

CHARTERED ACCOUNTANTS (ELECTION TO THE COUNCIL) RULES, 2006

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CHARTERED ACCOUNTANTS (ELECTION TO THE COUNCIL) RULES, 2006

In exercise of the powers conferred by clause (a) of sub-section (2) of section 29A read with clause (a) of sub-section (2) of section 9 of the Chartered Accountants Act, 1949, the Central Government hereby makes the following rules, namely:

1. Short title and commencement :-

- (1) These Rules may be called the Chartered Accountants (Election to the Council) Rules, 2006.
- (2) They shall come into force on the date of their application in the Official Gazette.

2. Definitions :-

- (1) In these Rules, unless the context otherwise requires,-
 - (a) "Act" means the Chartered Accountants Act, 1949 (38 of 1949);
 - (b) "Approved Form" means form approved by the Council for use for a specific purpose under these Rules:

Provided that if any form has not yet been approved by the Council, after coming into force of these Rules, then the appropriate form laid down for the same purpose before coming into force of these Rules shall be the approved form;

- (c) "Returning Officer" means the Secretary of the Council appointed under Section 16 of the Act, or, in case the post of Secretary is vacant, any officer of the Institute designated by the Council for the purpose of conduct of elections.

- (2) Words and expressions used but not defined in these Rules and defined in the Act shall have the same meaning as assigned to them in the Act.

3. Regional Constituencies :-

For the purpose of constitution of the Council in pursuance of clause (a) of sub-section (2) of Section 9, the regional constituencies shall

comprise of such States or Union Territories as listed out in Schedule 1 to these Rules.

4. Dates of Elections :-

(1) The election to the Council shall be held on a date or dates to be determined by the Council, which shall, in any case, not be less than one month before the expiry of the term of the existing Council:

Provided that if elections cannot be conducted, in extraordinary circumstances, within the time period permitted under this sub-rule, the Central Government, on a specific request of the Returning Officer or otherwise, may postpone the date or dates of election, which in any case shall not be after the expiry of the term of the existing Council.

(2) Subject to provision of sub-rule (1), the Returning Officer shall notify in the Gazette of India at least three months before the date or dates of election so determined under sub-rule (1), the dates fixed for the following stages of election of members to the Council, namely:

(a) the last date and time for receipt of nominations, which shall not be less than 21 days from the date of the notification;

(b) date or dates and place of scrutiny of nominations, the last day of which shall not be more than fifteen days from the last date for receipt of nominations fixed under clause (a);

(c) the last date and time for withdrawal of nominations, which shall be ten days from the last date for scrutiny of nominations fixed under clause (b);

(d) the date or dates of polling;

(e) the last date for receipt of applications for permission to vote by post under rule 28;

(f) the last date and time for receipt by post of ballot papers back from voters;

(g) the date or dates of counting;

(h) the date of declaration of results.

(3) If, in the opinion of the Returning Officer, it becomes necessary to change for compelling reasons any date or dates notified under

sub-rule (2), he may notify a fresh date or dates, subject to provisions of sub-rule (1), in the Gazette of India:

Provided that such a notification shall be issued at least ten days before the revised date or dates, except for change in dates under sub-clauses (g) and (h) of sub-rule 2.

(4) If, any of the last date so notified in sub-rule (2) or sub-rule (3), not being the date or dates of polling, is subsequently declared as a holiday by the Central Government, the last date so fixed shall be construed as the immediately next working day.

5. Members eligible to vote :-

Subject to other provisions of these rules, a member, whose name is borne on the Register on the 1st day of April of the financial year in which the election to the Council is to take place, shall be eligible to vote in the election from the regional constituency within whose territorial jurisdiction his professional address falls on the said date:

Provided that his name has not been removed from the Register on the date of publication of the list of voters:

Provided further that, if the professional address is not borne on the Register on the relevant date, the residential address borne on the Register shall determine his regional constituency:

Provided also that, in the case of members having their professional addresses outside India and eligible to vote, their regional constituencies shall be determined according to their professional addresses in India registered immediately before they went abroad or the residential addresses in India borne on the register of members on the relevant date, whichever is later.

6. List of voters :-

(1) At least three months before the date of election, the Returning Officer shall publish a list of members eligible to vote, as defined in rule 5, as per Schedule 2 to these Rules.

(2) Subject to the provisions of these Rules, the address of a member published in the list of voters shall be final for determining the manner in which he shall be entitled to cast his vote, the constituency and the polling booth to which he shall belong for the purpose of casting his vote.

(3) The list of members eligible to vote shall be made available at

the Headquarters, relevant Regional Councils and their relevant branches on payment of such price as may be fixed by the Council.

(4) The inclusion of the name of a member in the list of members eligible to vote shall not confer an absolute right to vote at the election which shall be subject to the other provisions of these Rules, Regulations or the Act.

(5) An announcement about the availability of the list, as per sub-rule (3), shall be put on the web-site of the Institute, Notice Board of the Council, the Notice Board of the Regional Council concerned, as well as the Notice Board(s) of the branches of Regional Council concerned, wherever these exist.

(6) If a clerical mistake or omission is detected in the list of members eligible to vote, the Returning Officer may rectify the same at any time by issue of a suitable corrigendum.

7. Members eligible to stand for election :-

Subject to other provisions of these Rules, a member who is a fellow on the first day of April of the financial year in which an election is to take place and whose name continues to be borne on the Register on the last date of scrutiny of nominations under sub-rule (2) of rule 4, shall be eligible to stand for election to the Council from the regional constituency in which he is eligible to vote:

Provided that no person shall be eligible to stand for election to the Council, if -

(a) he has been found guilty of any professional or other misconduct and his name is removed from the register or he has been awarded penalty of fine as provided in proviso to clause (a) of sub-section (2) of Section 9 of the Act;

(b) he is holding a post under the Central or State Government as provided in sub-section (3) of Section 9 of the Act;

(c) he has been auditor of the Institute during the last three year as provided in sub-section (4) of Section 9 of the Act;

(d) he has held the office for more than three consecutive terms as provided in first proviso to Section 10 of the Art; or

(e) he has been elected as President under sub-section (1) of Section 12 of the Act as provided in second proviso to Section 10 of

the Act, For the purpose of this rule -

(i) the penalties awarded to a person before coming into force of the Chartered Accountants (Amendment) Act, 2006 or penalties awarded to a person after coming into force of the Chartered Accountants (Amendment) Act, 2006 for offences committed before the coming into force of the same, shall also be taken account for the purpose of attracting disqualification under clause (a) of the proviso above;

(ii) a person drawing salary from the Consolidated Fund of India or the Consolidated Fund of a State, as the case may be, or from any body corporate or any organization where the Central government or the state government own individually or jointly a majority stake, shall be deemed to be a person holding a post under the Central Government or the State Government, as the case may be, for the purpose of attracting disqualification under clause (b) of the proviso above;

(iii) for a person who has been the auditor of the Institute before coming into force of the Chartered Accountants (Amendment) Act, 2006, the three year period limitation provided under sub-section (4) of Section 9 of the Act shall also include the period between his ceasing to be an auditor and the coming into force of the Chartered Accountants (Amendment) Act, 2006;

(iv) the number of term(s) of Office held by a person as a member of the Council either under clause (a) or under clause (b) or partly under clause (a) and partly under clause (b) of sub-section (2) of Section 9 of the Act, prior to coming into force of the Chartered Accountants (Amendment) Act, 2006, shall not be taken into account for reckoning of the three consecutive terms for the purpose of disqualification under clause (d) of the proviso above;

(v) the holding of the office of the President of the Institute under subsection (1) of Section 12 of the Act, prior to coming into force of the Chartered Accountants (Amendment) Act, 2006, shall also be taken into account for the purpose of attracting disqualification under clause (e) of the proviso above.

8. Number of members to be elected :-

The number of members to be elected from each regional constituency shall be calculated as per the procedure described in Schedule 3.

9. Nominations :-

(1) At least 3 months before the date of election, the Council shall publish in the Gazette of India a notice stating the number of members to be elected from each regional constituency and calling for nominations of candidates for election by the date and time notified vide sub-rule (2) of rule 4.

(2) The maximum number of nominations that can be submitted by a candidate shall be 10 only:

Provided that in the event of receipt of more than 10 nominations, the first 10 nominations determined, on the basis of date and time of receipt, shall be taken into consideration.

(3) The nomination of a candidate shall be -

(i) in the approved form duly signed by the candidate and by one proposer and one seconder both of whom shall be persons entitled to vote in the election in the relevant regional constituency; and

(ii) delivered along with requisite fee(s), security deposit and other papers as are laid out in these Rules to the Returning Officer by name not later than 6 P.M. on the notified date:

Provided that an acknowledgement of delivery shall be issued by the Returning Officer or by a person authorized by him on receipt of nomination form mentioning the time and date of receipt of nomination form.

(4) The nomination shall be valid only if it is accompanied by a statement signed and verified by the candidate containing information as provided in Schedule 4.

10. Fee for election :-

(1) A candidate for election shall pay such fee as may be fixed by the Council from time to time which shall not in any case exceed Rs.50,000/-, irrespective of the number of nominations.

(2) The fee shall be paid by a demand draft drawn in favour of Secretary of the Institute.

(3) A candidate whose nomination is held to be invalid shall be entitled to receive the refund of fifty percent of the fee payable.

11. Security Deposit :-

(1) A candidate for election, in addition to fee as provided in rule 10, shall pay, irrespective of the number of nominations filed/specified under rule 9, an amount of Rs.20,000/- (Rupees Twenty Thousand only) as security deposit, which shall be forfeited if he fails to secure not less than 2% of the original votes as defined in rule 35 polled in the concerned regional constituency.

(2) The method of payment of security deposit shall be specified in the notification issued under sub-rule (1) of rule 9.

12. Scrutiny of nominations :-

(1) The Council shall appoint for each election a Panel for the scrutiny of the nomination papers of all the candidates.

(2) The Panel shall consist of three persons of whom one shall be the Returning Officer and the other two shall be persons nominated by the Council, from among the members of the Council referred to in clause (b) of sub-section (2) of Section 9 of the Act, of which one shall be an officer of the Central Government and the other shall not be a member of the Institute, provided that if one or more of such members are not available or are unwilling to act, then any other officer or officers of the Central Government, as the Central Government may nominate for the purpose.

(3) A notification containing the names of the members of the Panel shall be issued before the last date for the receipt of nomination for the election for which it is appointed.

(4) The term of the Panel shall end with the conclusion of the polling for which it is appointed.

(5) The Panel shall have the power to regulate its procedure in such manner as it considers just and expedient

(6) The quorum of the panel for the transaction of its business shall be two.

(7) In case a vacancy arises in the Panel by reason of one or more members of the Panel being unable to act for any reason, the vacancy shall be filled up by the Returning Officer from among the members of the Council referred to in clause (b) of sub-section (2) of Section 9 of the Act, provided he is not a member of the Institute, and provided that if one or more of such members are not available or are unwilling to act, then by any other officer or officers of the Central Government, as the Central Government may

nominate for the purpose.

(8) The Panel shall scrutinize the nomination papers of all the candidates and shall endorse on each nomination paper its decision, whether it accepts or rejects the nomination.

(9) The Panel shall record a brief statement of its reasons, if it rejects a nomination.

(10) (a) The Panel shall reject a nomination if it is satisfied that :

(i) the candidate was ineligible to stand for election under rule 7; or

(ii) the proposer or the seconder was not qualified to subscribe to the nomination of the candidate in the approved Form; or

(iii) the signature of the candidate or of the proposer or the seconder is not genuine; or

(iv) there has been a failure to comply with the provisions of rule 9, rule 10 or rule 11.

(b) The Panel shall not reject a nomination paper on the ground of a technical defect which is not of a substantial character.

(c) The rejection of the nomination of a candidate by reason of any irregularity in respect of that nomination shall not be a bar to the acceptance of another nomination submitted under rule 9 and is also valid in respect of the same candidate.

(d) If a proposer or a seconder incurs a disability by reason of the operation of the provisions of the Act, Rules or Regulations made thereunder subsequent to the date of signing the nomination, it shall not invalidate the nomination.

(11) In a case where the nomination or, if more nominations than one were filed, all the nominations of a candidate has or have been refused or rejected, the Returning Officer shall give notice of the decision of the Panel together with a brief statement of the reason(s) therefor to the candidate concerned by registered/speed post.

13. Preparation of lists of valid nominations :-

(1) On completion of the scrutiny of the nominations, the Returning Officer shall forthwith prepare a list of valid nominations for each constituency and cause a copy of the list to be sent by registered/speed post to each candidate; from that constituency

who had filed his nomination:

Provided that such list should be sent at least ten days before the last date of withdrawal of nominations fixed under clause (c) of sub-rule 2 of rule 4.

(2) The list shall contain full names in alphabetical order and the addresses, as published in the list of voters, of the validly nominated candidates for each constituency:

Provided that if the names of two or more candidates are same, then person with earlier date of enrollment as a member shall be included in the list before other person or persons having the same name but having a subsequent date of enrollment.

14. Withdrawal of candidature :-

(1) A candidate may withdraw his candidature by giving a notice in his own hand and duly signed by him and have it delivered to the Returning Officer anytime before 6.00 P.M. of the last date notified vide sub-rule (2) of rule 4.

(2) No candidate who has given a notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel or withdraw that notice.

(3) Within five days of the last date notified vide sub-rule (2) of rule 4, the list of such candidates who have withdrawn their candidature from a regional constituency shall be intimated by the Returning Officer to the other candidates standing for election from the same constituency.

(4) A candidate who has withdrawn his candidature in accordance with sub-rule (1) shall be entitled to the refund of fifty percent of the fee paid by him under sub-rules (1) and (2) of rule 10 and the full security deposit under rule 11.

15. Intimation of final list of nominations to candidates and voters :-

(1) The Returning Officer shall omit from the list of valid nominations the names of candidates who have withdrawn their candidature and send the final list of nominations for each constituency to all the candidates for that constituency by registered or speed post and to the voters of that constituency by ordinary post.

(2) The list shall be put on the Notice Board of the Institute, Website of the Institute, the Notice Board of the Regional Council concerned as well as the Notice Boards of branches of Regional Council concerned, wherever these exist.

(3) The list shall also be accompanied by such particulars of all contesting candidates of that constituency as compiled, prepared and presented in accordance with Schedule 5 by the Returning Officer from the particulars to the extent supplied by the candidates under sub-rule (4) of rule 9:

Provided he may correct any manifest errors in the particulars furnished that may have come to his notice.

(4) The particulars required to accompany the list of nominations, as aforesaid shall prominently indicate that they are compiled on the basis of the particulars furnished by the candidates under sub-rule (4) of rule 9 and that no responsibility is accepted as to the veracity of the said particulars.

16. Election Code of Conduct :-

(1) With a view to maintain a healthy and peaceful atmosphere during the election process for ensuring a free and fair election, the Returning Officer, shall issue a Election Code of Conduct for candidates, as approved by the Council before issue of notification under sub-rule (2) of rule 4, and which shall be published on the web-site of 'the Institute.

(2) The Election Code of Conduct shall contain instructions and norms to be followed by candidates and their authorized representatives appointed under these Rules during the entire election process including at the polling booth and counting centre.

(3) The Election Code of Conduct shall come into force from the date of issue of notification under sub-rule (2) of rule 4.

(4) The Election Code is deemed to be a guideline of the Council under item (1) of Part II of the Second Schedule of the Act and it is obligatory for each candidate to comply with the Election Code of Conduct.

17. Death of a candidate :-

(1) If a candidate dies before the date of election but after the date fixed for the withdrawal of candidature under rule 14 and his

nomination is or has been accepted as valid, the election in his constituency shall be conducted among the remaining candidates and no fresh proceedings with reference to the election of members in the constituency in which such member was a candidate shall be commenced.

(2) The votes cast in favour of any such candidate shall be deemed to have been cast in favour of the candidate, if any, next in order of preference in the ballot paper.

(3) If a candidate dies after the date of election but before the commencement of the counting, the votes cast in favour of any such candidate shall be deemed to have been cast in favour of the candidate, if any, next in order of preference in the ballot paper.

(4) If the candidate dies after commencement of the counting and before declaration of result, counting of votes would continue as if the person has not died, and, if as a result of such counting he is found to be in a position to be declared elected, then the entire ballot paper? would be recounted afresh, with the votes cast in favour of the candidate deemed to have been cast in favour of the candidate, if any, next in order of preference in the ballot paper.

(5) If a candidate dies after declaration of results in which he has been declared elected, then the resultant vacancy would be deemed to be a casual vacancy under Section 13 of the Act.

18. Candidates deemed to be elected if their number is equal to or less than the number of members to be elected :-

(1) Where the number of candidates validly nominated from any constituency is equal to or less than the number of members to be elected from that constituency on the date of issue of the final list of nominations to the candidates, or where the number of candidates from any constituency becomes equal to or less than the number of members to be elected from that constituency, by reason of the death before the date of election, such candidates shall be deemed to be elected and the Returning Officer shall declare all such candidates duly elected.

(2) Where the number of such candidates from the constituency is less than the number of members to be elected from that constituency, the Returning Officer shall commence fresh proceedings for the election of the remaining member or members

to be elected from that constituency.

19. Node of election :-

(1) The election shall be held in accordance with the system of proportional representation by means of a single transferable vote.

(2) Except as otherwise provided, at every election where a poll is taken, vote shall be given by secret ballot and every voter in any election, shall cast his vote personally in the booth provided for the purpose, unless a voter is allowed in respect of any election to cast his vote by post as hereinafter provided.

Explanation: For purpose of clarity it is reiterated that a voter desiring to record his vote, shall do so in person and not by proxy.

(3) Notwithstanding anything contained in these Rules or the Regulations, the giving or recording of votes through voting machines or internet in such manner as may be determined by the Council, and with the approval of the Central Government, may be adopted in such constituency or constituencies as the Returning Officer may, having regard to the circumstances of each case, specify.

Explanation: For the purposes of this sub-rule, the approval of the Central Government should be sought and obtained prior to' publication of notification in the Gazette of India required under sub-rule (2) of rule 4.

20. Admissible number of votes to a voter :-

(1) A voter shall have one vote only, and he shall have as many preferences as there are candidates.

(2) The voter in order to cast his vote:

(a) shall place on his ballot paper the number 1 (in Arabic or Roman numerals or in words) in the square opposite the name of the candidate for whom he desires to vote; and

(b) may, in addition, place on his ballot paper the number 2, or the numbers 2 and 3 or the numbers 2, 3 and 4 (in Arabic or Roman numerals or in words) and so on in the squares opposite the names of other candidates in the order of his preference, upto the maximum number of preferences available to him under sub-rule (1).

(c) may put 'X' against whom he has not mentioned any preference

21. Polling booths :-

(1) The Returning Officer shall set up such number of polling booths at such places as he deems necessary:

Provided that no polling booth shall be set up in any place having less than 25 members eligible to vote in accordance with rule 5 in the said place or within a distance of 50 kilometers thereof:

Provided further that if, in the opinion of the Returning Officer for compelling reasons, it becomes necessary to change the address of one or more polling booths, he may do so and inform by post or e-mail of the change to all voters who are affected by such a change and to all candidates of the constituency in which the polling booth is situated, in addition to publishing the same on the web-site of the Institute.

(2) In a place having less than 2500 voters, there shall be one polling booth for every 500 voters or part thereof, though the allocation of voters among different polling booths in the same place need not necessarily be in groups of 500 and the polling shall be held on one day.

(3) In a place having more than 2500 voters each polling booth shall be allotted 1000 voters or part thereof and the polling shall be held on two consecutive days.

22. Polling Officer :-

(1) The Returning Officer shall appoint a Polling Officer, preferably a officer serving under the Central or any State Government, for each polling booth and may also appoint such other persons as he may deem necessary to assist the polling officer:

Provided that no member of the Institute shall be appointed as Polling Officer.

(2) The Polling Officer shall, in addition to performing the duties imposed upon him by these Rules, be in general in charge of all arrangements at the polling booth and may issue orders as to the manner in which persons shall be admitted to the polling booth and generally for the preservation of peace and order at or in the vicinity of the polling booth.

(3) Where the Polling Officer appointed by the Returning Officer is

unable to conduct the polling on one or more of the day or days fixed for the polling, he may intimate the same to the Returning Officer or any other officer nominated by the Returning Officer for the purpose, who shall appoint another person, subject to proviso of sub-rule (1), as polling officer in his place.

23. Appointment of Election Observers :-

(1) The Returning Officer shall appoint such number of election observers, who shall not be members of the Institute, for all or any of the polling booths and for counting venue or venues, as may be deemed appropriate by him and such observers shall perform such duties as may be decided by the Council.

(2) The duties of the Election observers so decided by the Council be given due publicity among candidates and voters.

24. Secret Chamber :-

(1) There shall be a secret chamber or chambers in each polling booth.

(2) The chamber shall be so arranged that no person may be able to see how a voter has recorded his vote.

25. Ballot paper :-

(1) The ballot paper shall contain, in alphabetical order in English, a list of the candidates validly nominated for a constituency and shall be printed on one side only.

(2) Each such ballot paper shall contain the Institute's emblem printed in such manner, as may be decided by the Returning Officer having regard to the security considerations of the ballot paper.

26. Presence of the candidates and their authorised representatives at the polling booths :-

(1) A candidate for election from a constituency shall be entitled to be present at the polling booths in that constituency.

(2) He may appoint my two members as his authorised representatives for each polling booth, only one of whom shall be entitled to be present at a time on his behalf at that particular polling booth.

(3) No appointment of an authorised representative shall be valid unless the candidate has issued a letter of authority to such a

representative. The letter of authority shall be produced before the polling officer concerned, and shall include the full name, the membership number and the address of the authorised representative, as well as the number of polling booth at which he is authorised to be present.

(4) The polling officer shall keep a record of attendance of the candidates and their authorised representatives, which shall be forwarded to the Returning Officer after the polling is over.

27. Appointment of assistants :-

The polling officer may employ at the polling booth such persons not being members of the Institute as he thinks fit to assist him in identifying the voters or for any other purpose.

Provided that a person so appointed would not be entitled to discharge the duties of polling officer laid out in these Rules and would be there only to assist the Polling Officer.

28. Eligibility to vote by post :-

(1) A member whose name is included in the list of voters and whose name is not shown under any polling booth shall be permitted to vote by post.

(2) A member who is entitled to vote at a polling booth may be permitted at the discretion of the Returning Officer, to vote by post, if by reason of his suffering from any permanent infirmity or, in case of a member in service, a permanent change in address, he is unable to exercise his vote at the polling booth allotted to him:

Provided that in such a case he shall send an application in the approved Form for permission to vote by post under this sub-rule together with the medical certificate issued by a medical practitioner, not below the rank of a Surgeon in any Government Hospital, confirming such permanent infirmity, or, as the case may be, proof of permanent change in address duly signed by an authorized personnel of the organization where the member is employed, to the Returning Officer so as to reach him at least 60 days before the date of election and an application not received within the time specified shall not be considered.

Explanation: "Member in service" for the purpose of this section means members of the Institute who are employed in an organization not being a firm.

(3) A member who is residing outside India shall notwithstanding anything contained in these Rules be eligible to vote by post provided that his overseas address is registered with the Institute and has been published in the list of members eligible to vote.

(4) Any misuse of the concession under this rule or any misstatement or false verification in this behalf shall be deemed to have brought disrepute to the Council under item (2) of Part IV of the First Schedule of the Act if, in connection with an election to the Council of the Institute.

29. Procedure of voting at the polling booth :-

Voting at a polling booth shall take place as per procedure laid out in Schedule 6 to these Rules.

30. Procedure of voting by post :-

Voting by post shall take place as per procedure laid out in Schedule 7 to these Rules.

31. Grounds for declaring ballot papers invalid :-

A ballot paper shall be invalid :

(a) if a voter signs his name or writes any word or figure upon it or makes any mark including a tick (??)/cross (??), not being a mark of 'X' put under clause (c) of sub-rule (2) of rule 20, upon it by which the ballot paper becomes recognisable or by which the voter can be identified; or

(b) if it is not printed by or under the authority of the Council or it is different in any manner from the ballot papers printed under rule 25; or

(c) if number 1 (in Arabic or Roman numerals or in words) is not marked on it; or

(d) if number 1 (in Arabic or Roman numerals or in words) is set opposite the name of more than one candidate; or

(e) if number 1 (in Arabic or Roman numerals or in words) and some other numbers are put opposite the name of the same candidate; or

(f) if it is unmarked or the marks made are void or cannot be unambiguously determined; or

(g) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established.

32. Appointment of time and date for the counting of votes

:-

The Returning Officer shall, at least fifteen days before date of polling, appoint for each regional constituency, a date or dates, place and time for each such date for the counting of votes at the headquarters of the Institute and shall also give notice of such date or dates, place and time in writing to all the candidates.

33. Appointment of scrutiners :-

The Returning Officer may appoint two or more persons who are neither members of the Council nor candidates for election to act as scrutiners of the voting papers and to assist him generally in counting the votes.

34. Presence of candidates at the time of counting of votes

:-

A candidate for election shall be entitled to be present in person or to appoint a member as a representative to be present on his behalf at the time of counting of votes.

35. Counting of votes and declaration of results :-

Counting of votes shall take place as per procedure laid down in Schedule 8.

36. Notification of the declaration of results :-

The names of all the candidates declared elected shall be notified by the Council in the Gazette of India.

37. Election not to be invalid due to accidental omission, etc. :-

No election shall be deemed to be invalid merely by reason of any accidental omission of the name of a member from the list of members eligible to vote or any accidental mistake in not allowing him to vote or the accidental inclusion of name of a person not entitled to vote in the list of members eligible to vote or allowing him to vote, or any accidental irregularity or informality in the conduct of the election, including accidental omission to send or delay in sending the voting paper to a voter or the accidental non-receipt of, or delay in receipt of a voting paper, by voter.

38. Duties of the Returning Officer :-

(1) The Returning Officer shall conduct the elections in accordance with these Rules.

(2) The Returning Officer may delegate any of the duties to be performed by him as Returning Officer to any of the other Officer or Officers of the Institute, as he may deem fit.

39. Decision of the Returning Officer to be final :-

Unless otherwise provided in these Rules, the decision of the Returning Officer or of the officer authorised by him under these Rules shall be final in all matters pertaining to conduct of election, interpretation of these Rules and the procedure adopted for such matters which are not specifically covered by these Rules.

Explanation : For the purpose of this rule, the conduct of election shall also include the process of counting of votes and declaration of results.

40. Vacancy in any seat not to hold up constitution of the Council :-

If for any reason any seat or seats to a regional constituency or constituencies is not filled up after the election, it would not be deemed to hold up the constitution of the Council under Section 9 of the Act.

41. Election Expenses :-

(1) No candidate, whose name has been included in the final list of nominations under rule 15, shall incur an expenditure above an amount to be fixed by the Council for this purpose.

(2) Every such candidate shall file an account of expenses incurred for the election in a format approved by the Council, within fifteen days of notification issued under rule 36.

(3) A member shall be deemed to have brought disrepute to the Council under item (2) of Part IV of the First Schedule of the Act if, in connection with an election to the Council of the Institute, he is found to have contravened the provisions of sub-rule (1) or sub-rule (2).

42. Disciplinary action against member in connection with conduct of election :-

(1) A member shall be deemed to have brought disrepute to the Council under item (2) of Part IV of the First Schedule of the Act if, in connection with an election to the Council of the Institute, he is found to have contravened the provisions of sub-rule (2) or all or any of the clauses of sub-rule (3) or sub-rule (4) of this rule.

(2) Only one manifesto or circular shall be issued by a candidate in relation to the election in the period commencing from the date of issue of final list of nominations to the candidates.

(3) A manifesto or circular issued shall conform to the following requirements in the interest of maintaining dignity in the election, namely :

(a) A manifesto or circular shall contain information regarding the candidate himself and shall not make any reference, directly or indirectly, to any other candidate;

(b) The information, which a candidate may furnish in a manifesto or circular regarding himself, shall not differ in any material respect from the information furnished by the Institute to the voters under rule 9. A candidate may, however, include in such manifesto or circular, any additional information not contained in the information furnished under rule 9;

(c) A manifesto or circular shall neither contain any appeal to the voters on the basis of caste or on communal, religious, regional or sectional lines nor any tall claim;

(d) The distribution of a manifesto or circular shall be restricted only to the members of the constituency concerned;

(e) A certified copy of such manifesto or circular shall be sent to the Returning Officer by speed/registered post within 15 days of its issue;

(f) While a candidate may repeat, in any form, the manifesto or circular issued under sub-rule (2) of this rule without changing its contents, however, he shall not issue more than one manifesto or circular.

(4) A member shall not adopt one or more of the following practices with regard to the election to the Council, namely :

(i) Bribery, that is to say, any gift, offer or promise of any gifts or gratification to any person by a candidate or any other person, with his connivance, with the object directly or indirectly of :

(a) inducing a member to stand or not to stand as a candidate at an election or rewarding him for act or omission; or

(b) inducing to withdraw his candidature or rewarding such withdrawal; or

(c) inducing a voter to vote or not to vote at an election, or as a reward for act or omission;

Explanation. - For the purpose of this clause, the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money, and it includes organising parties or providing any other form of entertainment, and all forms of employment for reward; but it does not include the payment of any expenses bonafide incurred at or for the purpose of any election;

(ii) undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person, with his connivance, with the free exercise of any electoral right;

(iii) the publication by a candidate or by any other person, with his connivance, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election;

(iv) the obtaining or procuring or abetting, or attempting to obtain or procure, by a candidate or by any other person, with his connivance, any assistance for the furtherance of the prospects of the candidates election from any person serving under the Government of India or the Government of any State, other than the giving of vote by such person, if he is a member entitled to vote;

(v) the hiring or procuring, whether on payment or otherwise, of a vehicle by a candidate or by any other person, with his connivance, for the conveyance of voters;

(vi) resorting to disorderly behaviour or misbehaviour within the zero tolerance zone to be determined by the Returning Officer of the polling booth and/or venue for counting of votes; Explanation. - For the purpose of this clause, canvassing for votes, distribution of visiting cards, pamphlets, manifestos, letters, hand-outs, circulars and the like, erection of any stall and display of any banner shall be treated as disorderly behaviour or misbehaviour. (vii) exhibiting or placing any notice or sign board relating to the election by a candidate or by any other person with the connivance of the candidate at any time and any where during the election period

including on the date or dates of polling within a distance of 200 meters from the polling booth;

(viii) non-compliance with any of the directives or circulars or instructions issued by the Returning Officer under these Rules in any matter relating to elections;

(ix) contesting the election representing a political party or on political lines;

(x) any act specified in clauses (i) to (ix) when done by a member, who is not a candidate, but is acting with the concurrence or connivance of a candidate;

(xi) the receipt by a member or an agreement by a member to receive any gratification:

(a) as an inducement or reward for standing or not standing as a candidate; or

(b) as an inducement or reward for withdrawing his candidature; or

(c) as an inducement or reward for himself or any other person for voting or refraining from voting; or

(d) as an inducement or reward for inducing or attempting to induce any voter to vote or refrain from voting; or

(e) inducing or attempting to induce any candidate to withdraw his candidature;

(xii) Contravention or misuse of any of the provisions of these Rules or making of any false statement knowing it to be false or without knowing it to be true, while complying with any of the provisions of these Rules.