

ELEVATION FROM ACS TO FCS GUIDELINES, 2023

(As Approved by the Council in its 300th (Special) Meeting dated 24th August, 2023)

(I) SHORT TITLE

1. These Guidelines shall be called as the Elevation from ACS to FCS Guidelines, 2023 and are issued pursuant to Regulation 4(2) of The Company Secretaries Regulations, 1982 (“the Regulations”).
2. These Guidelines shall supersede all earlier Council decisions, Guidelines, directions, notifications, circulars, instructions, orders, memorandum made or issued by the Institute relating to elevation from ACS to FCS.

(II) BACKGROUND

WHEREAS-

Regulation 4 (2) of The Company Secretaries Regulations, 1982 (as amended till date) provides that:

- (i) No person shall be entitled to have his name entered in the Register as a Fellow unless he,-
 - (a) was a Fellow including Honorary Fellow of the dissolved company immediately before the commencement of the Company Secretaries Act, 1980 (“the Act”); or
 - (b) was admitted as a Fellow under the earlier regulations; or
 - (c) is an Associate and has been in continuous practice in India as a Company Secretary for at least five years; or
 - (d) is an Associate for a continuous period of not less than five years and possesses such qualifications or practical experience as may be determined by the Council.
- (ii) No Associate member shall be admitted as a fellow member of the Institute, if; -
 - (a) he has been found guilty of any professional or other misconduct and his name has been removed from the Register or he has been imposed fine referred in sub-section (3) of sections 21A of the Act or sub-section (3) of section 21B of the Act at any time during the preceding five years on the date of application; or
 - (b) he has not completed such minimum numbers of Professional Development Credit Hours / Continuous Professional Education Hours as may be determined by the Council.

Provided that in the case of any person belonging to any of the classes mentioned in sub-regulations (1) and (2), who is not permanently residing in India, the Council may, by resolution, determine, such further qualifications and conditions, as it may deem necessary or expedient.

AND WHEREAS Regulation 5 of the Regulations provides that an Associate who desires to have his name entered in the Register as a Fellow, shall submit to the Secretary an application in the appropriate form. The applicant shall furnish such further clarification as the Secretary or the Council may at any time require from him for purposes of considering his application for membership.

AND WHEREAS Regulation 6 of the Regulations provides that an Associate applying for admission as a Fellow [other than a person referred to in Sub-section (2) of Section 4 of the Act shall pay an entrance fee as may be determined by the Council under Sub-section (3) of Section 5 of the Act.

Provided that in respect of any year in which an Associate applies for admission as a Fellow he shall pay to the Institute the difference between the annual membership fee, if any, paid by him as an Associate for that year and the fee payable by him as a Fellow.

Explanation: Appropriate form means form made available by the Institute on its web portal.

(III) Disabilities under Section 8 of The Company Secretaries Act, 1980 (as amended till date):

- a) has not attained the age of twenty-one years at the time of his application for the entry of his name in the Register of members; or
- b) is of unsound mind and stands so adjudged by a competent court; or
- c) is an undischarged insolvent or undischarged bankrupt; or
- ca) is declared bankrupt under the Insolvency and Bankruptcy Code, 2016;
- d) being a discharged insolvent, has not obtained from the court a certificate stating that his insolvency was caused by misfortune without any misconduct on his part; or
- e) has been convicted by a competent court whether within or outside India, of an offence involving moral turpitude and punishable with imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing, removed the disability; or
- f) has been removed from membership of the Institute on being found on inquiry to have been guilty of professional or other misconduct:

Provided that a person who has been removed from membership for a specified period shall not be entitled to have his name entered in the Register of members until the expiry of such period.

(IV) Effective date

These Guidelines shall be applicable with effect from 15th December, 2023.

(V) Conditions for award of fellowship of ICSI

An Associate member of the Institute shall be eligible to apply for Fellow membership of the Institute, if such member:

- (a) Has been in continuous practice in India as a Company Secretary for at least 5 (five) years; or
- (b) Possesses practical experience of not less than, continuous period of 5 (five) years, immediately preceding the date of application, as under:
 - (i) Member in employment having a valid eCSIN as on date for such employment with documentary proof, or
 - (ii) Members in Government Service not being a PSU with documentary proof.

Provided that the periods of experience in clause (a) and (b) as above, either in practice or in employment, can be clubbed together, in any permutation or combination to attain the minimum eligibility criteria of five years.

Explanation: To determine the period of practical experience of not less than five years (either in employment or practice) immediately preceding the date of application, a maximum period of additional six months will be allowed to cover the gaps in between various consecutive periods of employment/practice.

(VI) Application for Membership

An Associate member of the Institute shall apply for Fellow Membership by logging in through the member's portal and completing the relevant form. They shall sign and upload a 'Declaration', the format of which is placed at **Annexure-I** confirming compliance with Regulation 4 and 5.

(VII) Effect of Misstatement / Declaration

If any statement/declaration in connection with obtaining Fellow Membership is found to be incorrect, the necessary disciplinary action as per the Company Secretaries Act, 1980 shall be taken and the Fellow Membership shall be withdrawn.

(VIII) Power to remove difficulties

If any difficulty arises in giving effect to these Guidelines, the Secretary of the Institute, shall have the power to do anything not inconsistent with these Guidelines which appear to be necessary or expedient for the purpose of removing the difficulty.

DECLARATION
[See Reg. 4 & 5]

To,
The Secretary to the Council of
The Institute of Company Secretaries of India
'ICSI House', 22, Institutional Area, Lodi Road, New Delhi - 110003

Sir,

I being an Associate (bearing Membership No. _____ and admitted on _____) hereby apply for entry in the Register of members as a Fellow of the Institute of Company Secretaries of India in accordance with the provisions contained in the Company Secretaries Act, 1980 and Regulations made thereunder and declare that I am not subject to any of the disabilities stated in the aforesaid Act or the Regulations.

I hereby declare that:

1. I possess practical experience as an Associate Member of not less than continuous period of 5 (five) years immediately preceding the date of application for Fellow Membership.
2. I have not been found guilty of any professional or other misconduct and my name has not been removed from the Register of members or been imposed fine referred in sub-section (3) of sections 21A or sub-section (3) of section 21B of the Company Secretaries Act, 1980 (as amended from time to time) at any time during the preceding five years from the date of application.
3. I have completed minimum numbers of Professional Development Credit Hours/Points as determined by the Council.
4. I am a permanent resident of India; or
I am not a permanent resident of India under Foreign Exchange Management Act, 1999; or
I am resident outside India under Foreign Exchange Management Act, 1999.
5. I do not hold a Certificate of Practice from any other professional Institute/Bar Council.
6. I am not subject to any of the disabilities stated under Section 8 of The Company Secretaries Act, 1980 (as amended till date).

The statement/declaration made above is true and correct to the best of my knowledge and I understand that my application for Fellow Membership is considered on the basis of the correctness of the particulars furnished here-in above.

I understand that if any statement/declaration as stated above is found to be incorrect, necessary disciplinary action as per the Company Secretaries Act, 1980 will be taken against me and the Fellow Membership shall be withdrawn.

(Signature) :
(Name) :
(ACS & CoP No.) :
Address :

Place:
Date: