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

Why in news?

The Lok Sabha has recently approved the Chartered Accountants, the Cost and Works Accountants and the Company Secretaries (Amendment) Bill, 2021.

What is the bill about?

- The Bill amends the Chartered Accountants Act, 1949, the Cost and Works Accountants Act, 1959, and the Company Secretaries Act, 1980.
- **Ambit-** The Bill provides mechanism for dealing with cases of misconduct in three institutes - the Institute of Chartered Accountants of India (ICAI), the Institute of Cost Accountants of India and the Institute of Company Secretaries of India.
- **Discipline**- The ICAI's disciplinary committee and board of discipline will be chaired by non-chartered accountants (CA), and its elected council members will no longer be in a majority in them.
- **Governance and administration** - The term of the ICAI's Council will be raised from three to four years, and the maximum number of consecutive terms for its elected members will be reduced to two.
- The ICAI's Secretary will replace the ICAI's president as its chief executive and perform the functions to be specified
- The ICAI will appoint its auditor from the Comptroller and Auditor-General of India's panel of CA firms
- The Government will form a coordination committee for the three institutes.
- **Fee on registration of members-** The Council of Institutes is empowered to decide fee on registration of members.
- **Registration of Firms-** Firms must now register with the Institutes and the Councils must maintain a register of firms.
- **Disciplinary Directorate-** The Bill provides that the respective Councils of the three Institutes under the Acts would be required to constitute a Disciplinary Directorate, headed by Director and must include at least two Joint Directors.
- The Director must decide whether a complaint is actionable within 30 days of receiving such a complaint.
- **Board of Discipline**- It empowers the Central Government to establish one or more Boards of Discipline, each comprising of a Presiding Officer and two members and seeks to fix a timeframe for completion of inquiry.
- **Disciplinary Committee**- Disciplinary Committees shall consist of a Presiding Officer, two members elected from the Council and two members nominated by the Central Government.
- The Bill amends the Acts to provide that the Presiding Officer shall be nominated by the central government.
- The Committee must conclude its inquiry in 180 days from the receipt of the preliminary examination report.
- **Penalty**- The Bill increases the maximum amount of fine to Rs. 10 lakh.

- The Bill also provides that the Committee may take certain actions against the firm which is found habitual offender.

The ICAI is a statutory body established by the Chartered Accountants Act, 1949 under the administrative control of the Ministry of Corporate Affairs. It is the second largest professional body of Chartered Accountants in the world, with a strong tradition of service to the Indian economy in public interest.

What is the significance of the amendment?

- Strengthen the disciplinary mechanism through time-bound disposal of cases
- Address conflict of interest between the administrative and disciplinary arms of the Institute
- A separate chapter on registration of firms and includes firms under the purview of the disciplinary mechanism
- Enhance accountability and transparency by providing for the audit of accounts of the Institutes by a firm of chartered accountants.
- Provide Autonomy to the Council to fix fees

What are the key issues of the bill?

- **Limitation of role**- There have been persistent complaints that the ICAI is lax in acting against errant members.
- The proposed changes in the composition of the ICAI's disciplinary arms will effectively reduce ICAI to a mere examination board.
- **Selection of external members**- The external members of the disciplinary entities will be selected from a panel of persons prepared by the three Councils.
- This may be against the objective of resolving conflict of interest between the disciplinary and administrative functions of the three professional Councils.
- **Overlapping functions**- The mandate of the proposed Coordination Committee may overlap with certain functions of the three Institutes.
- **Compromise in autonomy-** Being chaired by the Secretary of the Ministry of Corporate Affairs, it may affect the independence of the three Institutes.
- **Damage to professional reputation**- Disclosing details of pending complaints before finding guilt may affect their professional reputation.

The Parliamentary Committee has suggested to set up Indian Institutes of Accounting (IIAs) on the lines of the IIT and IIM to *end the ICAI's statutory monopoly over certification and to promote more competition.*

References

1. https://www.thehindu.com/todays-paper/tp-opinion/a-parliamentary-bill-the-icai-needs-to-take-note-of/article65276053.ece
2. https://www.taxmann.com/post/blog/key-highlights-the-chartered-accountants-the-cost-and-works-accountants-and-the-company-secretaries-amendment-bill-2021/
3. https://prsindia.org/billtrack/the-chartered-accountants-the-cost-and-works-accountants-and-th

e-company-secretaries-amendment-bill-2021
4. https://www.icai.org/Overview.html

