued by ICAI shall be applicable to all partners of the LLP jointly and severally.

- In case of any dispute in respect of these guidelines, the same shall be referred to the committee of the Institute and the decision of that committee shall be final and binding on the members of the Institute.

Clause 5

CA in practice shall be deemed to be guilty of professional misconduct if he secures any professional business:

- Through service of a person who is not an employee/partner of such CA or
- By means which are not open to a CA.

Thus a CA in practice must get professional work due to his own ability and fame but not through using an agent of unfair means.

Securing any professional business through certain categories of non-members as prescribed by the institute is permitted such as CS, ICWA, Advocate, Actuary, and Architect. (Refer clause 2).

Clause 6

A CA in practice is deemed to be guilty of professional misconduct, if he solicits client or professional work, directly or indirectly by circular or advertisement or personal communication or Interview or any other means.

However, he can apply/request/invites/secure professional works from another CA in practice and respond to tenders or inquiries issued by the various users of professional services or organizations and secure professional work as a consequence.

Council Guidelines w.r.t. Permitted and Prohibited forms of Solicitation

Advertisement & notes in press

CA in practice generally can't advertise for soliciting work. Personal canvassing or canvassing for clients of previous employer through the help of the employee are also not permitted.

Exception:

- Advertise for change in partnership/address/telephone no. or dissolution of a firm provided – there should be bare statement of fact i.e. no extra publicity, & no of insertions in newspaper should be limited & area of distribution of newspaper/magazine should be limited.
- Classified advertisement (in ICAI's Journal/Newsletter) for sharing professional work/seeking partnership/salaried employment of accountancy nature, provided Only CA's name, address, telephone no., fax, e-mail address is given (not of firm).

Empanelment for allotment of Audit/Professional Work:

- CA can write to concerned organization for having their name on panel maintained by such organization, provided CA knows that such penal exists (Eg. Empanelment by RBI for Bank Audits).
- CA can quote fee only if enquired by such organization.
- No roving enquires by CA (For Eg. – enquiring the organizations whether they maintain penal or not and enquiring why work is not being allotted to him although his name is on the panel).
- CA can't send printed copies of fee in reply.
- Not allowed to respond for empanelment, requiring registration fee.

Scope of Representation u/s 140 (4) (iii) of Co Act, 2013:

If CA is not reappointed as an auditor of a company, or someone else is appointed in his place, then representation to be made by him, should not be with a view to secure publicity or in a nature of solicitation & he can't make derogatory remarks against the company.

Acceptance of original professional work by a member emanating from the client Introduced to him by another member:

Should not accept, However if any professional work of such client comes to him directly, it should be his duty to ask the client that he should come through the other member dealing generally with his original work.

	Advertisements under Box numbers: Not permitted.
	Publication of the name of firm in the telephone or other directory:
	Yes, permit subject to following conditions: • Entry in separate section of CA. • Entry in normal types of letters (Not bold/Italic). • It should appear in local directory of the city in which concerned CA/Firm practice. • Entry should be logical (alphabetical) order. • Payment for entry should be reasonable. • Entries should be open to all CA's. **Note:** • No impression of publicity or advertisement. • No special request or additional payment by C.A. is allowed.
	Issuing Hand Bills:
	CA in practice can distribute hand bills containing their name to his clients only. e.g. budget highlight etc, not to any other person.
	Publication of Books or Articles:
	CA in practice can write books etc. & get them published & mention his name & his personal/ academic details, but can't mention his firm name.
	Issue of greeting cards or invitations:
	CA in practice can indicate designation (chartered accountant) name of firm & add on greeting cards, invitation for marriage, religious ceremonies, opening/inauguration of office etc to clients, relatives & close friends only (not to any other person).
	Public Interview:
	CA in practice can deliver public interviews provided it doesn't result in publicity.
	Soliciting professional work by making roving inquiries:
	It is not permissible for a member to address letters or circulars to persons who are likely to require services of a Chartered Accountant.
	Seeking work from professional colleagues:
	The issue of an advertisement or a circular by a Chartered Accountant, seeking work from professional colleagues on any basis whatsoever except as provided above would be in violation of this Clause.
	Specific provisions for CA Website:
	CA in practice can create website in any format, any color as per taste of CA & can mention website address on professional stationery & website should be run on pull mode (i.e. should be accessible only to the person who wants to access it) not on push mode. • **Following info may be provided in Website:** ◊ Name of member/firm, member/firm address/telephone no./fax/email id. ◊ Partner's name, their qualification, year of qualification,home address, telephone no, email id. ◊ Employee's name and their qualifications. ◊ Job vacancies including articleship. ◊ Passport size photograph of members. ◊ Reference about ICAI/govt. related website. ◊ Date upto which website is updated. ◊ Common logo prescribed by ICAI.

- ◊ Chat room between client & C.A. or among CA's. However confidentiality should be maintained.
- ◊ Bulletin board.

- **Following info to be provided in Website on pull request:**
  - ◊ Nature of service rendered.
  - ◊ Nature of assignment handled.
  - ◊ Area of expertise of partners/employee.
  - ◊ No. of articled clerks.
  - ◊ Year of establishment.
- **Following info cannot be provided on Website:**
  - ◊ Logo (other than that prescribed by ICAI).
  - ◊ No photograph (other than passport size photo of member).
  - ◊ No reference/link to any other website (other than ICAI/govt. related).
  - ◊ No advertisement.
  - ◊ Name of clients & fee charged.

Note: Disclosure of names of clients and/or fees charged, on the website is permissible only where it is required by a regulator, whether or not constituted under a statute, in India or outside India, provided that such disclosure is only to the extent of requirement of the regulator.

Where such disclosure of names of clients and/or fees charged is made on the website, the member/ firm shall ensure that it is mentioned on the website [in italics], below such disclosure itself, that this disclosure is in terms of the requirement of [name of the regulator] having jurisdiction in [name of the country/area where such regulator has jurisdiction] vide [Rule/Directive etc, under which the disclosure is required by the Regulator].

Other issue related to Website:

- Address of website should be in the name of CA /CA firm or nearest to & should not be such as results in soliciting the client.
- Listing of CA's website on search engine is allowed, but it should be on criteria such as chartered accountant, Indian CA or any related field.
- Intimation to ICAI: Presently information about website is to be provided by CA to ICAI while submitting annual membership fee and form. (Earlier it was required to intimate within 30 days of setting the website).
- A CA can render professional advice through other website (e.g. professional advice on timesofindia.com) provided only CA's name with designation "Chartered Accountant' is given. (i.e. contact address/firm name & professional achievement of CA is not allowed).

Other:

- CA in practice can't use word like Income tax, cost or management consultant etc.
- Member photograph not allowed on visiting cards.
- CA can respond to the tender, and also pay the earnest money deposit as per the terms of tender.

Clause 7

CA in practice is deemed to be guilty of professional misconduct if he advertises his professional attainments or services, or use any designation/expression other that chartered accountant on Visiting cards, Letter heads, or Sign boards but he can write down any degree of university established by law in India or recognized by CG or a title indicating membership of ICAI/ any other institution recognized by CG/Council. (CFA, CMA, CS, CWA, LLB etc).

Points to Remember

Designation:

- A CA in practice cannot use word like Income-tax Consultant or a Cost Consultant or a Management Consultant.
- He can use the designation "Chartered Accountant" only on professional documents, visiting cards, letter heads or sign boards.

Advertisement in Press:

CA in practice may advertisement in following circumstances:

- For recruiting staff/article clerk in the members' own office.
- On behalf of clients requiring staff or wishing to acquire or dispose of business or property.
- For the sale of a business or property by a member acting in a professional capacity as trustee, liquidator or receiver.

Condition:

- That the advertisement is not displayed more prominently than is usual for such advertisements or the member or that of his firm with the designation Chartered Accountant(s) appears in type not bolder than the substance of the advertisement.
- When advertising for staff use of expression such as "a well known firm" is not allowed.
- The advertisements should not contain any promotional element nor should there be any suggestion that the services offered by the CA or his firm are superior to those offered by other accountants.

Press note on success of a candidate in exams:

Allowed but it should not contain any element of undesirable publicity either in relation to the articled I audit clerk or an employee of the member or the firm with whom he has served. The candidate's name and address, school and local background, examinations passed with details of any prize or place gained, the name of the principal, firm and town in which the principal practices may be published.

Appearance on TV/Films/Radio/Press/Seminars:

- He may appear, but describe himself as "Chartered Accountant".
- Special qualifications or specialized knowledge directly relevant to the subject matter of the programme may also be given.
- But no reference should be made, to the name and address or services of his firm.
- He should not say anything to promote him/his firm. Whatever he say, must be professional & objective.
- It is also the duty of CA concerned to ensure that even host should not refer to any such thing.

Training Courses and Seminar:

A CA in public practice holding training courses, seminars etc. for his staff may also invite the staff of other professional accountants and clients to attend the same. However, undue prominence should not be given to the name of the CA in any booklet or document issued in connection herewith.

Use of Sign Board:

- Cannot use glow sign board or large sized sign boards.
- Can use sign board at his residence and have a name and designation as "Chartered Accountant", but cannot use firm name.

Photograph & brief particulars of CA in Magazine:

It is allowed, but no payment is made for such publication and there is no advertisement of professional attainments.

Photograph on their visiting cards: Not allowed.

	Quick Response code on their visiting cards:
	It is Allowed, provided that code does not contain information that is not otherwise permissible to be printed on visiting card.
	Publicity for Appointment of Position of Local/National Importance:
	Publicity is permitted for appointments to positions of local or national importance or for the views of members on matters of similar importance. They may mention their member ship with ICAI, but reference to his firm name is not allowed.
	Date of Establishment of Firm:
	Not allowed on letter head etc. However in the Website, the year of establishment can be given on the specific "pull" request.
	If CA is Member of Parliament or any Other Elected Authority:
	Not allowed to use the designation such as 'member of Parliament', Municipal Council or any other functionary in addition to that of Chartered Accountant.
	If Member of ICAI Advocate also:
	Members of the Institute in practice who are otherwise eligible may practice as advocates subject to the permission of the Bar Council but in such case, they should not use designation chartered accountant in respect of the matters involving the practice as an advocate. In respect of other matters they should use the designation 'chartered accountant' but they should not use the designation 'chartered accountant' and 'advocate' simultaneously. (Also refer Section 7).
	Writing Articles:
	Members writing articles or letters to the press on subjects connected with the profession may give their names and use the description 'Chartered Accountant'.
	GUIDELINES FOR ADVERTISEMENT FOR THE MEMBERS IN PRACTICE
	1. The Members may advertise through a write up setting out their' particulars or of their firms and services provided by them subject to the following Guidelines and must be presented in such a manner as to maintain the profession's good reputation, dignity and its ability to serve the public interest. The Member(s)/Firm(s) should ensure that the contents of the Write up are true to the best of their knowledge and belief and are in conformity with these Guidelines and be aware that the ICAI does not own any responsibility whatsoever for such contents or claims by the Writer Member(s) / Firm(s) **2. Definitions:** "Write up" means the writing of particulars according to the information given in the Guidelines setting out services rendered by the Members or firms and any writing or display of the particulars of the Member(s) in Practice or of firm(s) issued, circulated or published by way of print or electronic mode or otherwise included in newspapers, journals, magazines and websites (in Push as well in Pull mode) in accordance with the Guidelines. **3. The write-up may include only the following information:** **(A) For Members** • Name of Chartered Accountant • Membership No. with Institute • Age • Date of becoming ACA • Date of becoming FCA • Date from which COP held • Recognized qualifications • Languages known

- Telephone/Mobile/Fax No.
- Professional Address
- Web
- E-mail
- C A Logo
- Passport size photograph
- Details of Employees (Nos. -)
  - ◊ Chartered Accountants
  - ◊ Other Professionals
  - ◊ Articles/Audit Assistant
  - ◊ Other Employees
- Names of the employees and their particulars on the lines allowed for a member as stated above.
- Services provided
  - ◊ ....
  - ◊ ....
  - ◊ ....

(B) For Firms

- Name of the Firm Chartered Accountants
- Firm Registration No. with Institute
- Year of establishment.
- Professional Address(s)
- Working Hours
- Tel. No(s)/Mobile No./Fax No(s)
- Web address
- E-mail
- No. of partners
- Name of the proprietor/partners and their particulars on the lines allowed for a member as stated above including passport size photograph.
- C A Logo
- Details of Employees (Nos.)
  - ◊ Chartered Accountants
  - ◊ Other professionals
  - ◊ Articles/Audit Assistants
  - ◊ Other employees
- Names of the employees of the firm and their particulars on the lines allowed for a member as stated above.
- Services provided:
  - ◊ ....
  - ◊ ....
  - ◊ ....

The write-up may have the Signature, Name of the Member/ Name of the Partner signing on behalf of the firm,Place and Date.

4. Other Conditions

- The write-up should not be false or misleading and bring the profession into disrepute.

- The write-up should not claim superiority over any other Member(s)/Firm(s).
- The write-up should not be indecent, sensational or otherwise of such nature which may likely to bring the profession into disrepute.
- The write-up should not contain testimonials or endorsements concerning Member(s).
- The write-up should not contain any other representation(s) that may like to. cause a person to misunderstand and/or to be deceived.
- The write-up should not violate the provisions of the 'Act', Rules made there under and 'The Chartered Accountants Regulations, 1988
- The write-up should not include the names of the clients (both past and present)
- The write-up should not be of font size exceeding 14.
- The write-up should not contain any information other than stated in Para 3 herein above.
- The write-up should not contain any information about achievements / award or any other position held.

GUIDELINES FOR MEMBERS HOLDING CERTIFICATE OF PRACTICE ON ACCEPTANCE OF DIRECTORSHIPS IN COMPANIES

- The prospectus or public announcements issued by these companies often publish descriptions about the Chartered Accountant's expertise, specialization and knowledge in any particular field or add appellation or adjectives to their names.
- It is necessary that the members should take necessary steps to ensure that such prospectus or public announcements or public communications do not advertise his professional attainments and also that such prospectus or public announcements or public communications do not directly or indirectly amount to solicitation of clients for professional work by the member.
- It is advisable for a member that as soon as he is appointed as a director on the Board, he should specifically invite the attention of the management-of the company to the aforesaid provisions and should request that before any such prospectus or public announcements or public communication mentioning the name of the member concerned, is issued, the material pertaining to the member concerned should, as far as practicable be got approved by him.
- The use of the expression 'Chartered Accountant' is permissible. However, the member must ensure that descriptions about his expertise, knowledge and specialization in any particular field of other appellation or adjectives are not published with his name. Particulars about directorships held by the member in other companies can, however, be given, but the name of the Firm of Chartered Accountants in which the member is a partner, should not be given.

GUIDELINES FOR USE OF EXPRESSIONS SUCH AS 'ASSOCIATES OF 'CORRESPONDENTS OF... ETC. ON LETTER HEADS, VISITING CARDS ETC OF FIRMS OF CA

The use of expressions/words 'in Association with .... 'Associates of 'Correspondents of.....etc., on the stationery letter heads, visiting cards and professional documents etc. of firms of CAs is not permissible in view of the provisions of clause (7) of Part I of the First Schedule to the CAs Act, 1949 irrespective of whether the connection bearing name sought to be used was the name of an Indian firm or a foreign firm.

The Council has not barred entering into such association and the restriction given under the above clause is to bar an advertisement appearing derived from such associations

Important Case Decision

Case - 1: Whether the office of a CA is permitted to go in for ISO 9001:2000 certification or other similar certification?

Hint: Yes. There is no bar for a member to go in for ISO 9001:2000 certification or other similar certifications. However, the member cannot use the expression like "ISO Certified" on his professional documents, visiting cards, letterheads or sign boards etc."

	Case -2: Publishing a book by a firm contaning its history for the purpose of distributing to clients, associates, friends and well wishers and printing of the words "Celebrating 75 Years in the Profession" on special letterheads and envelopes on the firm will lead to solicitation of professional work, hence not permissible as per the provisions of Clauses (6) and (7) of the first Schedule to the CA Act, 1949. **Case-3:** Central Council Member, Regional Council Member and Member of Managing Committee of Branches may print either their residential address, or office address including Tel./Fax No. without mentioning the firm's name on the back of the visiting cards. **Case - 4:** Member who is in practice cannot use the designation of "District Governer" in his rotary visiting cards along with the word "Chartered Accountant".
Clause 8	
	A CA in practice is deemed to be guilty of professional misconduct if he accept a position as auditor, previously held by another CA or restricted state auditor without first communicating with him in writing.
	Professional reasons for not accepting an audit:
	CA in practice should not accept audit in following cases : • There is Non compliance of provisions of Section 139, 140 & 142 read with section 141 of Co. Act, 2013 (Appointment/reappointment/removal/remuneration etc). • Nonpayment of undisputed audit fee (except sick unit) (if provision of audit fees has been made and B/S & P&L A/cs signed by both auditor & auditee then it is called "undisputed audit fees"). • If qualified report was issued by earlier auditor (however, member may accept audit if attitude of retiring auditor was not proper and justified. Otherwise he should not accept it). • **Under-cutting of fees:** In the case of under-cutting of fees, it is necessary to consider the rationale behind such cutting of fees. The circumstances to be considered include the quantum of work, incidental expenses and other terms of appointment. For example, an auditor accepted an assignment of audit at a fee lower than that charged by the previous auditor. The previous auditor used to spend a lot of money on travel which was included in his audit fee. Here, the fact is that the previous auditor was charging higher amount due to his long distance commuting problem as he was stationed in another town, however, the newly appointed auditor used to reside in the same town/city where the auditee reside. Now, while considering whether variation in fees charged by new auditor would constitute undercutting; the quantum of work, incidental and out of pocket expenses and other terms of appointment should be considered. Therefore, in the given circumstances, newly appointed auditor cannot be held guilty of misconduct for accepting audit assignment at lower fees.
	Responsibility of incoming auditor when prospective clients want to appoint you as auditor in place of old one
	• Ask client whether previous auditor has been informed, if yes communicate himself with previous auditor. • If no, ask client the reason for change, if valid reason, he may accept but after communication with previous auditor, if not valid reasons, then healthy practice not to accept. • Communication should be through R.P.A.D (Registered post acknowledgement due) or by hand against an acknowledgement in writing. • Incoming auditor must retain positive evidence that letter has in fact reached the previous auditor. • Incoming auditor may act if outgoing auditor does not reply within a reasonable time. • Compulsory communication for all audits (Statutory audit, cost audit, tax audit, concurrent audit, internal audit, govt. audit etc). • It is healthy practice to communicate (discretionary) for certification work, audit for special purpose like u/s 142 (2A) of I.T. Act, Appointment as liquidator trustee etc or any other professional assignment for which previous professional wasn't CA.

	• In case of tight time schedule, he can start audit on the basis of conditional acceptance (i.e. his acceptance is subject to professional objection from outgoing auditor). • Previous auditor means auditor of latest previous year in which audit was conducted.
Clause 9	
	CA in practice is deemed to be guilty of professional misconduct if he accept an appointment as auditor of a company without ascertaining from it whether requirement of Section 225 of the Co Act 1956 (now section 139, 140 & 142 read with section 141 of the companies act 2013) in respect of such appointment have been duly complied with. Mere getting compliance certificate from the management is not sufficient, but he has to verify the relevant records to ascertain, whether the company has complied with the relevant provision of Co. Act. **Case Study-1:** Mrs. X is a Director of XYZ Pvt. Ltd. During the year 2013-14, the company appointed CA Mr. Y, Mrs. X's spouse, as its statutory auditor. Mr. Y used to deliver audit report without any comments or disclosures, thereupon. Hint: As per Section 141(3)(f) of the Co. Act, 2013, a person shall not be eligible for appointment as an auditor of a company whose relative is a director or is in the employment of the company as a director or key managerial personnel. The definition of 'relative' includes husband and wife. Clause (9) of Part I of the First Schedule to the CA Act, 1949, provides that a member in practice shall be deemed to be guilty of professional misconduct if he accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of Section 139, 140 and 142 read with Section 141 of the Companies Act, 2013, in respect of such appointment have been duly complied with. In this case Mrs. X is a Director of XYZ Pvt. Ltd. and the company has appointed Mr. Y, Chartered Accountant Mrs. X's spouse, as its statutory auditor. Mr. Y should not accept the appointment as statutory auditor of the company, where his wife Mrs. X is a director. This is contravention of section 141 of the Companies Act, 2013. Therefore, in the given case Mr. Y is liable for misconduct under the said clause since he accepted the appointment without first verifying the compliance of statutory requirements.
Clause 10	
	CA in practice is deemed to be guilty of professional misconduct, if he charges or offer to charges fees, which are based on % of profit or contingent upon the findings, or results of such employment except as permitted under any regulations made under this act. **Exception as per regulation 192:** However, CA in practice can charge fees on % basis in following cases: • Receiver/liquidator – as % of realization/disbursement of assets. • Auditor of co-operative society – as % of paid up capital/working capital/ gross net income/ profit. • Valuer for direct taxes & duties purpose – as % of value of property to be valued, If fee is fixed by court, it shall not be treated as contingent. **Note:** As per clarificaiton given by Ethical Standard Board of Institute, Recovery Consultant in Banking Sector, cannot charge fees on percentage basis.
Clause 11	
	CA in practice is deemed to be guilty of professional misconduct if he engages himself in any business/ occupation other than profession of CA unless permitted by council so to engage. However, he may become a director (Except MD/WTD) of a company provided he/his partner are not auditor of such Co.
	Whether the auditor of a Subsidiary Company can be a Director of its Holding Company:
	No as per clarification given by Committee on Ethical Standards (CES), as it will affect the independence of an auditor.

Regulation 190A-Permission granted generally:

No specific permission is required in following cases:

- Employment under practicing CA/CA firm
- Private tutorship
- Authorship of books/Articles
- Holding life Insurance agency license (only for the limited purpose of getting renewal commission).
- Attending classes and appearing for any examination.
- Holding public elective office (M.P., M.L.A)
- Honorary office of charitable –educational institute
- Acting as Notary public, Justice of peace, Special Executive Magistrate & like
- Part time tutorship under coaching organization of institute
- Valuation of paper, paper setter, head- examiner or moderator for any exam
- Editorship of professional journal only
- Acting as Surveyor/loss Assessor under insurance act
- Owing agricultural land and carrying out agricultural activity.

Regulation 190A-Specific permission required:

specific permission is required in following cases:

- Full time/ part time employment in business concerns, provided he/ his relative is not having substantial interest in such concerns
- Full time/part time employment in any NON BUSINESS concerns
- Full time/ part time lectureship for courses other that those relating to ICAI
- Full time/ part time Tutorship under any educational institute other that coaching organization of ICAI
- Interest in family business concern in which interest is due to relationship/inheritance provided not actively participate in its management.
- Interest in educational institution
- Interest in agricultural/ allied activities carried on with help of hired labor
- MD/WTD of a company
- Editorship of journal other than professional journals
- Any other business/profession if executive committee considers that permission may be granted

Notification with respect to Regulation 190A:

Any member engage in any other business or occupation, in terms of general or specific permission granted, shall not be entitled to perform any attest function except in the following cases:

- Authorship of books/Articles
- Holding life Insurance agency license (only for limited purpose of getting renewal commission)
- Holding public elective office (M.P., M.L.A)
- Honorary office of charitable –educational institute
- Notary public, Justice of peace, Special Executive Magistrate & like
- Part time tutorship under coaching organization of institute
- Recovery consultant in the banking sector
- Engagement as lecturer in an University, affiliated college, educational institute, coaching organization, private tutorship, provided the direct teaching hours developed to such activities

taken together do not exceed 25 hours a week

- Valuation of paper, paper setter, head- examiner or moderator for any exam
- Editorship of professional journal (not in employment)
- Insurance brokerage
- Acting as Surveyor/loss Assessor under insurance act
- Any coaching assignment organized by the institute, it regional councils and branches of regional councils
- Engagement in any other business or occupation permitted by the executive committee from time to time
- A member who is not entitled to perform attest function shall not be entitled to train articled clerk.Portfolio Management Services:
- The Council of ICAI pursuant of Section 2 (2) (iv) of the CA Act 1949 has passed a resolution permitting "Management Conslutacny and Other Services" by a CA in practice.
- A clause of aforesaid resolution allows CAs in practice to act as advisor or consultant to an issue of securities including such matters as drafting of prospectus, filling of documents with SEBI, preparation of publicity budgets, advice regarding selection of brokers etc.
- It is however specifically stated that CAs in practice are not permitted to undertake the activity of broking , underwriting and portfolio management services.

Whether a Member in Practice can be a Director:

A member in practice can be a Director Simplicitor, Promoter/Promoter Director, Subscriber to the MOA and AOA of any company including a Board Management Company. Thus, members are not required to obtain specific permission in such cases, irrespective of whether he and/or his relatives hold substantial interest in that Company. It is to be noted that a member in practice can be Promoter/ Promoter Director/Subscriber to MOA and AOA of a company irrespective of whether the objects of the company include area which fall within the scope of the profession of Chartered Accountancy.

A Director Simplicitor means an ordinary or simple director who fulfils the following conditions:

- He is required to attend the Board meetings only;
- Not entitled to any remuneration except the sitting fees; and
- Devote his time for the company only to attend Board meetings and not for any other purposes.

Clause 12

CA in practice is deemed to be guilty of professional misconduct if he allows a person, not being a member of the institute in practice or a member not being his partner, to sign on his/his firm 's behalf any BS, P&L, Report or Financial statements. Hence Only CA or his partner can sign BS, P&L, Report or financial statement. However power to sign routine documents may be delegated, where professional opinion is not required e.g. questionnaire, routine correspondence with client, bills for fee etc.

Part II of First Schedule (Applicable for CA in service)

Clause 1

CA in service is deemed to be guilty of professional misconduct, if he pays or allow or agrees to pay directly/indirectly to any person, any share in emoluments of employment undertaken by him.

However, this clause dose not restricts such sharing or commitments among relatives, dependents, friends etc., if there is no relationship in procuring or retaining the job and payment is not a consideration for job procurement or retainership. The clear verdict of this clause is that job must be procured and retained with own professional capabilities and not by any financial deal impairing professional dignity.

Clause 2

CA in service is deemed to be guilty of professional misconduct, if he accepts or agrees to accept any part of fee, profit or gains from a lawyer/CA/broker engaged by such employer or agent/customer of such employer by way of commission or gratification.

The objective is that when a member is in employment, he must maintain high level of ethics and should not accept any other amount from anyone for which he is not entitled from employer under contractual agreement of service.

Note: A member in the foregoing. circumstances would be guilty of misconduct regardless of the fact that he was in whole-time or part-time employment or that he was holding Certificate of Practice (COP) along with his employment.

Part III of First Schedule (Applicable for CA in general)

Clause 1

A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he not being FCA but acts himself as FCA. [Also see section 24]

Clause 2

A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he does not supply 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

A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he while inviting professional work from another CA or while responding to tenders or inquiries, or while advertising through a write-up, or anything as provided in clause 6 & 7of Part -1 of the first schedule, give information knowing it to be false.

Part IV of First Schedule (Applicable for CA in general)

Clause 1

A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term <= 6 months (if > 6 months, then it is covered in Clause 1 of part III of Second Schedule).

Clause 2

A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he, in the opinion of the council, brings dis-repute to the profession or the institute as a result of his action whether or not related to his professional work.

Example of Other Misconduct:

- Retention of books of accounts and documents of the Client and failure to return these to the Client on request without a reasonable cause.
- Where a CA uses the services of his article or audit clerk for purposes other than professional practice.
- Not replying within a reasonable time and without a good cause to the letter of the public authorities.
- Where a CA had adopted coercive methods on a bank for having a loan sanctioned to him.
- Where, a CA as a member of council, misappropriate of ICAI's money.
- Where, a CA makes a material mis-respresentation.
- Where, a CA dishonor of cheque issued by CA.
- Use of services of articled or audit clerk for purposes other than professional practice.
- Where certain assessment records of income tax department belonging to the client of CA were found in the almirah of the bed-room of the chartered accountant.

	• Forging the will of a relative, even though the forgery may not have been done in the course of his professional duty.
	Some Important Case Decisions:
	• A CA authorized a book titled “Tax Planning for Secret Income (Black Money)”. The Council found him guilty of “Other Misconduct” and removed his name from the Register for a period of 6 months initially. But, the High Court removed his name for a period of 5 years, for the totally unacceptable misconduct. • Submission of Bogus Bills/Receipts for halting allowance expenses for audit of bank branches amount to “Other Misconduct”. The CA’s name was removed from the Register of Member for a period of 15 days. • Issuing vogue certificate to facilitate the client to obtain bank loans amount to “Other Misconduct” u/s 21 & 22.

No.	Question Bank	Exam	Marks	Clause
1	Do you approve of the following? If not, why? Mr. Qureshi, Chartered Accountant, in practice died in a road accident. His widow proposes to sell the practice of her husband to Mr. Pardeshi, Chartered Accountant, for Rs 5 lakhs. The price also includes right to use the firm name- Qureshi & Associates. Can widow of Qureshi sell the practice and can Mr. Pardeshi continue to practice in that name as a proprietor? **Hint:** In the given case and on the facts, the Widow of Mr. Qureshi who has sold the practice for Rs 5 lakhs is nothing but sale of goodwill. Thus the act of Mrs. Qureshi is permissible.	N04 PM	4	Clause 2 of Part I of First Schedule
2	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto. “K, a practicing Chartered Accountant gave 50% of the audit fees received by him to L, who was not a Chartered Accountant, under the nomenclature of office allowance and such an arrangement continued for a number of years.” **Hint:** The CA had shared his profits and therefore, Mr. K was guilty of professional misconduct under the Clause 2 of Part I of First Schedule.	M12 PM	4	Clause 2 of Part I of First Schedule
3	Discuss the following with reference to the Chartered Accountants. Act, 1949 and schedules thereto: “Mr. Q, a Chartered Accountant in practice as a proprietor died in a road accident. His widow sold the practice of her husband to another Chartered Accountant in practice for Rs. 5 lakhs. The price also included right to use the firm name of Mr. Q.” **Hint:** In the given case, when the widow of Mr. Q sells the practice to another member, it is nothing but goodwill sold to another member. The sale of practice and the right to use the name is also allowed in terms of the decision of the council. Thus the act of the widow of Mr. Q is permissible.	N02 N12 PM	4	Clause 2 of Part I of First Schedule
4	“Mr. X who passed his CA examination of ICAI on 18th July, 2013 and started his practice from August 15, 2013. On 16th August 2013, one female candidate approached him for articleship. In addition to monthly stipend, Mr. X also offered her 1% profits of his CA firm. She agreed to take both 1% profits of the CA firm and stipend as per the rate prescribed by the ICAI. The Institute of Chartered Accountants of India sent a letter to Mr. X objecting the payment of 1% profits. Mr. X replies to the ICAI stating that he is paying 1% profits of his firm over	N13 PM	4	Clause 2 of Part I of First Schedule

	and above the stipend to help the articled clerk as the financial position of the articled clerk is very weak. Is Mr. X Liable to professional misconduct?" **Hint:** n view of the provision contained in Clause (2) of Part-1 of First Schedule of the CAs act 1949, the objections of the ICAI are correct and reply of Mr. X, stating that he is paying 1 % profits of his firm over and above the stipend to help the articled clerk as the position of the articled clerk is weak is not tenable. Hence, Mr. X is liable to professional misconduct in terms of Clause (2) of Part-1 of First Schedule of the CAs act 1949.			
5	Comment on the following with reference to the Chartered Accountants Act, 1949, and Schedules thereto: Ms. Preeti is a practicing Chartered Accountant. Mr. Preet is a practicing Advocate representing matters in the court of law. Ms. Preeti and Mr. Preet decided to help each other in the matters involving their professional expertise. Accordingly, Ms. Preeti recommends Mr. Preet in all his litigation matters in the court of law and Mr. Preet consults Ms. Preeti in all matters related to finance and other related matters, which comes to him in arguing various cases in the court of law. Consequently, they started sharing some part in the profits of their professional work. Hint: According to these Clause a practicing member of the Institute can share fees or profits arising out of his professional business with such members of other professional bodies or with such other persons having such qualifications as prescribed by the Council under Regulation 53-A of the Chartered Accountants Regulations, 1988. Under the said regulation, the member of "Bar Council of India" is included. Therefore, Mr. Preet, an advocate, a member of Bar Council, is allowed to share part of profits of his professional work with Ms. Preeti. Hence, Ms. Preeti, a practicing Chartered Accountant, will not be held guilty under any of the above mentioned clauses for paying and accepting part of profits from Mr. Preet.			Clause (2) & Clause (3) of Part I of the First Schedule
6	Discuss whether the following actions by a Chartered Accountant would amount to misconduct or not: "A Chartered Accountant practicing in India enters into partnership with: (a) A Certified Public Accountant in New York.	N00 PM	4	Clause 4 of Part I of First Schedule
	(b) A Chartered Accountant from the Institute of Chartered Accountants in England and Wales in London and in each case, the members concerned take the profits earned in their own country. Will it make any difference, if an Indian Chartered Accountant is practicing outside India and becomes a partner with the aforesaid accountants"			
Ans:	• **Partnership with a CPA in New York:** Clause (4) of part I to the first schedule to the CAs Act, 1949 specifies that a CA in practice shall be guilty of professional misconduct in case a member of our Institute enters into partnership with any person other than a CA in practice. However, he may inter into partnership with ◊ a member of any other professional body (as prescribed) or member of professional bodies or institutions outside India whose qualification relating to accountancy are recognized by the council); or ◊ The resident members of the institute residing abroad but entitled to be registered as a member of institute u/s 4(1) (v); or ◊ Whose qualifications are recognized by Central Government/council for purpose of permitting such partnership?			

	Thus CA would be guilty of professional misconduct since certified public accountants (CPA) is not recognized by the council/CG for entering in to partnership. • **Partnership with a Chartered Accountant from ICAEW:** As stated above, it is important that partnership with a member of the foreign professional body is permissible provided inter alia, such bodies are elegible for the membership of the institute. Earlier, the council had passed a resolution permitting CA from ICAEW to become members of the institute as also fulfilment of certain conditions in respect of persons not permanently residing in India. However the council of the Institute at its meeting held in December, 1995 decided to withdraw the resolution w.e.f. 8th December, 1995. In view of this, person qualified from any of the four institutes in the U.K. including England and Wales are not entitled to have their name entered in the Register of Members maintained by the Institute effective from 8th December 1995. Based on this development, partnership between members of the Institute and members of above foreign professional bodies will not be permissible from the above date. Even a Chartered Accountant for ICAEW who was elegible to become member of the institute, the profit sharing arrangement stated in the question goes against the provisons of clause (4). Hence, it would constitute professional misconduct. • **Chartered Accountant practicing outside India:** A member of ICAI is governed by the Code of Ethics whether practicing in India or outside India. Accordingly, the question of professional misconduct would arise if and Indian CA practicing outside India becomes a partner with aforesaid accountants and enters into partnership in that country with a member of the institute of that country. There would be professional misconduct within the provisions of ICAI Act, 1949 as the applicability of such provisions extend to member practicing outside India.			
7	Give your comments with reference to the Chartered Accountants Act, and schedules thereto: "An advertisement was Published in a Newspaper containing the Photograph of Mr. X,-A member of the institute wherein he was congratulated on the occasion of the opening ceremony of his office." **Hint:** The act of Mr. X will be considered to soliciting professional work by advertisement directly or indirectly. Therefore Mr. X would be held guilty under Clause 6 of Part-1 of the First Schedule to the Chartered Accountants Act, 1949.	N09 PM	4	Clause 6 of Part I of First Schedule
8	Give your comments with reference to the Chartered Accountants Act, and schedules thereto: "Mr. X, a Chartered Accountant and the proprietor of X & Co., wrote several letter to the Assistant Registrar of Co-operative Societies stating that though his firm was on the panel of auditors, no audit work was allotted to the firm and further requested him to look into the matter." **Hint:** The writing of continuous letter to ascertain the reasons for not getting the work is quite alright but in given case he requested him to look into the matter will be taken as requesting for allotment. Hence Mr. X will be liable for professional misconduct under clause 6 of Part I of the Act.	N09 PM	4	Clause 6 of Part I of First Schedule
9	Give your comments with reference to Chartered Accountants Act, 1949 and schedules thereto: "PQR and Associates, Chartered Accountants have their website and on the letterhead of the firm it is mentioned that "Visit our website: PQR. com". In the website the nature of assignments handled, names of prominent clients and fees charged is also displayed." **Hint:** According to the guidelines the details in the website should be so designed	N10 PM	4	Clause 6 of Part I of First Schedule

	that it does not amount to soliciting client or professional work. It is permitted to mention the website address on letterhead but soliciting people to visit website is not permitted. Further the nature of assignments is permitted for display only on specific 'Pull" request. And the name of clients, the fees charged is not permitted at all. Therefore, PQR & Associates will be held guilty of Professional Misconduct under Clause (6) of Part I of First Schedule to the Chartered Accountants Act, 1949.			
10	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "A letter is sent by a Chartered Accountant in practice to the Ministry of Finance inquiring whether a panel of auditors is being maintained by the Ministry and if so to include his name in the panel (CV enclosed)." **Hint:** In case of making an application for the empanelment for the allotment of audit and other professional work, the Council has opined that where the existence of such a panel is within the knowledge of the member, he is free to write to the concerned organization with a request to place his name on the panel. However, it would not be proper for the member to make roving inquiries by applying to any such organization for having his name included in any such panel. Therefore, the member is guilty of misconduct in terms of the above provision as he has solicited professional work from the Finance Ministry, by inquiring about the maintenance of the panel.	M11 PM	4	Clause 6 of Part I of First Schedule
11	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto. "M, a practicing Chartered Accountant sent a letter to another firm of Chartered Accountants, claiming himself to be a pioneer in lisoning with Central Government Ministries and its allied Departments for getting various Government clearances for which he had claimed to have expertise and had given a list of his existing clients and details of his staff etc." **Hint:** As per Central Council Guidelines for Advertisement for the members in practice, write up of the members should not claim superiority over any other Member(s)/Firm(s) and should also not include the names of the clients. In the present case, the act of Mr. M seems to be indirect methods to adventure their professional practice with a view to gain publicity and thereby solicit clients or professional work. Hence, Mr. M was guilty of professional misconduct as per Clause 6 of part I of First Schedule of the CAs, Act. 1949.	M12 PM	4	Clause 6 of Part I of First Schedule
12	As a practicing Chartered Accountant do you approve the following? If not, why? A partner of a firm of Chartered Accountants during a T.V. interview handed over a bio data of his firm to the chairperson. Such bio data detailed the standing of the international firm with which the firm was associated. It also detailed the achievements of the concerned partner and his recognition as an expert in the field of taxation in the country. The chairperson read out the said bio data during the interview. **Hint:** Such an act would definitely lead to the promotion of the firm name and publicity there of as well as of the partner. Thus, the partner would be held guilty of professional misconduct under Clause (6) of Part I of the first schedule to the Chartered Accountants Act, 1949.	N01 PM	4	Clause 6 of Part I of First Schedule

13	Discuss the following with reference to the Chartered Accountants. Act, 1949 and schedules thereto: “M/s XYZ, a firm in practice, develops a website "xyz.com". The colour chosen for the website was a very bright green and the website was to run on a "push" technology where the names of the partners of the firm and the major clients were to be displayed on the website.”	N02 PM	4	Clause 6 of Part I of First Schedule
Ans	The council of the ICAI had approved posting of particulars on website by chartered accountants in practice under clause (6) of Part I of first schedule to the CAs Act, 1949 Subject to the prescribed guidelines. The relevant guidelines in the content of the website hosted by MIs XYZ are:- • No restriction on the colors’ used in the website. • The website are run on a "pull" technology and not a "push" technology. • Names of clients and fees charged not to be given in the website. In view of above, MIs XYZ would have no restriction on the colors used in the website but failed to satisfy the other two guidelines. Thus a firm would be liable for professional misconduct since it would amount to soliciting work by advertisement			
14	Can a Practicing Chartered Accountant be held guilty of professional Misconduct under the following circumstances? Give your views with reasons in brief: Mr. Z, a Chartered Accountant wrote several letters to Government Department, pointing out seniority of his firm, sending his life sketch and stating that he had a glorious record of service to the country as well as to the organization of accountancy profession with a view to get the audit work. **Hint:** Since these letters were clearly in nature of advertising professional attainments, Mr. Z was guilty of professional misconduct- under clause (6) of Part I of first Schedule.	N03 PM	4	Clause 6 of Part I of First Schedule
15	Comment on the following with reference to the Chartered Accountants Act, 1949 and Schedules thereto: “M/s XYZ, a firm of Chartered Accountants created a website "www.xyzindia. com". The Website besides containing details of the firm and bio data of the partners also contains the photographs of all the partners of the firm.” **Hint:** In the present case, all the guidelines of website, seem to have been complied and there appears to be no violation of the CAs Act, 1949 and its Regulations.	M05 PM	5	Clause 6 of Part I of First Schedule
16	Comment on the following with reference to the Chartered Accountants Act, 1949, Code of Ethics and Schedules to the Act: XYZ & Associates, a firm with 5 partners developed a website www. xyzassociates.com. The website also contained a link to "All India Chartered Accountants Association", a Voluntary association where X, a partner of the firm is currently the Vice-President. **Hint:** In this case, M/s XYZ Associates provided a link to "All India Chartered Accountants Association" which is not permitted. Hence the firm would be liable for misconduct under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949.	M06 PM	4	Clause 6 of Part I of First Schedule
17	Comment on the following with reference to the Chartered Accountants Act, 1949, Code of Ethics and Schedules to the Act: M/s. LMN, a firm of Chartered Accountants responded to a tender from a State Government for computerization of land revenue records. For this	M06 PM	5	Clause 6 of Part I of First Schedule

	purpose, the firm also paid Rs. 50,000 as earnest deposit as part of the terms of the tender. **Hint:** In the present case, since computerization of land revenue records does not fall within exclusive areas for Chartered Accountants, M/s LMN can respond to tender as well as deposit Rs 50,000 as earnest deposit and shall not have committed any professional misconduct.			
18	Comment on the following with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "Mr. S, a Chartered Accountant published a book and gave his personal details as the author. These details also mentioned his professional experience and his present association as partner with M/s RST, a firm." **Hint:** Mr. S. has committed the professional misconduct by mentioning that at present he is a partner in M/s RST, a CA firms.	N05 PM	5	Clause 6 of Part I of First Schedule
19	Mr. Honest, a Chartered Accountant in practice, wrote two letters to M/s XY Chartered Accountants a firm of CAs; requesting them to allot him some professional work. As he did not have a significant practice of clients he also wrote a letter to M/s ABC, a firm of Chartered Accountants for securing professional work. Mr. Clever, an another CA, informed ICAI regarding Mr. Honest's approach to secure the professional work. Is Mr. Honest wrong in soliciting professional work? **HInt:** In the given case, Mr. Honest wrote letters only to other Chartered Accountants, M/s XY and M/s ABC requesting them to allot some professional work to him, which is not prohibited under clause (6) as explained above. Thus, Mr. Honest is not wrong in soliciting professional work.	N13 PM	4	Clause 6 of Part I of First Schedule
20	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: A chartered accountant in practice created his own website in attractive format and colours and circulated the information contained in the website through E-mail. **Hint:** He is guilty of misconduct under clause 6 of Part I of the First Schedule to the CAs Act.	M07 PM	5	Clause 6 of Part I of First Schedule
21	Comment on the following with reference to the Chartered Accountants Act, 1949, and Schedules thereto: A special notice has been issued for a resolution at 3rd annual general meeting of Fiddle Ltd. providing expressly that CA. Smart shall not be re-appointed as an auditor of the company. Consequently, CA. Smart submitted a representation in writing to the company as provided under section 140(4) (iii) of the Companies Act 2013. In the representation, CA. Smart incorporated his independent working as a professional throughout the term of office and also indicated his willingness to continue as an auditor if reappointed by the shareholders of the Company.	Case Study PM		Clause 6 of Part I of First Schedule
Ans:	As per Clause (6) of Part I of First Schedule to the Chartered Accountants Act, 1949, a Chartered Accountant in practice is deemed to be guilty of professional misconduct if he solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means except applying or requesting for or inviting or securing professional work from another chartered accountant in practice and responding to tenders.			

22	Further, section 140(4)(iii) of the Companies Act, 2013, provides a right, to the retiring auditor, to make representation in writing to the company. The retiring auditor has the right for his representation to be circulated among the members of the company and to be read out at the meeting. However, the content of letter should be set out in a dignified manner how he has been acting independently and conscientiously through the term of his office and may, in addition, indicate, if he so chooses, his willingness to continue as auditor, if re- appointed by the shareholders. Thus, the incorporation as an independent professional, made by CA. Smart, while submitting representation under section 140(4)(iii) of the Companies Act, 2013 and indication of willingness to continue as an auditor if reappointed by shareholders, does not leads to solicitation. Therefore, CA. Smart will not be held guilty for professional misconduct under Clause (6) of Part I of First Schedule to the Chartered Accountants Act 1949.			
22	Discuss whether the following actions by a Chartered Accountant would amount to misconduct or not. "A practicing Chartered Accountant uses a visiting card in which he designates himself, besides as Chartered Accountant, as ' (a) Tax Consultant (b) Cost Accountant."	N00 PM	4	Clause 7 of Part I of First Schedule
Ans	• **Tax Consultant:** Section 7 of CA Act 1949 read with Clause 7 of part I of the first schedule to the said Act prohibits advertising of professional attainments or services of a member. It also restrains a member from using any designation or expression other than that of a chartered Accountant in documents through which the professional attainments of the member would come to the notice of the public. Under the clause, use of any designation or expression other than Chartered Accountant for a CA in practice on professional documents, visiting cards etc. amounts to a misconduct unless it be a degree of a University or a title indicating membership of any other professional body recognized by the CG or the council. Thus it is improper to use designation ''Tax Consultant" Since neither it is a degree of a University established by law in India or recognized by CG nor it is a recognized professional membership by the CG or the council. • **Cost Accountant:** According to section 7 of the Act read with Clause (7) of part I of the first schedule to the CAs Act, 1949. A Chartered Accountant in practice cannot use any other designation than that of a Chartered Accountant. Nevertheless, a member in practice may use any other letters or descriptions indicating membership of accountancy bodies, which have been approved by the council. Thus it is improper for a Chartered Accountant to state in his documents that he is as Cost Accountant" However, as per Appendix 8 to the Chartered Accountants Act, 1949 the council has resolved that the members are permitted to use letters indicating membership of the institute of Cost and Works Accountants but not the designation "Cost Accountant."			
23	Comment on the following with reference to the Chartered Accountants Act, 1949, and Schedules to the Act. "CA. N, in practice, started project consultancy work as a part of his practice and to advance the same, sent mail to all the CAs in the country informing them of his services and for securing professional work." Hint: As per exception to the Clause (6) of Part I of First Schedule CA. N is well within the regulation of the act and has not committed any professional misconduct.	Case Study PM		Clause (6) of Part I of First Schedule
24	Comment on the following with reference to the Chartered Accountants Act, 1949, and Schedules thereto: CA. Intelligent, a Chartered Accountant in practice, provides part-time tutorship under the coaching organization of the Institute. On 30th June, 2015, he was awarded 'Best Faculty of the year' as gratitude from the Institute. Later	Case Study PM		Clause (6) of Part I of First Schedule

	on, CA. Intelligent posted his framed photograph on his website wherein he was receiving the said award from the Institute. Hint: According to the guidelines approved by the Council of the Institute of Chartered Accountants of India, no photographs of any sort are permitted. Only display of passport size photograph is permitted. Therefore, CA. Intelligent is guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act 1949.			
25	Comment on the following with reference to the Chartered Accountants Act, 1949 and Schedules thereto: Mr. Raj, a renowned practicing Chartered Accountant, decided to tie his knot with Ms. Anjani. While giving order for marriage invitation cards, Mr. Raj instructed to add his designation "Chartered Accountant" with his name. Later on, the cards were distributed to all his relatives, close friends and clients. **Hint:** Mr. Raj would not be held guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949.	Case Study PM		Clause (6) of Part I of First Schedule
26	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: Mr. Brilliant, a chartered accountant in practice, created his own website in attractive format and highlighted the contents in bright colour. He also circulated the information contained in the website through E-mail to acknowledge public at large about his expertise. However, due to shortage of time, he could not intimate his website address to the Institute. **Hint:** Further, members are not required to intimate the Website address to the Institute. Members are only required to comply with the Website Guidelines issued by the Institute in this regard. In the given case, Mr. Brilliant has circulated the information contained in the website through E-mail to public at large. Therefore, he is guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the said Act. However, there is no such misconduct for not intimating website address to the Institute.	Case Study PM		Clause (6) of Part I of First Schedule
27	Examine whether there is professional misconduct in the following circumstances: "A chartered accountant in practice appearing on television on budget proposals was introduced to the viewers, on the basis of the bio-data furnished by him, as the senior most partners of M/s Tick and Tag, a leading firm of chartered accountants established in Delhi in 1948." **Hint:** Reference to the name of the firm M/s Tick and Tag and use of adjective expressions such as a leading firm of a chartered accountants and "senior most partner are violation of the code of conduct. Further, it also states that the practice of stating even the date of setting up the practice by a member must be avoided. Thus reference to the date of establishment of firm in Delhi in 1948 is also against the provisions of CAs Act, 1949. Thus chartered Accountant is guilty of professional misconduct.	N98	5	Clause 7 of Part I of First Schedule
28	Mr. Adnan, a Chartered Accountant in practice, is a partner of 4 firms. While printing his personal letter heads, Mr. Adnan gave the names of all the firms in which he is a partner. Comment. **Hint:** As per clause (7) of part -1 of First Schedule, there is no prohibition for	M06 M09 PM N15	4	Clause 7 of Part I of First Schedule

	printing names of all 4 firms on the personal letter heads in which a member holding certificate of practice is a partner. Thus, Mr. Adnan is not guilty of any professional misconduct in the above case.			
29	Is there any misconduct on the part of a Chartered Accountant in the following circumstances: The offer document of a listed company in which Mr. D, a practicing Chartered Accountant is a director mentions the name of Mr. D as a director along with his various professional attainments and spheres of specialization.	M02	4	Clause 7 of Part I of First Schedule
	Ans: • The council of the ICAI has in a communication to members stated that if a public company, in which a CA in practice is a director, issues a prospectus or gives any announcement that gives descriptions about the Chartered Accountants' expertise, specialization and Knowledge in any particular field, it shall constitute a violation of clauses 6 and 7 of Part I of the first schedule to the CA Act, 1949. • The council has further stated that in such cases the members concerned has to take necessary steps to ensure that such prospectus or public announcements or public communications do not advertise his professional attainments and also do not directly or indirectly amount to solicitation of clients for professional work by the members. • Thus in the instant case Mr. D would be held to be guilty of professional mis-conduct and liable for disciplinary action.			
30	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: XY & Co. a firm of Chartered Accountant having 2 partners X & Y, one in charge of Head Office and another in charge of Branch at a distance of 80 kms, puts up a name-board of the firm in both premises and also in their respective residences.	N07 PM	5	Clause 7 of Part I of First Schedule
	Ans: • The council of the Institute has decided that with regard to the use of the name board, there will be no bar to the putting up of a name-board in the place of residence of a member with the designation of chartered accountant provided; it is a name-plate or board of an individual member and not of the firm. • In the present case partners of XY & Co., put up a name board of the firm in both offices and also in their respective residences. • Thus the chartered accountants X & Y are guilty of misconduct. Distance given in the question is not relevant for deciding.			
31	Mr. Nigal, a Chartered Accountant in practice, delivered a speech in the national conference organized by the Ministry of Textiles. While delivering the speech, he told to the audience that he is a management expert and his firm provides services of taxation and audit at reasonable rates. He also requested the audience to approach his firm of chartered accountants for these services and at the request of audience he also distributed his business cards and telephone number of his firm to those in the audience. Comment.	N13 PM	4	Clause 7 of Part I of First Schedule
Ans:	• Clause 6 of Part I of the First Schedule to the CA Act, 1949 states that a CA in practice shall be deemed to be guilty of misconduct if he solicits clients or professional work either directly or indirectly by a circular, advertisement, personal communication or interview or by any other means. • Section 7 of the CA Act, 1949 read with Clause 7 of Part I of the First Schedule to the said Act prohibits advertising of professional attainments or services of a member. It also restrains a member from using any designation or expression other than that of a chartered accountant in documents through which the professional attainments of the member would come to the notice of the public.			

	• Thus, as per clause 7 it is improper to use designation "Management Expert" since neither it is a degree of a University established by law in India or recognised by the CG nor it is a recognised professional membership by the Central Government or the Council. • Therefore, In present case Mr. Nigal is deemed to be guilty of professional misconduct under both clause (6) and Clause (7) as he has used the designation "Management Expert" in his speech and also he has made reference to the services provided by his firm of Chartered Accountants at reasonable rates. Distribution of cards to audience is also misconduct in terms of Clause 6.			
32	Give your comments with reference to Chartered Accountants Act, 1949 and Schedules thereto. "Mr. B, a practicing Chartered Accountant as well as a qualified lawyer, was permitted by the bar council to practice as a lawyer also. He printed his visiting card where he mentioned his designation as Chartered Accountant and Advocate." Hint: The council has also clarified that members of the institution in practice, who are otherwise eligible may practice as advocates subject to the permission of Bar Council but they should not be allowed to use both designations, that is Chartered Accountant and Advocate simultaneously. Thus in given case, Mr. B is guilty of professional misconduct as he has printed his visiting card mentioning his designation as both Chartered Accountant and Advocate.	M13 PM	4	Clause 7 of Part I of First Schedule
33	Mr. SP. a Chartered Accountant obtains registration as category IV Merchant Banker under the SEBI's Rules and Regulations and act as Advisor to a capital issue of MB Co. Ltd, He designates himself under the caption "Merchant Banker" in client offer documents and 'Advisor to issue' in his own letterheads, visiting cards and documents. **Hint:** In Client Companies' offer documents and advertisements regarding capital issue, name and address of the Chartered Accountant acting as Advisor or Consultant to the issue could be indicated under the caption "Advisor/ Consultant to the issue. Further such member should not use the designation of either "Merchant Banker" or "Advisor/Consultant to issue" in their own letterheads, visiting cards, professional documents, etc. Therefore, Mr. SP shall be held guilty of professional misconduct as per Clause (7) of Part I of First Schedule to the CA Act, 1949.	M15	4	Clause 7 of Part I of First Schedule
34	Can a Practicing Chartered Accountant be held guilty of professional Misconduct under the following circumstances? Give your views with reasons in brief: W, a Chartered Accountant has sent letters under certificate of posting to the previous auditor informing him his appointment as an auditor before the commencement of audit by him. **Hint:** According to Clause 8 of Part I of first schedule, letters sent by "W" to the previous auditor informing him of his appointment as an auditor before the commencement of audit by him under certificate of posting is not sufficient to prove communication with the retiring auditor. In the opinion of the council, communication by a letter sent."Registered Acknowledgment Due" or by hand against a written acknowledgment would in the normal course provide positive evidence. Hence 'W" was guilty of professional misconduct under clause (8) of Part I of first schedule to the Chartered Accountant.	N03 PM	4	Clause 8 of Part I of First Schedule

35	Comment on the following with reference to the Chartered Accountants Act, 1949 as amended by the Chartered Accountants (Amendment) Act, 2006 and schedules thereto: BC & Co, a firm of Chartered Accountants, accepted an assignment for audit under State level VAT Act, without any prior communication with the previous auditor. **Hint:** As per Clause 8 of Part I of First Schedule to the CA Act 1949 a communication is mandatory requirement for all types of audit, if the previous auditor is a chartered accountant. Hence, the firm is guilty of professional misconduct.	M08 PM	4	Clause 8 of Part I of First Schedule
36	Mr. X, a Chartered Accountant accepted his appointment as tax auditor of a firm u/s 44AB, of the Income-tax Act, and commenced the tax audit within two days of his appointment since the client was in a hurry to file Return of Income before the due date. After commencing the audit, Mr. X realized his mistake of accepting this tax audit without sending any communication to the previous tax auditor. In order to rectify his mistake, before signing the tax audit report, he sent a registered post to the previous auditor and obtained the postal acknowledgement. Will Mr. X be held guilty under the CA Act? **Hint:** Mr. X will be held guilty of professional misconduct though Mr. X tried to rectify his mistake after accepting audit but before signing audit report.	M03 PM	6	Clause 8 of Part I of First Schedule
37	Comment on the following with reference to the Chartered Accountants Act, 1949, and Schedules to the Act: "CA. T, in practice, was appointed to carry out internal audit of a stock broker, listed with BSE. However, he failed to intimate his appointment to the statutory auditors of the company. The statutory auditor feels this is violation of professional ethics. " Hint: This clause (8) is applicable in situation of replacing of one auditor by another auditor. Internal auditor and statutory audition are parallel positions and not replacement positions. The management generally appoints the internal auditor whereas the statutory auditor will be appointed by the shareholders in the AGM. In this situation there is no need for communication by one to other. In view of above the contention of the statutory auditor is unacceptable and there is no question of communicating in writing by Mr. T.	Case Study		Clause (8) of Part I of First Schedule
38	C.A. Ashwin was appointed as auditor of Bristol Ltd. for the year 2013-14. Since he declined to accept the appointment, the Board of Directors appointed CA John as the Auditor in place of C.A. Ashwin and the appointment was accepted by C.A. John. Discuss.	M15	4	Clause (9) of Part I of First Schedule
Ans	Board can appoint the auditor in the case of casual vacancy u/s 139(8) of the Companies Act, 2013. The non-acceptance of appointment by CA Ram does not constitute a casual vacancy to be filled by the Board. In this case, it will be deemed that no auditor was appointed in the AGM. Further, as per Section 139(10) of the Companies Act, 2013 when at any AGM, no auditor is appointed or reappointed, the existing auditor shall continue to be the auditor of the company. The appointment of the auditor by the Board is defective in law. Clause (9) of Part I of First Schedule to the Chartered Accountants Act, 1949 states that a CA is deemed to be guilty of professional misconduct if he accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of Section 139, 140 and 142 read with Section 141 of the Companies Act, 2013, in respect of such appointment have been fully complied with. Hence, CA John is guilty of professional misconduct since she accepted the appointment without verification of statutory requirements.			

39	Mr. P a practicing chartered accountant acting as liquidator of AB & Co. charged his professional fees on percentage of the realization of assets. **Hint:** Mr. P shall not be held guilty of professional misconduct as he is allowed to charge fees on percentage of the realisation of assets being a liquidator.	M15	4	Clause 10 of Part I of First Schedule
40	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules there to: "CA D, a Chartered Accountant prepared a project report for one of his clients to obtain bank finance (long-term) of Rs. 50 lakhs from a Commercial Bank. Consequent to the sanction of the loan by the bank CA D raised a bill for his services @ 2% of the loan sanctioned." **Hint:** As per Clause 10 of part I to First Schedule to the Chartered Accountants Act CA D is liable for professional misconduct.	N08 PM	4	Clause 10 of Part I of First Schedule
41	Give your comments with reference to the Chartered Accountants Act, and Schedules thereto: "Mr. A, a practicing Chartered Accountant, took over as the executive chairman of Software Company on 1.4.2015. On 10.4.2015 he applied to the Council for permission." **Hint:** Mr. A took over as the executive chairman on 01/04/2010 and applied for permission on 10/4/2010, on the basis of these facts he was engaged in other occupation between the period 01/04/2010 to 10/04/2010, without the permission of the Council and therefore is guilty of misconduct in terms of clause 11 of Part 1 of first Schedule.	M10 PM	3	Clause 11 of Part I of First Schedule
42	Give your comments with reference to Chartered Accountants Act, 1949 and schedules thereto: Mr. B is a practicing Chartered Accountant holding a valid certificate of practice. He accepted the appointment as Director of the Green World Co. Ltd. Mr. C, a partner of Mr. B is statutory auditor of the said company.	N10 PM	4	Clause 11 of Part I of First Schedule
43	CA Ram is practicing in the field of financial management planning for over 12 years. He has gained expertise in this domain over others. Mr. Ratan, a student of Chartered Accountancy course, is very much impressed with the knowledge of CA. Ram. He approached CA. Ram to take guidance on some topics of financial management subject related to his course. CA. Ram, on request, decided to spare some time and started providing private tutorship to Mr. Ratan along with some other aspirants. However, he forgot to take specific permission for such private tutorship from the Council. Hint: The Council has provided general permission for providing such private tutorship. Therefore, CA. Ram would not be held guilty of professional misconduct under Clause (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949.	Case Study PM		Clause 11 of Part I of First Schedule
Ans	• Clause 11 of Part 1 of First Schedule to the CA Act, 1949 prohibits a member to engage in any business or occupation other than the profession of chartered accountants unless permitted by the Council so to engage. • It does not prohibit a Chartered Accountant from being a director of a company, except managing director or a whole time director. • But if any of the partners is interested in such company as an auditor then he cannot be director of the said company. In the present case Mr. B has accepted the directorship in a Company where his partner Mr. C is an auditor without obtaining specific permission of the council.			

	• Hence, Mr. B will be held for Professional Misconduct under Clause 11 of Part 1 of First Schedule. Further, the Council of the ICAI has categorically stated that in cases where a member is a director of a company, the firm, in which the said member is a partner, should not express any opinion on its financial statements. • Clause 4 of Part I of the Second Schedule to the CA Act, 1949 also states that expressing an opinion on financial statement of any business establishment in which the auditor, his firm or a partner of his firm has a substantial interest would constitute misconduct. • Additionaly Section 141 (3) (c) of the Co. Act, 2013 also disqualifies a person to be appointed as an auditor if he is a partner of an officer of the company. Furthermore, section 141 (4) require the appointed auditor to vacate his office if he incurs any of the disqualifications mentioned u/s 141 (3). • Therefore, incases, where a member of the institue is a director of a company or a firm in which said member is a partner should not express any opinion on its financial statements. Hence Mr. C, a partner of Mr. B should vacate the office.			
44	"A Chartered Accountant holding certificate of practice and having four articled clerks registered under him accepts appointment as a full-time lecturer in a college. Also he becomes a partner with his brother in a business. Examine his conduct in the light of C.A. Act, 1949 and the regulations there under" **Hint:** The chartered accountant is liable for professional misconduct since he failed to obtain specific and prior approval of the council in each case.	M00 PM	4	Clause 11 of Part I of First Schedule
45	Discuss whether the following actions by a Chartered Accountant would amount to misconduct or not. "A Chartered Accountant in practice takes up the appointment as Managing Director of a Public Limited Company." **Hint:** As per Clause (11) of Part I of the first schedule to the Chartered Accountants, 1949 a member of the Institute in practice may hold the office of a MD/WTD of a body corporate within the meaning of the Companies Act, provided that the member and or his relatives do not hold substantial interest in such concern and after obtaining the specific and prior approval of the council. Accordingly, in the absence of specific and prior approval chartered Accountant would be held guilty of professional misconduct.	N00 M07 PM	4	Clause 11 of Part I of First Schedule
46	"Mr. J started his practice as Chartered Accountant in 1996. During 1999, he got an offer for the post of Chief Accountant of a Software Development Company, as a full time employee, for a salary of Rs 60,000 per month. On accepting this offer, Mr. J converted his practice into a partnership firm by taking a fresh Chartered Accountant as his partner. Mr. J neither intimated the Institute nor obtained permission from the Institute about his employment. Will Mr. J be held guilty under the CA Act?" **Hint:** According to Clause 11 of Part I of first schedule to the Chartered Accountants Act, 1949, Mr. J will be held guilty since he has accepted the full time salaried employment in addition to the practice of chartered Accountancy without obtaining permission of the Institute. Further, Mr. J will be guilty of professional misconduct under clause (i) of Part II of second schedule to the Chartered Accountants Act, 1949 if he contravenesany of the provision of the Act Since he has failed to inform the Institute.	M03 PM	6	Clause 11 of Part I of First Schedule

47	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: "Mr. J.J. a practicing Chartered Accountant engages himself as part time finance manager of Quick Return Securities Ltd. He is of the view that as both functions are independent, he need not take permission from the Institute." **Hint:** Guilty of Mis-conduct under clause 11 of Part I of Ist Schedule.	N06 PM	4	Clause 11 of Part I of First Schedule
48	Comment on the following with reference to the Chartered Accountants Act, 1949 as amended by the Chartered Accountants (Amendment) Act, 2006 and schedules thereto: M, a Chartered Accountant in practice, 'is the Statutory Auditor of S Ltd. for the year ended 31st March, 2008. In January, 2008, he was appointed as a Director in H Ltd., which is the holding Company of S Ltd.	M08 PM	5	Clause 11 of Part I of First Schedule
Ans:	• In terms of clause 11 of Part I of the First Schedule to the CA Act, 1949, a CA in practice cannot engage (unless permitted by the council) in any business or occupation other than the profession of Chartered accountant, but he can be a director of a company wherein he or any of his partners is not interested in such company as auditor. • However, public conscience is expected to be ahead of law and the requirement of independence should be interpreted much more strictly. Members should thus not place themselves in position which would either compromise or jeopardize their independence. • In view of the above, an auditor of a subsidiary company cannot be a director of a holding company as it will affect his independence.			
49	"CA Prabhu is a leading income tax practitioner and consultant for derivative products. He resides in Mumbai near to the ABC commodity stock exchange and does trading in commodity derivatives. Every day, he invests nearly 50% of his time to settle the commodity transactions. Is C.A. Prabhu liable for professional misconduct?" **Hint:** In the given case CA is engaged in the occupation of trading in derivatives which, is not covered under the general permission. Hence specific permission of the Institute has to be obtained otherwise he will be deemed to be guilty of professional misconduct under clause 11 of Part-I of First Schedule of CA Act, 1949.	N08 N13 PM	4	Clause 11 of Part I of First Schedule
50	**A Chartered Accountant having COP entered into partnership with persons, who are not the members of the institute, for the purpose of carrying on business. The share of the chartered account in the profit and losses was 25%. He was to take part in the business and was entitled to represent the firm before Govt authorities etc. He was operating the bank account of the firm was receiving moneys from customers and was also looking after the affairs of the partnership.** Hint: The question is silent about with whom the partnership has been entered into (Clause 4) and whether the prior permission for entering into such business has been obtained (Clause 11). Conclusion: It is assumed that the persons with whom the partnership has been entered into has not been allowed under the Regulations and the prior approval of the Council has not been obtained for entering into such business. Hence the Chartered Accountant shall be held guilty of professional misconduct under Clause (4) and (11).	M15	4	Clause 4 & 11 of Part I of First Schedule
51	Mr. S, a practising Chartered Accountant agreed to provide "Portfolio Management Services" to his client M/s. D Limited. Comment with reference to the Chartered Accountants Act, 1949. **Hint:** As per Section 2 (2) of CA Act, 1949, it is specifically staed that CA	N15	4	Section 2 (2)

	in practice is are not permitted to undertake the activities of broking, underwriting, and portfolio management Services. In view of this Mr. S would be guilty of misconduct under the Chartered Accountants Act, 1949.			
52	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "CA Smart, a practicing Chartered Accountant was on Europe tour between 15-9-15 and 25-9-15. 0n 18-9-15 a message was received from one of his clients requesting for a stock certificate to be produced to the bank on or before 20-9-15 Due to urgency, CA Smart directed his assistant, who is also a Chartered Accountant, to sign and issue the stock certificate after due verification, on his behalf." **Hint:** CA Smart is guilty of professional misconduct under Clause 12 of part I of First Schedule of the CAs Act, 1949.	M11 PM	4	Clause 12 of Part I of First Schedule
53	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto S, a practicing chartered accountant gives power of attorney to an employee chartered accountant to sign reports and financial statements, on his behalf.	M07 PM	5	Clause 12 of Part I of First Schedule
Ans:	• Clause 12 of Part I of the First Schedule to the CAs Act, 1949 as amended by the Chartered Accountants (Amendment) Act, 2006 states that is a Chartered Accountant in practice is deemed to be guilty of professional misconduct if he allows a person not being a member of the Institute or a member not being his partner, to sign on behalf or on behalf of his firm any BS, P&L A/c, report of financial statement." • This clause is to be read in conjunction with Section 26 of the Chartered Accounts Act, 1949 which stipulates that 'no person other than a member of the Institute shall sign any document or behalf of a Chartered Accountant in his or its professional capacity. • The term "Financial Statement" for this purpose would cover an examination of the accounts or financial statements given under a statutory enactment or otherwise. Accordingly Mr. S is guilty of professional misconduct under clause 12 of part I of First Schedule and also under clause (1) of Part (II) of second schedule for contravening section 26.			
54	Mr. 'A' is a practicing Chartered Accountant working as proprietor of M/s A & Co. He went abroad for 3 months. He delegated the authority to Mr. 'Y' a Chartered Accountant his employee for taking care of routine matters of his office. During his absence Mr. 'Y' has conducted the under mentioned jobs in the name of M/s A & Co. (i) He issued the audit queries to client which was raised during the course of audit. (ii) He issued production certificate to a client under Central Excise Act, 1944. (iii) He attended the Income Tax proceedings for a client as authorized representative before Income Tax Authorities. Please comment on eligibility of Mr. 'Y' for conducting such jobs in name of M/s A & Co. and liability of Mr. 'A' under the Chartered Accountants Act, 1949.	M14 PM	5	Clause 12 of Part I of First Schedule
Ans:	• As per clause 12 of Part I of the First Schedule of the CA Act, 1949, a CA in practice is deemed to be guilty of professional misconduct "if he 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 balance sheet, profit and loss account, report or financial statements". • The Council has clarified that the power to sign routine documents on which a professional opinion/ authentication is not required to be expressed may be delegated in the following instances and such delegation will not attract provisions of this clause like issue of audit queries during the course of audit, asking for information or issue of questionnaire, attending to routing matters in tax practice, subject to provisions of Section 288 of Income Tax Act etc.			

	• In the given case, in the light of above provision, Mr. “Y” is right in issuing the query, since the same falls under routine work which can be delegated by the auditor. Therefore, there is no misconduct in this case as per clause 12 of Part 1 of First schedule to the Act. • Further, issuance of production certificate to a client under Central Excise Act, 1944 by Mr. “Y” being an employee of M/s A & Co., is not a routine work and it is outside his authorities. Thus, CA “Y” is guilty of professional misconduct under clause 12 of Part I of First Schedule of the CA Act, 1949. • In this case, Mr. “Y”, CA employee of the audit firm M/s A & Co. has attended the Income tax proceedings for a client as authorized representative before Income Tax Authorities. Therefore In light of the above provision, there is no misconduct in this case as per clause 12 of Part 1 of First schedule to the Act.			
55	Mr. 'C', a Chartered Accountant holds a certificate of practice while in employment also, recommends a particular lawyer to his employer in respect of a case. The lawyer, out of the professional fee received from employer paid a particular sum as referral fee to Mr. 'C'. **Hint:** In the given case, Mr. C who besides holding a COP is also an employee and by referring a lawyer to the company in respect of a case, he receives a particular sum as referral fee from the lawyer out of his professional fee. Therefore, Mr. C is guilty of professional misconduct by virtue of clause 2 of Part II of First Schedule.	M14 PM	4	Clause 2 of Part II of First Schedule
56	“A Chartered Accountant in practice, in spite of repeated requests from the Secretary of the Institute, fails to submit form 18. Is he liable for misconduct?” **Hint:** Clause (2) of part III of the first schedule requires a member to supply the information called for by the councilor any of its committees. Under this clause, it is misconduct for Chartered Accountants generally, if they do not supply the information called for by the council, hence request from the secretary amounts to a request from the council. Besides, it is also a contravention of the Regulation of the Chartered Accountants Regulations, 1988. Thus failure to submit form 18 (Which deals with Deed of Assignment of Articles where the Articled clerk is a minor) constitutes professional misconduct.	M00 PM	4	Clause 2 of Part III of First Schedule
57	Give your comments with reference to the Chartered Accountants Act, and Schedules thereto: “Mr. X, a Chartered Accountant, employed as a paid Assistant with a-Chartered Accountant, firm. On 31st December', 2008 he leaves the services of the firm. Despite many reminders from ICAI he fails to reply regarding the date of leaving the services of the firm.” **Hint:** He is held to be guilty of professional misconduct under Clause (2) of Part III of the First Schedule of CA Act, 1949.	M10 PM	3	Clause 2 of Part III of First Schedule
58	Mr. 'G', while applying for a certificate of practice, did not fill in the columns which solicited information about his engagement in other occupation or business, while he was indeed engaged in a business. **Hint:** Details of engagement in business need to be disclosed while applying for the certificate of practice as it was the information called for in the application, by the Institute. Therefore, Mr. G will be held guilty for professional misconduct under the Clause 2 of Part III of First Schedule of the CA Act, 1949.	M14 PM	3	Clause 2 of Part III of First Schedule
59	Comment on the following: “ Mr. R, a Chartered Accountant in practice approached Manager of a Nationalized Bank for a loan of Rs 25 lakhs. He has also informed the Manager that if the loan is sanctioned, the Income Tax return of the Manager and staff will be filed without charging any fees, as quid Pro quo for the loan sanctioned”.	N11 PM	4	Clause 2 of Part IV of First Schedule

Ans:	• Clause 2 of Part IV of First Schedule to the CAs Act, 1949 states that member of the Institute, whether in " practice or not, shall be deemed guilty of other misconduct, if he in the opinion of the Council, brings disrepute to the profession or to the Institute as a result of his action whether or not related to his professional work". • Accordingly, a CA is expected to maintain the highest standards and integrity even in his personal affairs and any deviation from these standards calls for disciplinary action. • In the present case, the action of Mr. R, a CA in practice offering free service in return to sanction of loan brings disrepute to the profession of a Chartered Accountant. Therefore, in the present case, Mr. R will be held guilty of other misconduct			
60	Give your comments with reference to Chartered Accountants Act, 1949 and Schedules thereto. “Mr. A, a practicing Chartered Accountant, failed to return the books of account and other documents of a client despite many reminders from the client. The client had settled his entire fees dues also.” **Hint:** Refer Section 22 (Other Misconduct) & Clause 2 of Part IV of First Schedule. In the present case, Mr. A failed to return the books of accounts and other documents of his client without any reasonable Clause, and therefore, he would be guilty under other misconduct.	M13 PM	4	Clause 2 of Part IV of First Schedule
61	Write short notes on the following: "Other Misconduct". **Hint:** Refer Section 22 (Other Misconduct) & Part IV of First Schedule and Part III of Second Schedule.	M01 N04 PM	4	Clause 2 of Part IV of First Schedule
62	“A Chartered Accountant availed a term loan of Rs. 10 lakhs from a Nationalized Bank for furnishing his office. He issued two cheques for Rs. 1 lakh each towards repayment of the loan. The cheques were dishonoured with the remark "Refer to Drawer". Is the Chartered Accountant liable for misconduct?” **Hint:** Refer Section 22 (Other Misconduct) & Clause 2 of Part IV of First Schedule. The facts of the case state that the cheque was dishonored with the remark "Refer to Drawer" means that the cheques were dishonored due to insufficiency of funds. Therefore the Chartered accountant would be held guilty of other misconduct.	M00 M08	4	Clause 2 of Part IV of First Schedule
63	Discuss the following with reference to the Chartered Accountants. Act, 1949 and schedules thereto: “Mr. R, a Chartered Accountant in practice has been elected as the treasurer of a Regional Council of the Institute. The Regional Council had organized an international tour through a tour operator during the year for its members. During the audit of the Regional Council, it was found that Mr. R had received a personal benefit of Rs. 50,000 from the tour operator.” **Hint:** Refer Section 22 (Other Misconduct) & Clause 2 of Part IV of First Schedule. The council has also laid down that among other things" misappropriation by an office-bearer of a Regional Council of the Institute of a large amount and utilization thereof for his personal use" would amount to "other misconduct" Thus, in the given case, Mr. R would be liable for disciplinary action.	N02 PM	4	Clause 2 of Part IV of First Schedule
64	Give your comments with reference to Chartered Accountants Act, 1949 and schedules thereto: YKS & Co., a proprietary firm of Chartered Accountants was appointed as concurrent auditor of a bank. YKS used his influence for getting some cheques purchased and thereafter failed to repay the loan/overdraft.	N10 PM	4	Clause 2 of Part IV of First Schedule

	Hint: Refer Section 22 (Other Misconduct) & Clause 2 of Part IV of First Schedule. In the instant case YKS & Co, being a concurrent auditor used his position to obtain the funds and failed to repay the same to the bank.' This brings disrepute to the profession of a Chartered Accountant. This act of YKS & Co is not pardonable. Therefore YKS & Co will be held guilty of other misconduct under Clause 2 of Part IV of first schedule to the CA, 1949.			

22C Second Schedule to the Chartered Accountant Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006 & 2011)

	Part I	Part II	Part III
Misconduct	Professional	Professional	Other
Applicability	CAs in practice	CAs in general	
No. of Clause	10	4	1

Part I of Second Schedule (Applicable for CA in practice)	
Clause 1	
	CA in practice is deemed to be guilty of professional misconduct if he discloses information acquired in course of his professional engagement to any person other than his client BUT he may disclose if permitted by his client OR required by any law. He can't disclose even after completion of his assignment.
	Duty of CA in relation to Unlawful Act by Client:
	• CA has no duty to inform tax authorities about tax frauds made by his client, but it is also not duty of CA to shield him from consequences of frauds. Hence it is responsibility of the CA to advise his client in a persuasive way not to involve in tax frauds by impressing upon him that, disclosure by client may entail only penalties but non-disclosure may result even in imprisonment. • If, CA informs tax authorities about his disassociation from matter, authorities may start investigation. • In case of genuine mistake client should himself disclose. • If tax authorities summon CA for examining him on oath or for production of books of accounts, he should take legal expert opinion.
	Duty of CA where fraud related to Past Year's Returns Accounts:
	• Where client was represented by another CA, then he should advise client to disclose. However he may continue to act for current year. • Where client was represented by him only, then he should advise client to disclose, if he refuse to disclose, then he should disassociate himself with the client and then report to tax authorities that accounts etc previously reported by him are unreliable & thus he is disassociating himself with client. (But he should not disclose exact fraud done by his client).
	Duty of CA where fraud related to Current Year's Returns Accounts:
	• If current year's returns accounts are being prepared by him, he should advise to client to disclose in current year's return accounts. If client refuse, disassociate himself with return and prepare audit report accordingly (qualified/adverse). • If fraud relate to current year's returns accounts, but CA's assignment is dispensed with before

return/audit report, then no further duty upon him.

Note : If disclosure is permitted by client, then he should disclose immediately, but in case of small mistake, he should disclose it with current return.

Clause 2

CA in practice is deemed to be guilty of professional misconduct if, he certifies or submits, in his/his firm's name a report of an examination of financial statements unless examination is done by him, his partner, his employee or another CA in practice. Thus he can render a report in his name only if work has been undertaken by him or under his supervision or by another CA (Joint Auditor).

Clause 3

CA in practice is deemed to be guilty of professional misconduct if he permits his/his firm's name to be used, in connection with an estimate of earning contingent upon future transactions, in a manner which may lead to the belief that he vouches for the accuracy of forecast.

Participation in preparation of forecasts & their review: SAE-3400 "The examination of prospective financial information" allows to a member to participate in preparation of financial forecasts & their review if he clearly indicates in his report about:

- Source of information
- Basis of forecasts
- Major assumptions made in arriving at the forecasts.
- He does not wathc for accuracy of the forecasts.

Note 1: He should not vouch for accuracy of forecasts as forecasts can't be ascertained with accuracy.

Clause 4

CA in practice is deemed to be guilty of professional misconduct if he 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 even if he disclose the interest in his report.

Further as per Council General Guidelines, a member of the institute shall not express his opinion on financial statements of any business or enterprises in which one or more persons, who are his "relative" with in the meaning of AS 18 have, either by themselves or in conjunction with such member, a substantial interest in the said business or enterprise. It may be noted that the spouses' sisters' husband does not fall with in this definiton.

Points to be Remember:

- If CA is employee of concern, he can't audit of financial statements of employer.
- If CA is part time lecturer in a college, he or his firm not to accept auditor-ship of college.
- If a partner of CA is employee/trustee of trust, he or his firm can't audit of financial statements of trust.
- If CA is writing books of a/c of the enterprise, he can't audit the financial statements of same enterprise.
- Internal auditor can't accept statutory auditor ship of same concern.
- If CA or his partner or his relative is a director of company, then he can't accept audit of such company.
- If CA or his partner or his relative is having substantial interest in business/enterprises, then he can't accept audit of such business/enterprises.
- A statutory auditor can accept the system audit of same entity, provided it do not involve any scrutiny/review of financial data and information.
- Concurrent audit and the assignment of Quarterly review of the same entity cannot be taken simultaneously as the concurrent audit being a kind of Internal audit and the quarterly reveiw being a kind of Statutory audit undertaken simultaneoulsy are prohibited under the provisions

of "Guidance Note on Independence of Auditors".

- It is prohibitive to undertake the assignment of Internal Audit of a client and entry of the transaction for Accounting simultaneously being violative of the provisions of the "Guidance Note on Independence of Auditors".

Note: Relative means spouse, brother, sister, father, mother, son & daughter. (Same as per AS-18)

Clause 5

CA in practice is deemed to be guilty of professional misconduct if he fails to disclose material facts known to him, which is not disclosed in a financial statement, but disclosure of which is necessary in making to make the financial statement not misleading, where he is concerned with that financial statement in a professional capacity.

Court Decision: Where a CA failed to examine how debts become bad and were written off- Held he was guilty under Clause (5).

Clause 6

CA in practice is deemed to be guilty of professional misconduct if he FAILS to disclose a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity. It is obvious, that before a member could be held guilty of misconduct, materiality has to be established.

Court Decision: A Company didn't provide for depreciation as required by section 205 & 250 of the Co. Act, 1956 (now section 123 read with Schedule II of the Co. Act, 2013) and although the CA was aware that the Company had underprovided depreciation, he did not bring out this fact in his report – Held the CA was guilty of professional misconduct under this clause.

Clause 7

CA in practice is deemed to be guilty of professional misconduct if he does not exercise due diligence, or grossly negligent in the conduct of his professional duties.

Due Diligence means careful and thorough work or effort. Mere non-performance or defective performance of a duty, may be considered as failure to exercise "Due Diligence"

Gross Negligent means negligence of high degree, either arising out of recklessness or deliberate failure to act honestly and reasonably on a material matter.

Example of Gross Negligence:

- Where, a CA has given clean report and after that Special Audit revealed irregularities which amounted to failure to examine pass book and to verify cash balance.
- Where, a CA adopted arbitrary valuation of closing stock and no verification at all was done by him.
- Where a CA, fail to point out contravention of requirements of schedule III of the Companies Act, 2013.
- Where, a CA failure to detect fraud committed by accountant, which could have been detected, if he had properly checked cash book.
- Where, a CA had relied upon internal control without satisfying himself about the propriety and surrendered to the pressure of management and certified the accounts without examining and getting necessary clarification.
- Where a CA had not completed his work relating to the audit of the accounts of a company and had not submitted his audit report in due time to enable the company to comply with the statutory requirement in this regard.
- Where, a CA has signed two BS on two different dates for the same FY, the first one with a clean report and the second one with a qualified report. Because he later on issued a clean report and did not refer the fact of having previously issued a qualified report, in lieu of which a clean report was being issued.

Clause 8

CA in practice is deemed to be guilty of professional misconduct if, (1) he fails to obtain sufficient information which is necessary for the expression of an opinion or (2) his exceptions are sufficient material to negate the expression of an opinion.

A CA should express his opinion about truth of fairness of statements of a/c only after obtaining required data and information. He has to determine extent to which information is required.

Statutory auditor would be guilty under this clause, if he performed his work so recklessly as to give his report without looking into the books of a/c and on the basis of the work of the internal auditor whose opinion turned out to be false.

Example: If the auditor has not seen any evidence of the existence and/or valuation of the investment which constitute the only asset of a company, **he should not say that:**

"Subject to the verification of the existence and value of the investments the BS shows a true and fair view etc."

On the other hand he should say that-

"As we have been unable to verify the existence and value of the investments of the company, we are unable to state whether the BS shows a true and fair view etc."

Court Decision: A CA without examination of stock register and other relevant matters issued a wrong consumption certificate on the basis of which license of higher value, for which the unit was not entitled, was issued by Controller of Import & Exports. Held guilty of professional misconduct under Clause (8).

Clause 9

CA in practice is deemed to be guilty of professional misconduct if he fails to invite attention to any material departure from generally accepted audit procedures **(GAAP)** applicable to the circumstances. If for any reason, he is unable to comply with technical standards & guidance note etc. during audit, he should mention this in his report.

Clause 10

CA in practice is deemed to be guilty of professional misconduct if:

- He fails to keep money of his client (other than fees or remuneration or money meant to expended) in separate banking a/c or
- He fails to use such money for purposes for which they are intended within a reasonable time. CA should use such money strictly as per clients' instructions.

Points to Remember:

- An advance received by a CA against services to be rendered does not fall under Clause (10) of Part I of the Second Schedule.
- Money received by a CA in his capacity as trustee, executor, liquidator etc must be put in a separate bank A/c immediately.
- Money received for expenses to be incurred which are not intended to be spent within reasonably short time as aforesaid, should be put in a separate bank A/c immediately. If, it is intended to be spent within reasonable short time than need not be put in a separate bank A/c, for this purpose, the expression; "reasonable time", would depend upon the circumstances of each case.

Part II of Second Schedule (Applicable for CA in general)

Clause 1

A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he contravenes any of the provisions of this act or regulations made there under, or any guidelines issued by the council.

This is very important clause. It requires every member of the Institute to act within the framework of the CA Act, and the Regulations made there under. Any violation either of the Act or the Regulations by a member would amount to misconduct.

The Regulations under which the cases of contravention have generally come to the notice of the Council are the following:

Regulation 43: Engagement of Articled Assistant

Regulation 46: Registration of Articled Assistant

Regulation 47: Premium from Articled Assistant:

- No amount shall be charged from, or be payable by, an articled assistant or any other person on his behalf, directly or indirectly, whether by way of premium or as loan or deposit or in any other form in connection with his engagement as an articled assistant.
- **Conclusion:** A C.A. can't take loan from any enterprise in which article is interested. However he may accept the same from any enterprise where in article's relative is interested. But it must not be taken as a consideration for admitting the article into firm.
- **Court Decision:** A CA took loan from a firm in which the articled clerk and his father were both interested, against the provisions of the CAs Regulations, 1988 which prohibit 'taking of loan or deposit etc. from the articled clerk. Held the CA was guilty of professional misconduct under Clause (1) of part II of Second Schedule.

Regulation 48: Stipend to Articled Assistant: Stipend to be paid to every article on monthly basis, no other method is permissible such as annual basis.

Regulation 56: Termination or assignment of Articles

Regulation 65: Articled Assistant not to engage in any other occupation

Court Decision: A CA certified in Form K-2 than an audit clerk was in service with him while he was also employed elsewhere with another employer between 11 A.M. and 5 P.M. and attended the office of the Chartered Accountant thereafter until 8 P.M. The CA suspended the audit clerk when the Institute brought this fact to the notice of the CA. Held he was guilty of misconduct for making a misstatement to the Institute in regard to the discharge of his professional duties.

Regulation 67: Complaint against the employer (from Articled Assistant)

Regulation 68 to 80: Audit Assistant

Regulation 190: Register of offices and firms

Regulation 190A: Chartered Accountants not to engage in any other business or occupation. (Refer Clause 11 of Part I of First Schedule)

Regulation 191: Part time employments a Chartered Accountant may accept

Regulation 192: Restriction on fees: (Refer Clause 10 of Part I of First Schedule)

Council General Guidelines, 2008

Chapter II: Conduct of a Member being an employee:

A member of the Institute who is an employee shall exercise due diligence and shall not be grossly negligent in the conduct of his duties.

Chapter V: Maintenance of books of account:

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:

- A Cash Book
- A Ledger

Chapter VI: Tax Audit assignment u/s 44 AB of the Income-Tax Act, 1961:

CA in practice shall not accept, in a F.Y. , more than the "specified number of tax audit assignment". (60 assignment w.e.f. F.Y. 2014-15 onwards.) u/s 44AB of the Income Tax Act, 1961.

Note: The audit conducted u/s 44AD, 44AE and 44AF of the Income Tax Act, 1961 shall not be taken into account for the purpose of reckoning the "specified number of tax audit assignments".

According to clarification on Tax Audit Assignments by Committee on Ethical Standard (CES) of the institute, if there are 10 partners in firm of CAs in practice, then all the partner of the firm can collectively sign 600 tax audit reports. This maximum limit of 600 tax audit assignments may be distributed between the partners in any manner whatsoever. For instance, 1 partner can individually sign 600 tax audit report in case remaining partners are not signing any tax audit report.

Chapter VII: Appointment of an Auditor in case of non-payment of undisputed fees:

A CA in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another CA for carrying out the statutory audit under the Co. Act, 1956 (now Co. Act, 2013) or various other statutes has not been paid (Except in case of sick unit).

Note: If provision of audit fees has been made and BS & P&L signed by auditor & auditee, then it is called "undisputed audit fees".

Chapter VIII: Specified number of audit assignment:

A CA in practice shall not hold at any time appointment of more than the "specified number of audit assignments" of Companies u/s 224 and/or u/s 228 of the Co. Act, 1956. (Now section 139 and/or section 143(8) read with Section 141(3)(g) of the Companies Act, 2013. Now specified number of audit assignments is 20 Companies under Co. Act, 2013 other than one person companies, dormant companies, small compaines and private companies having paid-up share capital less than Rs. 100 crore.

Chapter IX: Appointment of Statutory auditor:

A CA in practice will be guilty of professional misconduct; if he accepts statutory auditor-ship of PSU/Listed Co./ Govt. Co. or other Public Co. having turnover of Rs. 50 Crores or more in a year and accepts any other work or services with regards to same undertaking on a remuneration which in total exceeds the fees payable for carrying out the statutory audit of the same.

Note:

- Other work or services does not include (a) Audit under any other statute; (b) Certification work required to be done by the statutory auditors; and (c) Any representation before an authority.
- These 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.

Chapter X: Appointment of an auditor when he is indebted to a concern:

- A CA in practice will be guilty of professional misconduct if he accepts auditor ship of a concern while he is indebted to the concern or has given guarantee for limits fixed in the statue and in other cases exceeding Rs. 10000/-
- However, the Research Committee of the ICAI has expressed the opinion that where in accordance with the terms of engagement of auditor by a client, the auditor recovers his fees on a progressive basis as and when a part of the work is done without waiting for the completion of the whole job, he cannot be said to be indebted to the company at any stage.

Minimum fees to be charged with respect to Audit Assignment:

Notification issued earlier w.r.t. minimum audit fees has been withdrawn by ICAI. Thus, at present, there is no restriction on minimum fee (w.e.f. 7th June' 2011).

KYC Norms:

Importance of KYC requirements for a Chartered Accountant's Practice: The financial services industry globally is required to obtain information of their clients and comply with Know Your Client Norms (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. These 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.

The self-regulatory measures are recommendatory. However, considering the spirit underlying these

	measures, it is expected that every CA 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.
	Norms to be observed by Member in Practice:

Entity Information	General Information	• Name of the Entity • Type of Entity • Business Description
	Corporate Sturcture	• 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/Regulation	

Clause 2	
	A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he, being an employee of a Co/firm/person, discloses confidential information acquired in the course of his employment, except as and when required by the law or as permitted by the employer.
Clause 3	
	A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he, include false data in any info/statement/ return/form to be submitted to (ICAI, Council, any Committee, Disciplinary Directorate, Board of Discipline, Disciplinary Committee, Quality Review Board, and Appellate Authority) knowing them to be false. • **Example 1:** Article clerk was attending college & coaching class during training hours, but CA confirmed to council that article was regular in office knowing that he is delivering wrong statement, thus guilty. • **Example 1:** While applying for renewal of COP, a CA supplied wrong statement that he is not engaged in other occupation while he was, thus guilty.
Clause 4	
	A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he defalcates or embezzles money received in his professional capacity.
Part III of Second Schedule (Applicable for CA in general)	
Clause 1	
	A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term > 6 months. (If it is < 6 months then, it is covered in Clause I of Part IV of First Schedule)

No.	Question Bank	Exam	Marks	Clause
1	"A Chartered Accountant in practice was engaged by a businessman to represent him before the tax authorities on current matters and in the course of such employment he came across certain documents pointing to commission of tax frauds in the preceding years for which the client was not represented by him. Is the member liable to disclose the existence and contents of the document to tax authorities?" **Hint:** In respect of such matter, the code of conduct recommends that, "If the fraud discovered by the member relates to the accounts or tax matters of the client for past years for which the client was not represented by the member the client should be advised to make a disclosure. The member may, however, continue to act for the client in respect of current matters, but is under no obligation so to continue.	M9[illegible]	5	Clause 1 of Part I of Second Schedule
2	"XYZ Co. Ltd. has applied to a bank for loan facilities. The bank on studying the Financial Statements of the company notices that you are the auditor and requests you to call at the bank for a discussion. In the course of discussions, the bank asks for your opinion regarding the company and also asks for detailed information regarding few items in the Financial Statements. The information is available in your working paper file. What should be your response and why?" **Hint:** As per Clause (1) of Part I of the second schedule to the CAs, Act, 1949, the auditor cannot disclose the information in his possession without specific permission of the client. As far as working papers are concerned, SA 230 "Audit Documentation" states 'Working papers are the property of the auditor. The auditor may, at his discretion, make portions of or extracts from his working papers available to his client provided confidentiality is maintained" Thus there is no requirement compelling the auditor to divulge information obtained in the course of audit and included in the working papers to any outside agency except as and when required by any law.	M00 PM	4	Clause 1 of Part I of Second Schedule
3	Comment on the following with reference to Chartered Accountants Act, 1949 and schedules thereto "Mr. Parekh, a Chartered Accountant was invited by the Chamber of Commerce to present a paper in a symposium on the issues facing Indian Leather Industry. During the course of his presentation he shared some of the vital information of his client's business under the impression that it will help the Nation to compete with other countries at International level". **Hint:** In the given case, Mr. Parekh has disclosed vital information of his client's business without the consent of the client under the impression that it will help the nation to compete with other countries at International level. Thus it is a professional misconduct covered by clause (I) of Part I of second schedule to the CAs Act, 1949.	M04 N14 PM	4	Clause 1 of Part I of Second Schedule
4	Give your comments with reference to Chartered Accountants Act, 1949 and Schedules thereto. "Mr. C, a practicing Chartered Accountant, in the course of the audit of a listed company discovered serious violations of the provisions of the Companies Act 1956, informed the Registrar of Companies out of public interest."	M13	4	Clause 1 of Part I of Second Schedule

	Hint: It is professional misconduct as per Clause (1) of Part (I) of second Schedule to the CAs Act, 1949. He should mention the violations in his report instead of informing the ROC.			
5	Discuss the Auditor's responsibility to provide access to his audit working papers to Regulators and third parties.	N14	3	Clause 1 of Part I of Second Schedule
Ans:	• Audit Working Paper: The auditor should not provide access to working papers to any third party without specific authority or unless there is a legal or professional duty to disclose. Clause (1) of Part I of Second Schedule to the CAs Act, 1949 states that a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he discloses information acquired in the course of his professional engagement to any person other than his client, without the consent of his client or otherwise than as required by law for the time being in force. • SA 200 also reiterates that, “the auditor should respect the confidentiality of the information obtained and should not disclose any such information to any third party without specific authority or unless there is a legal or professional duty to disclose”. If there is a request to provide access by the regulator based on the legal requirement, the same has to be complied with after informing the client about the same. • As per, SQC 1, “Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements”, provides that, unless otherwise specified by law or regulation, audit documentation is the property of the auditor. He may at his discretion, make portions of, or extracts from, audit documentation available to clients, provided such disclosure does not undermine the validity of the work performed, or, in the case of assurance engagements, the independence of the auditor or of his personnel. • Further, as per SA 230, Audit documentation serves a number of additional purposes, including the enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements. Therefore, it is auditor’s responsibility to provide access to his audit working papers to Regulators whereas it’s at auditor’s discretion, to make portions of, or extract from his working paper to third parties.			
6	Give your comments with reference to Chartered Accountants Act, 1949 and schedules thereto: Mr. Mohan is a practicing Chartered Accountant. He issued a certificate of consumption which did not reflect the correct factual position of the consumption of raw material by the concerned entity. It is found that the certificate is given on the basis of data appearing in the minutes of meeting of the Board of Directors.	N10 PM	4	Clause 2 of Part I of Second Schedule
Ans:	• According to Clause 2 of Part 1 of Second Schedule to the CA Act, 1949 a CA is held guilty of professional misconduct, if he certifies or submits 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 employee in his firm or any other chartered accountant in practice. • In given case, Mr. Mohan has issued a' certificate of consumption which does not reflect the correct factual position of the consumption of raw material by the concerned entity. He has failed in his duty of examining the record. He has relied on the minutes of Board of directors meeting which is not proper evidence to show the consumption of raw material. The relevant record of production and stock register should have been scrutinized thoroughly and properly. • Clause 7 of Part 1 of Second Schedule to the CAs Act, 1949 also applies to this case which states that a CA in practice shall be deemed to be guilty of professional misconduct, if he does not exercise due diligence or is grossly negligent in the conduct of his professional duties. • Therefore, Mr. Mohan will be held guilty of Professional Misconduct under Clause 2 & 7 of Part 1 of second Schedule to the CAs Act, 1949.			

7	Comment on the following with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "Z, a Chartered Accountant, certifies a financial forecast of his client which was forwarded to the client's bank based on which the bank sanctioned a loan to the client. "	M05 PM	4	Clause 3 of Part I of Second Schedule
Ans:	• As per clause (3) of Part I of Second schedule a Chartered Accountant in practice is deemed to be guilty of professional misconduct if he permits his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast. • The Guidance notes on Accountants Report on profit forecasts considered the implications of this clause and made it clear that the CA can participate in the preparation of the profit or financial forecasts and review them. • In the instant case, Mr. Shankar is deemed to be guilty as it appears that he has certified the financial forecast without taking adequate safeguards.			
8	Comment on the following with reference to the Chartered Accountants Act, 1949 as amended by the Chartered Accountants (Amendment) Act, 2006 and schedules thereto: As a Chartered Accountant in practice, you are asked to conduct a review of the "Profit Forecast" prepared by a Company in connection with its application for a Term loans from a bank.	M08 PM	4	Clause 3 of Part I of Second Schedule
Ans:	Under Clause 3 of Part I of Second Schedule, to The CAs Act, 1949, a CA in practice is deemed to be guilty of professional misconduct if he permits his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast. "The guidance note on accountants report on profit/financial forecast" provides that profit forecasts can be prepared or reviewed by a CA provided he discloses in his report the sources of information, the basis of forecasts and major assumptions involved and so long as he does not vouch for the accuracy of the forecast. Hence, the offer can be accepted if the above guidance note is complied with.			
9	Give your comments with reference to Chartered Accountants Act, 1949 and Schedules there to. "Mr. 'E', a practicing Chartered Accountant, was requested by one of his client to prepare a projection for next five years and also a report on the same. Mr. 'E' after having prepared the same stated in his report 'The sources of information, the basis of forecasts and also the major assumptions made in arriving at the forecasts. He also stated that he does not vouch for the accuracy of the forecasts". **Hint:** Certification of Financial Forecast: As per Clause (3) of Part I of Second Schedule to the CAs Act, 1949, there is no violation of the Chartered Accountants Act, 1949 and its Regulations.	M14 PM	4	Clause 3 of Part I of Second Schedule
10	Do you approve of the following? If not, why? "A firm of Chartered Accountants was appointed by a company to evaluate the costs of the various products manufactured by it for its information system. One of the partners of the firm was a Non-Executive Director of the company. **Hint:** As per the facts of case, the firm has been retained to evaluate the cost of, products manufactured by it for its Information System. It is a part of management consultancy service of the firm and moreover its partner was on the board. Hence, the firm can perform this assignment and it will not constitute misconduct. However, the firm while accepting theposition as auditor in future would have to consider whether it would be possible to him to act in independent manner and express opinion on FSs.	N01 N04 N14 PM	4	Clause 4 of Part I of Second Schedule

11	Comment on the following with reference to Chartered Accountants Act, 1949 and schedules thereto: Mr. Shah, a Chartered Accountant certified the financial statements of a company in which his wife is a Director holding substantial interest. **Hint:** In the given case Mr. Shah, Chartered Accountant, has certified the financial statements of a company in which his wife is a director with substantial Interest. Hence this amounts to professional misconduct, which attracts Clause (4) of Part I of second Schedule to the CAs Act, 1949.	M04 PM	[illegible]	Clause 4 of Part I of Second Schedule
12	Comment with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "P, a Chartered Accountant in practice, accepts appointment as statutory auditor for LMN Pvt. Ltd. Q, brother of P has substantial interest in LMN Pvt. Ltd". **Hint:** As per clause (4) of part I of II schedule, a CA is deemed to be guilty of professional misconduct if he expresses his opinion on FSs in which his firm or a partner has substantial interest. As per Council General Guidelines, 2008, the above restriction is also made applicable for relatives of the members.	M09 PM	5	Clause 4 of Part I of Second Schedule
13	Give your comments with reference to the Companies Act, 2013 and the Chartered Accountants Act, 1949 and Schedules thereto: "Mr. A has been appointed statutory auditor of a private limited company where his spouses 'sisters' husband is having 75% ownership. **Hint:** AS per AS 18 spouses sister's husband is not covered in the definiton of the term relative. Therefore, appointment of Mr. A as statutory auditor in such company would not amount to professional misconduct as per clause (4) of Part I of Second Schedule to the CAs Act, 1949.	N12 PM	4	Clause 4 of Part I of Second Schedule
14	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: "The superannuation-cum-pension fund for the employees of a company was under a separate 'trust'. Both the company and the trust were under the same management. The auditor, who was auditing the accounts of the company as well as the trust noted some irregularities in the operation of the trust and commented upon these irregularities in the confidential report given to the trustees, but did not mention about these irregularities in his report on the Annual accounts of the Trust." **Hint:** On similar facts it was held by the Supreme Court in Kishorilal Dutta V/s P.K. Mukherjee that it was the duty of the Chartered Accountant to have disclosed the regularities and contravention to the beneficiaries of the fund in the statement of accounts signed by him. Accordingly, in the present case also it has to be held that the Chartered Accountant is guilty of professional misconduct if the amount of irregularities is proved material.	N06 PM	5	Clause 5 of Part I of Second Schedule
15	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: A practicing Chartered Accountant was appointed to represent a company before the tax authorities. He submitted on behalf of his clients certain information and explanations to the authorities, which were found to be false and misleading.	N07 PM	5	Clause 5 of Part I of Second Schedule

Ans:	• As per clause 5 of Part I of Second Schedule if a member in practice fails to disclose a material fact known to him which is not disclosed in a financial statement but disclosure of which is necessary to make the financial statement not misleading where he is concerned with that financial statement in a professional capacity, he will be held guilty under clause (5). As per clause 6 of Part I of Second Schedule if he fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity, he will be held guilty under clause. • In present case, the CA had submitted the statement before the taxation authorities. These statements are based on the data provided by the management of the company. Although the statements prepared were based on incorrect facts and misleading, the Chartered Accountant had only submitted on the instructions of his client as his authorized representative. Hence the Chartered Accountant would not be held liable for professional misconduct.			
16	Comment on the following: "Mr. J, a Chartered Accountant has identified that ABC Ltd. has taken a loan of Rs. 15 lakhs from Provident Fund Account, during the course of audit. The said loan was not reflected in the books of accounts and statements were prepared ignoring the same". **Hint:** Mr. J has failed to disclose this fact in his report. Therefore, he is guilty of professional misconduct under Clause (5) of Part I of Second Schedule to the CAs Act, 1949.	M04 N11 PM	4	Clause 5 of Part I of Second Schedule
17	Answer the following: "Loans were given out of the funds of an Employees Provident Fund to the employer company in contravention of the applicable rules. As the auditor of the said Provident Fund, M discloses the contravention to the Trustees of the fund, but failed to do so to the members of the fund". Comment. **Hint:** Held guilty of professional misconduct under Clause 5 of Part I of Second Schedule.	M09 PM	5	Clause 5 & 6 of Part I of Second Schedule
18	"Can a Practicing Chartered Accountant be held guilty of professional Misconduct under the following circumstances? Give your views with reasons in brief: The Cashier of a company committed a fraud and absconded with the proceeds thereof. This happened during the course of the accounting year. The Chief Accountant of the company also did not know about fraud. In the course of the audit, at the end of the year, the auditor failed to discover the fraud. After the audit was completed, however, the fraud was discovered by the Chief Accountant. Investigation made at that time indicate that the auditor did not exercise proper skill and care and performed his work in a desultory and haphazard manner. With this background, the Directors of the company intend to file disciplinary proceedings against the auditor. Discuss the position of the auditor with regard to the disciplinary proceedings."	N03 PM	6	Clause 7 of Part I of Second Schedule
Ans:	• In given case it appears that the auditor did not exercise proper skill and care and that he performed his work in a desultory and haphazard manner. Cash is very significant item in any situation. • As per SA 240, it can be concluded that the auditor did not plan and perform the audit with an attitude of professional skepticism. Thus having regard to this and a fraud has actually taken place during the year, committed by the cashier, it is reasonable to think that prima facie there is a case against the auditor for gross negligence.			

	• Clause (7) of Part I of second schedule requires that it is the duty of an auditor to bring to bear in the work he has to perform that skill, care & caution as per circumstances in an honest and reasonable manner. Thus such instances require reference to Disciplinary Committee of the Council of the Institute.			
19	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules there to: "CA ZZ who conducted ABC audit of a Marathi daily 'New Era' certified the circulation figures based on Management Information System Report (M.I.S. Report) without examining the books of Account. **Hint:** Certification of circulation figures based on statistical information without cross verification with financial records amounts to gross negligence and failure to exercise due diligence. Hence CA ZZ is guilty of professional misconduct as per clause 7 of part I of Second Schedule of CA Act, 1949.	N08 PM	4	Clause 7 of Part I of Second Schedule
20	Give your comments with reference to Chartered Accountants Act, 1949 and Schedules thereto. "Mr. D, a practicing Chartered Accountant, did not complete his work relating to the audit of the accounts of a company and had not submitted his audit report in due time to enable the company to comply with the statutory requirements." **Hint:** The auditor is guilty of professional misconduct under Clause (7).	M13 PM	4	Clause 7 of Part I of Second Schedule
21	Mr. Brainy, a Chartered Accountant in practice, is the auditor of Fair Ltd. He advised the Managing Director of the company to include 'orders under negotiation' in sales, to reflect higher profit and better financial position for obtaining bank loans in future. Mr. Brainy, thereafter, gave clean reports on the balance sheet prepared accordingly without examining the accounts. Hint: Grossly Negligent and Bringing Disrepute to the Institute: In the given case, Mr. Brainy, a Chartered Accountant in practice, is grossly negligence in conduct of his professional duties by issuing clean reports on the balance sheet without examining the accounts. Further, he has also brought disrepute to the profession by advising unethical practice to the managing director of the company. Therefore, Mr. Brainy will be held guilty for professional and other misconduct under abovementioned Clauses to the Chartered Accountants Act 1949.	PM		Clause 7 of Part I of Second Schedule & Clause (2) of Part IV of the First Schedule
22	Give your comments with reference to the Chartered Accountants Act, and schedules thereto: "Mr. A, a Chartered Accountant was the auditor of 'A Limited'. During the Financial year 2007-08, the investments appeared in the Balance Sheet of the company of Rs 10 lakhs and was the same amount as in the last year. Later on, it was found that the company's investments were only Rs 25,000, but the value of investments was inflated for the purpose of obtaining higher amount of Bank loan."	N09 PM	4	Clause 2,7,8 of Part I of Second Schedule
Ans:	• The primary duty of physical verification and valuation of investments is of the management. However, the auditor's duty is also to verify the physical existence and valuation of investments placed, at least on the last day of the accounting year. The auditor should verify the documentary evidence for the cost/value and physical existence of the investments at the end of the year. He should not blindly rely upon the Management's representation (MR). • In the instant case, such non-verification happened for two years. It also appears that auditors failed to confirm the value of investments from any proper source. In given case auditor has simply relied on the management's representation and has failed to perform his duty.			

	• Accordingly, Mr. A, will be held liable for professional misconduct under clauses (2), (7) and (8) of Part -1 of the Second Schedule to the Chartered Accountants Act, 1949.			
23	Give your comments with reference to the Chartered Accountants Act, and Schedules thereto: "Mr. X, a practicing Chartered Accountant, issued a circulation certificate for a periodical on the basis of outward memos, which was later found to be false." **Hint:** **Failure to Obtain Information:** Held guilty of professional misconduct under Clause 8 of Part I of Second Schedule.	M10 PM	3	Clause 8 of Part I of Second Schedule
24	Comment on the following with reference to Chartered Accountants Act, 1949 and schedules thereto: Mr. Jain, a Chartered Accountant certified the circulation of "Good Luck" a weekly magazine without examination of financial records and other required documents. **Hint:** **Failure to Obtain Information:** Held guilty of professional misconduct under Clause 8 of Part I of Second Schedule.	M04 N11 PM	4	Clause 8 of Part I of Second Schedule
25	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto. "Z, a practicing Chartered Accountant issued a certificate of circulation of a periodical without going into the most elementary details of how the circulation of a periodical was being maintained i.e. by not looking into the financial records, bank statements or bank pass books, by not examining evidence of actual payment of printers bills and by not caring to ascertain how many copies were sold and paid for." **Hint:** **Failure to Obtain Information:** Held guilty of professional misconduct under Clause 8 of Part I of Second Schedule.	M12 PM	4	Clause 8 of Part I of Second Schedule
26	Give your comments with reference to the Chartered Accountants Act, and Schedules thereto: "Mr. Z, a practicing Chartered Accountant, received a sum of Rs 1 lack on 1.9.2009 from a client who intends to leave abroad for a period of a year, with a request that his advance tax liabilities to be paid over the three installments. On 15th September, 2009, 15th December, 2009 and 15.3.2010. After remitting the 1st installment of advance tax on 15.9.2009, Z did not keep the Balance money in a separate Bank account and he is of the opinion he will remit the money within reasonable time as per payment schedule of Advance tax." **Hint:** Mr. Z should have kept the balance money after remitting the first installment of advance tax into a separate bank A/c. Hence he is guilty of professional misconduct under Clause 10 of Part I of Second Schedule.	M10 PM	3	Clause 10 of Part I of Second Schedule
27	Comment on the following with reference to Chartered Accountants Act, 1949 and schedules thereto: "A charitable institution entrusted Rs 10 lakhs with its auditors M/s Ram and Co., a Chartered Accountant firm, to invest in a profitable portfolio. The auditors pending investment of the money, deposited it in their Savings bank account and no investment was made in the next three months." **Hint:** In the present case by depositing the client's money by M/s Ram & co. a	M04 PM	4	Clause 10 of Part I of Second Schedule

	firm of Chartered Accountants, in their own savings bank account, the auditors have committed a professional misconduct. Hence in the present case, M/s Ram & Co. will be held guilty of professional misconduct under Clause 10 of Part I of second schedule to the Chartered Accountant, Act, 1949.			
28	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: "M/s XYZ a firm of Chartered Accountants received Rs 2 lakhs in January, 2006 on behalf of one of their clients, who has gone abroad and deposited the amount in their Bank account, so that they can return the money to the client in July, 2006 when he is due to return to India." **Hint:** XYZ received the money in January, 2006 which is to be paid only in July 2006 hence it should be deposited in a separate bank account. Since in this case XYZ have fails to keep the sum of Rs. 2 lakhs received on behalf of their client in separate Bank A/c, therefore it is amounts to professional misconduct under clause 10 of part I of Second schedule to CA Act, 1949.	N06 PM	5	Clause 10 of Part I of Second Schedule
29	Comment on the following: "M/s. ABC, a firm of Chartered Accountants received Rs. 2 lakhs in March, 2014 from a client to pay the Advance Tax. However, the firm has used that money for its own purpose and later on adjusted the same with the outstanding fee payable." **Hint:** Held guilty of professional misconduct under Clause 10 of Part I of Second Schedule.	N14	4	Mis conduct under Clause 10 of Part I of Second Schedule
30	"A Chartered Accountant in practice had confirmed in the application made by his articled clerk to the Council for permission to study that the normal working hours of his office were 11 a.m. to 6 p.m. and the hours during whole the articled clerk was required to attend college classes were 7 a.m. to 9.30 a.m. On inquiry from Principal of College, it was ascertained that the articled clerk used to attend classes from 10 a.m. to 1.55 p.m. The Chartered Accountant pleaded ignorance about the articled clerk attending the college classes during office hours. Will the Chartered Accountant be held guilty of professional misconduct?"	M03 M12 PM	4	Clause 1 of Part II of Second Schedule
Ans:	**Failure to Observe the Regulations:** • As per clause (1) of Part II of second schedule to CA Act 1949, a member shall be held guilty of professional misconduct if he contravenes any provision of the Act or Regulations made there under. • In the present case the articled clerk must have not been attending office on regular basis and explanation of the chartered accountant cannot be accepted particularly in view of fact that the chartered accountant did not obtain certificate from the principal to confirm the timings. It is also quite likely that articled clerk would be availing leave quite after and coming late to the office. • Thus, under the circumstances, the chartered accountant is guilty of professional misconduct in regard to discharge of his professional duties.			
31	Comment on the following with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "M/s. ABC, a firm of Chartered Accountants has taken a loan for acquiring computers; from a company whose Managing Directors' son is an Articled Trainee with A, a partner of M/s. ABC."	M05 N14 PM	4	Clause 1 of Part II of Second Schedule
Ans:	• As per Clause (1) of Part II of second schedule, a Chartered Accountant is deemed to be guilty of professional misconduct if he contravenes any of the provisions of the CAs Act, 1949 or Regulations made there under.			

	• Regulations, 47 of the CA's Regulations, 1988 prohibit a member from accepting any premiums or loans or any deposit in any form from an articled clerk directly or indirectly. • However, M/s ABC has taken loan from a company, whose Managing Director happens to be father of articled clerk with Mr. A, a partner of M/s ABC. • In the given case, the articled 'has no direct interest in that company. There has been a case wherein a Chartered Accountant was guilty of professional misconduct because he took a loan from a firm in which the articled clerk and his father were both interested. • As per the facts, articled trainee has no direct interest in the company. However, if relationship, direct or indirect can be established, Mr. A of M/s ABC would be held liable for professional misconduct thus, M/s ABC would be guilty of professional misconduct under this clause if it is proved that the loan was related to the engagement of the articled clerk.			
32	Comment on the following with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "Mr. C accepted the statutory audit of M/s PSU Ltd., whose net worth is negative for the year 2014-15. The audit was to be conducted for the year 2004-05. The audited accounts for the year 2014-15 showed liability for payment of tax audit fees of Rs 15,000 in favor of Mr E, the previous auditor."	M05 PM	5	Clause 1 of Part II of Second Schedule
Ans:	**Accepting Appointment as an Auditor:** • As per notification issued by the council under clause (1) of Part II of the second schedule to CA Act, 1949, a member of the ICAI in practice shall be deemed to be guilty of professional misconduct It he accepts appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out statutory audit under Companies Act, 1956/2013 or any other statutes has not been paid. • However, such prohibition shall not apply in case of a sick unit where a sick unit is defined to mean ''where the Net worth is negative. • In the given case though the undisputed fees are unpaid, Mr. C would still not be guilty of professional misconduct since the M/s PSU Ltd. is a sick Unit having negative net worth for the year 2003-04.			
33	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto A is the auditor of Z Ltd., which has a turnover of Rs. 200 crore. The audit fee for the year is fixed at Rs. 50 lakhs . During the year, the company offers A a an assignment of Management consultancy within the meaning of Section 2(2) (iv) of the CA Act 1949 for a remuneration of Rs. 1 crore. A seeks your advice on accepting the assignment. **Hint:** Refer Council General Guidelines - Chapter IX: Held guilty of professional misconduct under Clause 1 of part II of Second Schedule.	M07 PM	4	Clause 1 of Part II of Second Schedule
34	Comment on the following with reference to the Chartered Accountants Act, 1949, and Schedules to the Act: "CA. Smart , a CA in practice runs his proprietorship firm as "M/S Smart & Co." His annual gross receipts are in excess of Rs. 40 Lakh. He maintains a small pocket diary in which he writes the fees received from various clients. Based on his record, he prepares and files his income tax return." **Hint:** Refer Chapter V of the Council General Guidelines, 2008. A Small pocket Diary maintained by CA Smart cannot be books of accounts. Hence Mr. Smart, being a practicing Chartered Accountant will be held	Case Study PM		Clause 1 of Part II of Second Schedule

	guilty for professional misconduct for violation of Council General Guidelines, 2008.			
35	The manager of ZedEx (P) Ltd. approached CA Vineet in the need of a certificate in respect of a consumption statement of raw material. Without having certificate of practice (CoP), CA Vineet issued the certificate to the manager of the company, acting as a CA in practice and applied for the CoP to the Institute on very next day to avoid any dispute.	PM		Clause 1 of Part II of Second Schedule
Ans:	**Issuing Certificate without having Certificate of Practice:** As per Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949, a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he contravenes any of the provisions of this Act or the regulations made there under or any guidelines issued by the Council. This clause requires every member of the Institute to act within the framework of the Chartered Accountants Act and the Regulations made there under. Any violation either of the Act or the Regulations by a member would amount to misconduct In the given case, CA Vineet has issued a certificate in respect of a consumption statement of raw material to the manager of ZedEx (P) Ltd., as a Chartered Accountant in practice when he had not even applied for the CoP to the Institute, thereby contravening the provisions of section 6 of the Chartered Accountants Act, 1949. Therefore, CA Vineet will be held guilty of professional misconduct in terms of Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949 for contravention of provisions of this Act.			
36	Comment on the following: "Mr. D, who conducts the tax audit u/s 44AB of the Income tax Act, 1961 of M/s ABC, a partnership firm has received the audit fees of Rs 25,000 on progressive basis in respect of the tax audit for the year ended 31-3-2015. The audit report was however signed in 25-06-2015." **Hint:** **Refer Council General Guidelines - Chapter X:** Mr. D will not be held guilty for misconduct.	PM		Clause 1 of Part II of Second Schedule
37	Mr. Hopeful, an aspiring student of ICAI, approached Mr. Witty, a practicing Chartered Accountant, for the purpose of articleship. Mr. Witty; the principal, offered him stipend at the rate of f 2,000 per month to be paid every sixth month along with interest at the rate of 10% per annum compounded monthly to compensate such late payment on plea that cycle of professional receipts from clients is six months. Mr. Hopeful agreed for such late payment in the hope of getting extra stipend in the form of interest. Mr. Witty, however, used to disburse salary to all of his employees on time. Hint: In the given case, Mr. Witty has failed to make the payments of stipend to articled assistant every month in accordance with Regulation	PM		Clause 1 of Part II of Second Schedule
	48. The fact that the articled assistant will be compensated with extra sum in the form of interest on late payment is not relevant and the plea that cycle of professional receipts from clients is six months is not acceptable as Mr. Witty has disbursed salary to all of his employees on time. Therefore, Mr. Witty is guilty of professional misconduct under Clause (1) of Part II of the Second Schedule to the CA Act, 1949 as he has contravened Regulation 48 by not making the payment every month.			
38	Write short notes on Record of Audit Assignments (as required by ICAI regulations).	PM		Clause 1 of Part II of Second Schedule

Ans:	In exercise of the powers conferred by Chapter 8 of Council General Guidelines 2008, the Council of ICAI specified that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he holds at any time appointment of more than the "specified number" of audit assignments of the companies u/s 224 and/or Section 228 of the Companies Act, 1956 (Now u/s 141(3)(g) and 143 of the Companies Act, 2013). As a part of this clause, to meet its requirements, a CAs in practice as well as a firm in practice shall maintain a record of the audit assignments accepted as laid out in guidelines issued by the Council of the ICAI under Part II of Second Schedule to the CAs Act, 1949 in respect of ceiling on audits containing following particulars: • Name of Company Audit/Assignment. • Regn. No. • Date of appointment with Registrar of Companies. • Date of acceptance. • Date on which form 23B filed (Now Form ADT-1 as per the provisions and rules made under Co. Act, 2013).			
39	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: AB & Co., a firm of Chartered Accountants, included the name of P as a partner while filing an application for empanelment as auditor for Public Sector bank branches. It was subsequently noticed that on the date of application, P was not a partner with AB & Co. **Hint:** Held guilty of professional misconduct under clause 3 of Part 2 of second schedule.	N07 PM	4	Clause 3 of Part II of Second Schedule
40	Mr. P and Mr. 0 are running a firm of Chartered Accountants in the name of M/s PO & Co. On 23.05.2015, they included the name of Mr. R, a practicing Chartered Accountant, without his knowledge, as a partner while submitting an application for empanelment as auditor for Public Sector Bank branches to the Institute. However, they added Mr. R as a partner to their firm offering a share of 25% of the profits, on 25.05.2015. Hint: Submitting Wrong Information to the Institute: In the instant case, Mr. P and Mr. Q, partners of M/s PQ & Co., included the name of Mr. R, another Chartered Accountant, as partner in their firm, without his knowledge, in their application for empanelment as auditor of branches of Public Sector Banks submitted to the Institute. However, such a member was not a partner of the said firm as on the date of application submitted. Here, Mr. P and Mr. Q have submitted wrong information to the Institute. Therefore, Mr. P and Mr. Q, both, would be held guilty of professional misconduct under Clause (3) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.	PM		Clause 3 of Part II of Second Schedule
41	Write short notes on "Importance of KYC requirements for a Chartered Accountant's practice".	N14	4	Refer KYC Norms given under Clause 1 of Part II of Second Schedule
42	M/s ABKS, a firm of Chartered Accountants, having three partners accepts an audit assignment of a private limited company for a fee of Rs. 4,000 only. Comment.	N15	4	

	Hint: Prescribed minimum audit fees by ICAI is recommendatory, not mandatory in nature. Therefore acceptance of audit assignment by M/s ASKS, a firm of CAs having 3 partners, of a private limited company for audit fees of Rs. 4000/- in not violation of any provisions. Therefore M/s ASKS will not be held liable for guilty of misconduct.			
43	MNC Pvt. Ltd. appointed CA. Posh for some professional assignments like company's ROC work, preparation of minutes, statutory register etc. For this, CA. Posh charged his fees depending on the complexity and the time spent by him on each assignment. Later on, MNC Pvt. Ltd. filed a complaint against CA. Posh to the ICAI that he has charged excessive fees for the assignments comparative to the scale of fees recommended by the Committee as well as duly considered by the Council of ICAI.		PM	
Ans	Charging Excess Fees: The prescribed scale of fees for the professional assignments done by the chartered accountants is recommendatory in nature. Charging an excessive fee for a professional assignment does not constitute any misconduct in the context of the provisions of the Chartered Accountants Act, 1949 and regulation made there under since the matter of fixation of actual fee charged in individual cases depends upon the mutual agreement and understanding between the member and the client. In the given case, CA Posh has charged excess fees comparative to the scale of fees commended by the Committee as well as duly considered by the Council of ICAI. In this context, it may be noted that the scale of fees is the minimum prescribed scale of fees. From the above facts and provisions, it may be concluded that CA Posh is not liable for any misconduct under the CAs Act, 1949. Therefore, the contention of MNC Pvt. Ltd. is not tenable.			

OTHER QUESTIONS RELATED TO THE CHARTERED ACCOUNTANT ACT, 1949

No.	Question Bank	Exam	Marks	Refer Point
1	Give your comments with reference to the Companies Act, 1956 and the Chartered Accountants Act, 1949 and Schedules thereto: "K, Chartered Accountant in practice as a sole proprietor at Chennai has an office in the suburbs of Chennai. Due to increase in the income tax assessment work, he opens another office near the income tax office. For running the new office, he has employed a retired Income Tax Commissioner. **Hint:** • In the given case, K, A CA in practice having an office in the suburbs of Chennai opens another near the Income tax office and employs a retired Income Tax Commissioner for running the office. The following contentions may arise: • If the distance between the two offices is within 50 km, there will be no misconduct and K will be liable to declare which one is his main office. • If the distance between the two office is more than 50 km, than K will be liable for misconduct as he has employed not a member of institute but an Income Tax Commissioner to run 'the office.	N12 N15 PM	4	Sec. 27 of CA Act, 1949
2	Write short notes of the following: "Maintenance of Branch Offices by a Chartered Accountant in practice."	N02 PM	4	Sec. 27 of CA Act, 1949

3	Is there any misconduct on the part of a Chartered Accountant in the following circumstances: “Mr. G, a Chartered Accountant in practice as a sole proprietor has an office in Mumbai near Church Gate. Due to increase in professional work, he opens another office in a suburb of Mumbai which is approximately 80 kilometers away from his existing office. For running the new office he employs three-retired Income-tax Officers.” **Hint:** In the given case the second office is situated beyond 50 Kms of municipal limits of Mumbai City, therefore Mr. G. would be liable for committing a professional mis-conduct.	M02 PM	4	Sec. 27 of CA Act, 1949
4	Comment on the following: “A Chartered Accountant in practice has been suspended from practice for a period of 6 months. During the said period, though he did not undertake the audit assignment since he had surrendered certificate of practice, he had appeared before Income Tax authorities in his capacity as a Chartered Accountant.”	N02 N11 PM	4	
Ans	• A chartered accountant not holding COP cannot take up any other work because it would amount to violation to the relevant provisions of the CAs Act, 1949. In case a member is suspended and is not holding Certificate of Practice, he cannot take up any other practice work in any other capacity separable from his capacity to practices as a member of the Institute. This is because once a member becomes a member of the Institute he is bound by the provisions of the Chartered Accountants Act, 1949 and its Regulations. • If he appears before the Income tax authorities, he is only doing so in his capacity as a chartered accountant and a member of, the Institute. • Thus in the given case a chartered accountant would not be allowed to represent before the Income Tax authorities for the period he remains suspended. Accordingly in the present case he is guilty of professional misconduct.			
5	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: Mr. A, a practicing Chartered Accountant agreed to select and recruit personnel, conduct training programmes for and on behalf of a client. **Hint:** The council of the ICAI, in terms of clause (iv) of section 2(2) of CAs Act, 1949, has resolved that the services that may be rendered by a member in practice include the entire range of management consultancy services. The expression "Management Consultancy services" defined by the council includes both personal recruitment and selection and conducting training programmes and or studies. Therefore, a Chartered Accountant in practice did not commit any professional misconduct by rendering such services for and on behalf of the client.	N98 N07 M15 PM	5	Sec. 2 (22) of CA Act, 1949
6	Comment on the following with reference to the Chartered Accountants Act, 1949 and Schedules thereto: “L, a Chartered Accountant did not maintain books of account for his professional earnings on the ground that his income is less than the limits prescribed u/s 44AA of the Income Tax Act, 1961.” **Hint:** • As per the Council General Guidelines 2008, under Chapter 5, the Institute has specified that if a CA in practice or firm of CA of which he is a partner fails to maintain and keep in respect of his /its professional practice, proper books of account including the cash book and ledger, he is deemed to be guilty of professional misconduct.	M05 PM	5	

	• Accordingly, it does not matter, whether section 44 Income Tax Act, 1961 applies or not. Hence, Mr. L is guilty of professional misconduct			
7	Mr. S, a practising Chartered Accountant agreed to provide "Portfolio Management Services" to his client M/s. D Limited. Comment with reference to the Chartered Accountants Act, 1949. **Hint:** As per Section 2 (2) of CA Act, 1949, it is specifically staed that CA in practice is are not permitted to undertake the activities of broking, underwriting, and portfolio management Services. In view of this Mr. S would be guilty of misconduct under the Chartered Accountants Act, 1949.	N15	4	Sec. 2 (2)