

Bill Summary

The Chartered Accountants, The Cost and Works Accountants and The Company Secretaries (Amendment) Bill, 2021

- The Chartered Accountants, the Cost and Works Accountants and the Company Secretaries (Amendment) Bill, 2021 was introduced in Lok Sabha on December 17, 2021. The Bill seeks to amend the Chartered Accountants Act, 1949, the Cost and Works Accountants Act, 1959, and the Company Secretaries Act, 1980. The three Acts provide for the regulation of the professions of chartered accountants, cost accountants and company secretaries, respectively. The Bill seeks to strengthen the disciplinary mechanism under these Acts, and provide for time bound disposal of cases against members of the Institute of Chartered Accountants of India, the Institute of Cost Accountants of India and the Institute of Company Secretaries of India. Key features of the Bill include:
 - **Registration of firms:** The Bill adds that firms must register with the Institutes by making an application to the respective Councils of the Institutes. The Councils must maintain a register of firms containing details such as pendency of any actionable complaint or imposition of penalty against the firms.
 - **Disciplinary Directorate:** Under the Acts, the respective Councils of the three Institutes must each constitute a Disciplinary Directorate, headed by Director (Discipline) who is an officer of the Institute. The Bill adds that each Directorate must also include at least two Joint Directors.
 - Under the Acts, on receiving a complaint, the Director arrives at a prima facie opinion on the alleged misconduct. Depending on the misconduct, the Director places the matter before the Board of Discipline or the Disciplinary Committee. The Bill amends this to empower the Directorate to independently initiate investigations against members or firms. The Director must decide whether a complaint is actionable within 30 days of receiving such complaint. If the complaint is actionable, the Director must submit a preliminary examination report to the Board or the Committee (as the case may be), within 30 days. Under the Acts, a complaint may be withdrawn if permitted by the Board or Committee. The Bill provides that a complaint filed with the Directorate will not be withdrawn under any circumstances.
 - **Board of Discipline:** Under the three Acts, each Council constitutes a Board of Discipline. Members of the Board include: (i) presiding officer (having experience in law and knowledge of disciplinary matters), (ii) two members and (iii) Director (Discipline) as secretary. Under the Chartered Accountants Act, 1949, one of the two members is nominated by the central government while the other is a member of the Council. As per the other two Acts, both the members are from the Councils or the Institutes.
 - The Bill empowers the three Councils to constitute multiple Boards. The presiding officer and one of the two members must not be a member of the institutes and will be nominated by the central government from a panel of persons provided by the Councils. An officer of the Institute, of the rank of Deputy Secretary, will function as the Secretary of the Board. After receiving the preliminary examination report, the Board must conclude its inquiry within 90 days.
 - **Disciplinary Committee:** Under the three Acts, the Councils constitute Disciplinary Committees consisting of: (i) Presiding Officer (President or Vice-President of the Council), (ii) two members elected from the Council, and (ii) two members nominated by the central government. The Bill amends the Acts to provide that the Presiding Officer must not be a member of the institutes and shall be nominated by the central government. The Committee must conclude its inquiry in 180 days from the receipt of preliminary examination report.
 - **Penalties:** Under the Acts, in cases of professional or other misconduct the Committees may: (i) reprimand or remove the member from the register of the Institute, or (ii) impose a fine of up to five lakh rupees. The Bill increases the maximum amount of fine to ten lakh rupees. The Bill also adds that if a partner or owner of a firm is repeatedly found guilty of misconduct during last five years, the Committee may take certain actions against the firm. The actions include: (i) prohibiting the firm from undertaking activities related to the profession of chartered account, cost accountant, or company secretary, as the case may be, for up to two years, or (ii) impose a fine of up to Rs 50 lakh.

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