

(4) Schedules to CA Act, 1949:

First Schedule, Part I - Professional Misconduct for Members in Practice:

- Clause - 1 Restriction on use of Name
- Clause - 2 " " Sharing of profits with others
- Clause - 3 " " Sharing of other's Profit
- Clause - 4 " " Partnership with others
- Clause - 5 Restriction on securing professional work through services of others.
- Clause - 6 " " Solicitation of client or professional work.
- Clause - 7 " " Advertisements:



A member in practice is deemed to be guilty of professional misconduct, if he:

If Advt. results in

Solicitation → clause 6 also apply

(a) Advertised his professional work, or professional attainments or services;

Or

(b) Using any designation / description other than "Chartered Accountant", on professional documents like visiting cards, letter heads etc.

Sec. 7

However, mentioning of recognised qualifications and membership of recognised professional bodies, on professional documents is permitted.

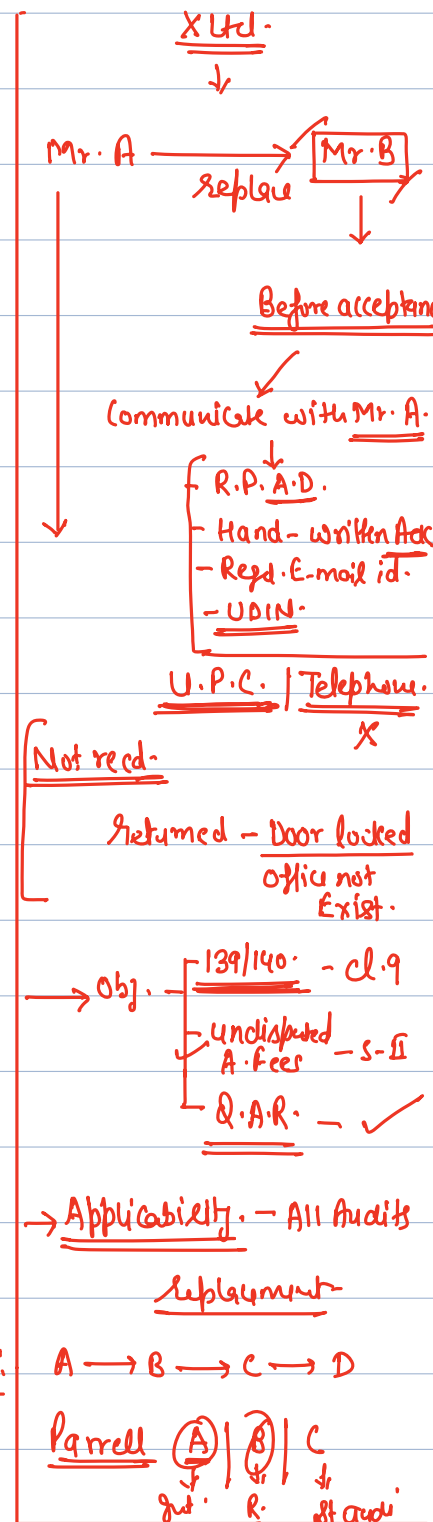
Council Guidelines w.r.t. Advertisements: — From Book —

Clause - 8 : Prior Communication with Predecessor Auditor :

↓  
A member in practice is deemed to be guilty of professional misconduct, if he  
↓  
accepts a position as Auditor, previously held by another CA or Certified auditor  
↓  
Without first communicating with him in writing.

Note: Communication is required in case of replacement positions; not in case of Parallel Audits.

Detailed Guidelines → to be covered from book -



Clause - 9: Compliance of Secs. 139 and 140 of Companies Act, 2013:

↓  
A member in practice is deemed to be guilty of professional misconduct, if he accepts an appointment as auditor of a company  
↓

Without first ascertaining the compliance of Secs. 139 and 140 of Companies Act, 2013 (read with Sec. 141).

Sec. 139 → Appointment of Auditor

Sec. 140 → Removal, Resignation and Requirement of special notice

Sec. 141 → Eligibility, Qualification and disqualifications of auditor.

(H.W. → Revise Secs. 139, 140, and 141 - Intermediate study material)

→ Questions over Sec. 139 and 140)

Aspects to be considered by incoming auditor to ascertain whether company has complied with the provisions of Sec. 140:

- Learn and Note - H.W.

AGM - reappointment  
Proposed

↓ 14 days

Member → Special Notice

(a) Not to reappoint

(b) Appoint someone else

↓

Co - sp. notice → Member  
+ Auditor

↓  
Audit - Right of rep.

↓ late.

Auditor - to read the  
rep. in meeting.



## Clause-10: Restriction on charging fees on %age Basis:

A member in practice is deemed to be guilty of professional misconduct if he charges or offers to charge or accept or offers to accept



in respect of professional work, fees which is based on:

- (a) %age of profits; or
- (b) Contingent upon findings; or
- (c) Results of such engagement



except as permitted under Regulation 192

Note: fees which is based on %age basis or contingent upon findings, based on any criteria prescribed by Court, Govt. or Regulator is permitted.

## Regulation 192: Exception:



- (a) Receiver or liquidator → %age of realisation or disbursement of assets.
- (b) Cooperative Society → %age of PUC, working capital; Gross income or net income or profits.
- (c) Valuer for purposes of → %age of value of property valued.  
direct taxes
- (d) Management consultancy → %age basis or Contingent upon services. findings or results of such work.

(e) Fund raising services → %age of funds raised

(f) Debt recovery services → %age of debt recovered.

(g) Cost optimisation services → %age of benefit desired

(h) Other services as prescribed → Insolvency Resolution Professional  
→ Non-Assurance Services to  
Non-Audit clients

Ex. CA-R rendering services to clients as follows

Client 1 → Audit + Tax Representation  
(₹ 5000)

Client-2 → Audit

Client-3 → Tax representation

(Non Assurance service to Non Audit client)

(%age Basis)  
Q- In which of the following cases, fees may be charged on %age basis.