

Gurukripa's Latest Updates – Applicable for Nov 2014 Exams CA Final CORPORATE AND ALLIED LAW



As per ICAI Announcement the following are the provisions of Companies Act, 2013 which will be applicable for CA Final Nov 2014 Exams –

- Notified Sections which came into effect from 12th Sep 2013
- Chapter IX and X of the Companies Act, 2013 which came into effect w.e.f. 01.04.2014 [Sec.128 to Sec.148 (both inclusive)].

This Additional Material comprises the following items, for Students appearing in the November 2014 CA Final Exams –

S. No.	Description	Page No.
1	Gurukripa's Guideline Answers to May 2014 Exam Questions – CA Final CORPORATE AND ALLIED LAW – Answers based on Law applicable for Nov 2014 Exams	2 –6
2	Recent Notifications / Circulars / Legal Updates	7–8
3	Chapter IX of Companies Act, 2013 – Accounts of Companies, along with Rules	9–19
4	Chapter X of Companies Act, 2013 – Audit and Auditors, along with Rules	20–32
5	Notified Sections of Companies Act, 2013 which came into effect from 12 th Sep 2013, as applicable for CA Final Syllabus	33–56

Gurukripa's Guideline Answers to May 2014 Exam Questions CA Final CORPORATE AND ALLIED LAW

Question No.1 is compulsory (**4 × 5 = 20 Marks**).

Answer **any five** questions from the **remaining six** questions (**16 × 5 = 80 Marks**). [Answer any 4 out of 5 in Q.7]

Note: Answers / Reference to Questions pertaining to Notified Sections of the Companies Act, 2013 (applicable for Nov.2014 Exams) are given based on Companies Act, 2013

Q.No.	Questions	Reference/Marks
1(a) (5 M)	Suspecting of bungling the financial resources of the Company, the Shareholders of Dubious Industries Ltd led by Mr. X, at the AGM of the Company held on 30-09-20XX resolved to appoint M/s Sharma & Sharma, the Statutory Auditors of the Company to carry out Special Audit. The Management of the Company refused to co-operate with the Statutory Auditors in carrying out the Special Audit. Examine whether the management is justified in their refusal. Advise Mr.X with reference to the relevant provisions of the Companies Act.	Sec.233A Special Audit – No corresponding provision in COA 2013 Hint: Special Auditor u/s 233A can be appointed only by Central Govt. CG can appoint (i) a CA (in practice or not) or (ii) Company Auditor himself. Hence Mr.X can only write a letter to the Secretary to the Ministry of Corporate Affairs to appoint a Special Auditor. The appointment made by the Company in AGM is not valid. [Refer Page 1.42, Q.No. 47] Note: However, there is no section for Special Audit under the Companies Act, 2013. The remedy for the Shareholders is to invoke the provisions relating to Investigation or the provisions relating to Oppression and Mismanagement.
1(b) (5 M)	CBA Ltd wants to declare dividend for the current financial year ending, though it will not earn any profit for the year due to heavy losses. The Company has been declaring dividend for the last 5 years. To maintain its reputation, the Company wants to declare dividend this year too out of accumulated past profits. Explain how the Company can achieve the objective to declare Dividend.	Refer Page 1.49, Q.No. 60 COA 1956 (As applicable for Nov 2014 Exams): The Company can declare Dividend out of accumulated profits, if the following conditions are satisfied:- Rate of Dividend shall not exceed the Average Rate of Dividend declared by the company for the immediately preceding 5 Years or 10% of Paid Up Capital whichever is Less Amount withdrawn from Accumulated profits < 1/10th of Paid up capital and Free Reserves. Reserves Balance after such withdrawal shall be greater than or equal to 15% of Paid Up Capital.
1(c) (4 M)	Mr. AMR was appointed as Sole Selling Agent of M/s ZYX Ltd with effect from 1 st January, 20XX for a period of 5 Years. Mr. AMR earned his remuneration for the past 3 years as follows:- Year 20X1 – 5,00,000 Year 20X2 – 6,00,000 Year 20X3 – 7,00,000 From 1 st January, 20XX, the Sole Selling Agency agreement was terminated by ZYX Ltd. Calculate the amount of compensation payable by the Company to Mr. AMR under the provisions of Companies Act.	Refer Page 4.46, Q.No.14 COA 1956 (As applicable for Nov 2014 Exams): Maximum Compensation payable by the Company is the remuneration he would have earned if he had been in office for (i) 3 years, or (ii) the unexpired residue, whichever is less. Step 1: Average Remuneration of preceding 3 years = (₹5,00,000 + ₹ 6,00,000 + ₹ 7,00,000) ÷ 3 = ₹ 6,00,000 Step 2: Maximum Compensation Payable = Average remuneration × Unexpired period of tenure = ₹ 6,00,000 × 2 years = ₹ 12,00,000 Note: There is no section for Sole Selling Agency / Compensation for premature termination under the Companies Act, 2013.
1(d) (6 M)	A group of complainants have alleged that Mr. Z, a Member of the SEBI, has pecuniary interest in some of the cases that came up before the Board and that he misused his position and therefore, he should be removed from his office. The complainants seek your advice. Advise.	Refer Page 14.3 & 14.4, Q.No.5 Hint: The Central Government shall remove a Member from office if in the opinion of CG, the Member has abused his position as to render continuation in office detrimental to public interest. Before removal, reasonable opportunity of being heard shall be provided. (Sec.6)

Q.No.	Questions	Reference/Marks
2(a) (8 M)	Sweet Tea Ltd wants to sell its Tea by entering into contract with the following Parties: (1) Tea Bros, a Partnership Firm in which a Director of Sweet Tea Ltd is a Partner. (2) R & T Pvt Ltd in which one of the Director of Sweet Tea Ltd is a Member. (3) Strong Tea Ltd in which one of the Directors of Sweet Tea Ltd is a Director holding 3% of the Paid Up Capital of Strong Tea Ltd. Advise the steps that should be taken by Sweet Tea Ltd, taking into account the relevant provisions of the Companies Act, for entering into contracts in which the Directors are interested.	Refer Page 4.73, Q.No.27 Hint: Contracts u/s 297 require the following compliance:- (a) If Paid Up Capital < ₹ 1 Crore: Consent of Board of Directors (b) If Paid Up Capital ≥ ₹ 1 Crore or more: Consent of Board of Directors and prior approval of Central Govt. Issue 1: A concern in which Director of the Company is a Partner is covered – Sec.297 is applicable. Issue 2: A concern in which Director of the Company is a Member is covered – Sec.297 is applicable. Issue 3: Transaction between two Public Companies not covered u/s 297 – Approval Not required. However, since the Holding is more than 2% of Paid Up Capital, the Director shall disclose his interest u/s 299.
2(b) (8 M)	(i) Mr. OK is a Director of VRS Ltd. He intends to construct a Residential Building for his own use. The cost of construction is estimated at ₹ 1.35 Crores, which Mr. OK proposes to finance partly, from his own sources to the tune of ₹ 60 Lakhs and the balance of ₹ 75 Lakhs from a Housing Loan to be obtained from a Housing Finance Company. For the purpose of obtaining the loan, he has approached the Housing Finance Company which has in principle agreed to grant the loan, but has put a condition. The condition is that the Company VRS Ltd should provide the guarantee for repayment of the loan and interest as per the terms of the proposed agreement for granting the loan to Mr. OK. You are required to advise Mr. OK on the matter with reference to the Companies Act. (ii) Draft a Board Resolution of VRS Ltd for providing guarantee for ₹ 75 Lakhs in respect of a loan to be obtained by Mr. OK, a Director thereof, from a Housing Finance Company for construction of Residential House for his own use.	Refer Practical Qn in Page No.4.51 Issue 1: For Nov 2014 Exams: Sec.185 of COA 2013 prohibits Loan or Guarantee to a Director. However, Loan or Guarantee to Managing and Whole Time Director shall be allowed, if the Loan or Guarantee is a part of the conditions of service extended by the Company to all its employees; or pursuant to any scheme approved by the Members by a Special Resolution. (Note: No prior approval from CG is required u/s 185 of COA 2013 unlike Sec.295 of COA 1956) The guarantee to be given by VRS Ltd to the Housing Finance Company on behalf of Director Mr. OK shall be allowed only when the Director is a Managing or Whole Time Director subject to compliance with Sec.372A of COA 1956 (corresponding Sec. 186 of COA is not applicable for Nov 2014 Exams) Issue 2: Board Resolution – Refer Page No.4.51
3(a) (8 M)	ABC Private Ltd was incorporated on 15-09-20XX in the State of Maharashtra by a group of Professional Engineers without any knowledge about the maintenance of the books of account. The Company has appointed you as the Chief Account Officer at New Delhi where the books of account will be maintained. Advise the management with respect to the following under the Companies Act:- (i) The nature of books to be maintained. (ii) The period for which the accounts have to be preserved, and (iii) The steps to be taken if the books of accounts are to be kept in New Delhi.	Refer Page No.1.1, Q.No. 1 and 2 Hint: Sec. 128 of COA 2013 (as applicable for Nov 2014 CA Final Exams) (a) Every Company shall prepare and keep at its Registered Office, books of accounts and other relevant books and papers and Financial Statements for every financial year which gives true and fair view of the state of affairs of the Company, including that of its Branch Office(s). Such books shall be kept on accrual basis and according to the double entry system of accounting. Books may be maintained in electronic form also. (b) Books of Accounts along with the relevant vouchers shall be preserved in good order, for not less than 8 years immediately preceding the current year. (c) Books and other papers may be kept at such other place in India as the Board may decide. If such a decision is taken, the Company shall within 7 days thereof file with Registrar a notice in writing giving the full address of the place.

Q.No.	Questions	Reference/Marks
3.(b) (8 M)	The Balance Sheet of Royal Ltd as at 31-03-20XX disclosed the following details:- (i) Authorized Share Capital ₹400 Crores (ii) Paid up Share Capital ₹ 150 Crores (iii) Reserves and Surplus ₹ 750 Crores The Company has issued a Fully Convertible Debentures of ₹ 100 Crores which are due for conversion in the current year. The Company proposes, after the conversion of Debentures to issue Bonus Share in the ratio of 1:1. Explain briefly the requirements of the Companies Act and the SEBI Guidelines to be followed by the Company in this regard.	Refer Page No.15.46, Q.No 56 Hint: Step 1: Eligible Equity = Equity Capital + Fully Convertible Debentures = ₹150 Crs + ₹100 Crs = ₹ 250 Crs Step 2: Bonus Value = Eligible Equity X Bonus Ratio = ₹ 250 Crs x 1 /1 = ₹ 250 Crs Step 3: Funding of Bonus = The required Bonus Value of ₹ 250 Crs shall be fully funded out of Reserves and Surplus. Step 4: Equity Share capital after Bonus Issue = Step 1 + Step 2 = ₹500 Crs Step 5: Increase in Authorized Share Capital = Step 4 – Present Authorized Capital = ₹500 Crs – ₹400 Crs = ₹100 Crs. Other Conditions: Shares shall be fully paid up/ Permission in AOA; No default w.r.t repayment of principal/interest; No default w.r.t statutory payments to employees; Board shall recommend and Company in General Meeting shall approve; No bonus in-lieu of dividend.
4.(a) (8 M)	Mr. RK, a Director of Excellent Ltd, has applied for a loan of ₹ 70 Lakhs for the purpose of financing the education of his son to the Company. The Company has applied to the Central Government for approval to grant the loan. While the matter is under consideration of the Central Government, the Company has lent a sum of ₹ 50 Lakhs to Mr. RK. Finally, the Central Government has rejected the Company's request for the grant of loan and Mr. RK has refunded the amount of ₹ 50 Lakhs to the Company. The above said facts have been pointed out by the Auditors of the Company in their Audit Report and based on that report the Registrar of Companies has issued a show cause notice to the Company and its Directors. Examine whether the Company has contravened any of the provisions of the Companies Act.	Refer Page No. 4.49, Q.No. 14 Hints: Sec.185 of COA 2013 (as applicable for Nov 2014 Examinations) Sec.185 of COA 2013 prohibits Loan or Guarantee to a director. However, Loan or Guarantee to Managing and Whole Time Director shall be allowed if the loan or guarantee is a part of the conditions of service extended by the Company to all its employees; or pursuant to any scheme approved by the Members by a Special Resolution. (Note: No prior approval from CG is required u/s 185 of COA 2013 unlike Sec.295 of COA 1956) In case of contravention of Sec. 185 of COA 2013 – (a) the Company shall be punishable with fine not less than ₹ 5 Lakhs which may extend upto ₹ 25 Lakhs; (b) the Director to whom the Loan or Guarantee is provided shall be punishable with imprisonment which may extend upto 6 months, or with fine not less than ₹ 5 Lakhs which may extend up to ₹ 25 Lakhs, or with both.
4.(b) (8 M)	A Group of Minority Shareholders of SP Financiers Ltd has made a complaint to the Central Government that the persons in charge of the management of the Company have been guilty of fraud and negligence causing huge losses to the Company and to the detriment of minority Shareholders. Examine the powers of the Central Government to redress the grievances of the Minority Shareholders.	Refer Page No.6.13, Q.No.11 Hint: CG can appoint certain number of persons as Directors u/s 408 to safeguard the interest of the Company, based on the order to be passed by the Tribunal. Note: No corresponding provision exists under COA 2013 for Sec.408 of COA 1956. However, Sec.408 is applicable for Nov 2014 Examinations
5.(a) (8 M)	Superb Ltd went for a Public Issue of Equity Share (₹10 Crs) of ₹10 each. The Shares were subscribed to an extent of 95% of the total issue. The Shares of the Company were accepted for listing by Bombay Stock Exchange but subsequently the permission was cancelled on certain grounds. On an appeal to the Central Government by the Company, the decision of the Stock Exchange was held to be valid. As a result, the application money had become refundable to the Allottees. The Company had no prospects of doing any business and there	Refer Page No. 7.10, Practical Question [Jugalkishore Banarsidas Vs. South India Saw Mills P. Ltd] Hint: There is a commercial insolvency in the given case. Hence, the Creditors can make a petition u/s 433(e), i.e. Company is unable to pay its debts. Shareholders' contention is not sustainable. However, the Court has discretion in dealing with the winding-up petition, i.e. it may allow the petition or may dismiss the same.

Q.No.	Questions	Reference/Marks
	was a complete deadlock among the Directors. Looking at the circumstances, certain Creditors filed a petition in the Court for winding up of the Company on the ground that the Company had become commercially insolvent. The Shareholders of the Company object to the petition of the Creditors. Decide giving reasons: (i) Whether the objections of the Shareholders will sustain and the Court can dismiss the petition of Creditors for winding up of the Company? (ii) State the provisions of the Companies Act in this regard.	
5.(b) (8 M)	Due to financial irregularities, the affairs of MNP Bank Limited have gone from bad to worse and this fact has come to the notice of the RBI as well as Central Government. Examining the provisions of the Banking Regulation Act, 1949 and answer the following: (i) Power of RBI to inspect the Bank. (ii) Powers of Central Government to give directions in this matter.	Issue 1 – Power of RBI to Inspect - Refer P.No.16.9, Q.No.24, Sec.35 Issue 2 – Power of CG – Refer P.No.16.10, Q.No.24, Point 5 = Power to prohibit Banking Company from accepting fresh deposits and Power to direct for winding up u/s 38.
6.(a) (4 M)	(i) In the case of Producer Company, the Auditor is required to report on additional matters apart from the provisions contained in Section 143 of the Companies Act, 2013. State the additional matters on which the Auditor has to report in the case of a Producer Company.	Refer Page No. 8.14, Q.No. 29, Point 2
6.(a) (4 M)	(ii) State the documents that are required to be delivered by a Foreign Company at the time of establishment of a place of business in India. State to whom the said documents are to be delivered.	Issue 1 – Documents to be delivered – Refer Page No. 9.2, Q.No.4 Issue 2 – To whom to be delivered – Refer Page No. 9.2, Q.No.2
6.(b) (8 M)	Mutual Distrust Private Limited has two Shareholders namely A and B holding 51% and 49% respectively. Both are working as Directors. Due to differences between them, A decides to hold a Board Meeting on 30th April 2014, but the same could not be held due to non-cooperation from B and lack of quorum. Advise A about the steps that can be taken under the Companies Act to resolve the matter.	Refer Page No. 6.9, Practical Question, Deadlock in Management Hint: Both the parties have equal managerial powers and almost equal voting rights. This is a case of deadlock in management. Upon application to Tribunal, he may pass an order to purchase the shares of one party by the other. If both fails, the Tribunal may order the Company to be wound up under just and equitable grounds.
7.(a) (4 M)	Attempt any four: Mr. V, a person of Indian origin and resident of USA desires to acquire two immovable properties in India comprising: (i) a Residential Flat in Mumbai and (ii) a Farm House on the outskirts of Mumbai. Explain the steps he has to take in this matter having regard to the provisions of FEMA, 1999.	Refer Page No. 11.19 / Q No. 15 Hints: Issue 1. It is an admissible Capital Account Transaction. Mr. V, being a Person Resident Outside India can acquire Residential Flat in Mumbai subject to FEMA (Acquisition and Transfer of Immovable Property in India), 2000. Issue 2. Investment in Farm House by a Person Resident Outside India is prohibited under FEMA (Capital Account Transaction) Regulations, 2000.
7.(b) (4 M)	MNO Tyres Ltd is in the business of manufacture of automotive tyres for the past one year. To increase its market share, the Company has decided to reduce the prices of tyres. The cost structure of the Passenger Car Tyre is as under:	Refer Page No. 12.17, Q.No.24, Point 4 Hint: There shall be an abuse of dominant position u/s 4 by an enterprise if it imposes unfair or discriminatory price in purchase / sale (including Predatory Price) of Goods or Service.

Q.No.	Questions	Reference/Marks
	(i) Cost of Production ₹ 5,000 per tyre (ii) Selling Price ₹ 6,000 per tyre The Company started selling Tyres at ₹ 5,200 per tyre and the other tyre manufacturers made a complaint to the Competition Commission of India stating that MNO Tyres Limited is guilty of predatory pricing having the effect of reducing the competition or eliminating the competition. Advise MNO Tyres Ltd as to the meaning of predatory pricing and whether the Company can be said to have indulged in the said practice having regard to the provisions of the competition Act, 2002.	Predatory Price means sale of goods or provision of services at a price below cost of production of goods or provision of service. In the given case, the Company is selling the tyre at ₹ 5,200 which is greater than the total cost of production. Hence it is not a predatory price.
7.(c) (4 M)	The Board of Directors of SUV Limited, a Banking Company incorporated in India, for the accounting period ended 31-03-2013 transferred 15% of its net profit to its Reserve Fund. Certain Shareholders of the Company object to the above act of the Board on the ground that it is violative of the provisions of the Banking Regulation Act, 1949. Decide whether the contention of the Shareholders is tenable under the Banking Regulation Act, 1949	Refer: Page No. 16.6, Q.No.14, Sec. 17 Hint: Minimum amount to be transferred to the Reserve Fund is 20% of profits before declaration dividend. Hence, the objection made by the Shareholders is valid. However, the CG may grant exception from Sec. 17 compliance if the Bank has adequate Paid Up Capital and Free Reserves towards its Demand and Time Liabilities and the aggregate of Reserve Fund and Securities Premium is not less than Paid up Capital of the Banking Company.
7.(d) (4 M)	Explain the meaning of the terms “Non-Performing Asset” and “Asset Reconstruction” used in the SARFAESI Act, 2002.	Refer Page No. 16.17, Q.No. 1
7.(e) (4 M)	Explain the meaning of the term “Money Laundering”. Z, a known smuggler, was caught in transfer of funds illegally exporting narcotic drugs from India to some countries in Africa. State the maximum punishment that can be awarded to him under Prevention of Money Laundering Act, 2002.	Issue 1 – Meaning – Refer Page No.16.27, Q.No. 2 Issue 2 – Punishment – Refer Page No.16.32 – Sec.4 Hint: Rigorous Imprisonment: Min. 3 years, Max. 7 years [10 years max in case of the proceeds of crime relates to offence under Narcotic Drugs and Psychotropic Substances Act, 1985] and Fine.

Recent Notifications / Circulars / Legal Updates

CA Final Corporate and Allied Law

Area	Effect	Page
1. Companies Act, 1956 / Companies Act, 2013		
Applicability of Sec.128 of Companies Act, 2013 Ref: 8/2014 [No. 1/19/2013-CL-V], dated 4-4-2014	Provisions of Companies Act, 2013 relating to maintenance of books of account, preparation, adoption & filing of Financial Statements (and documents required to be attached thereto), Auditors Reports, Board of Directors Report (Board's Report), Schedule II (Useful Lives to compute Depreciation), Schedule III (Format of Financial Statements) and including the rules applicable shall be brought into force with effect from 1st April 2014 . (Effective for Accounts prepared for Financial Year 2014-2015 onwards .)	General
Clarification u/s 182 of Companies Act, 2013 (Contribution to Political Parties) Circular No.19/2013 [No.17/27/2013-CL-V], dated 10-12-2013	Companies contributing any amount(s) to an ' Electoral Trust Company ' for contributing to Political Party(ies) are not required to make disclosures required u/s 182(3) of Companies Act 2013. - It will suffice if the Accounts of the Company disclose the amount released to an Electoral Trust Company. - Companies contributing any amount(s) directly to a Political Party(ies) will be required to make the disclosures. - Electoral Trust Companies will be required to disclose all amounts received by them from other Companies/Sources in their Books of Accounts and also disclose the amount(s) contributed by them to Political Party(ies).	Page 4.37
2. SEBI (ICDR), 2009		
Amendment in IPO Grading – SEBI ICDR – Regulation 26 Notification NO.LAD–NRO/GN/2013–14/44/226, dated 4-2-2014	IPO Grading: Substitute the following point in Page 15.12 Point 11 "An Issuer making an Initial Public Offer may obtain grading for such offer from one or more credit rating agencies registered with the Board".	Page 15.12 Point 11
3. Insurance Act, 1938 and IRDA Act, 1999		
Fees for Renewal of Registration [Notfn F.No. IRDA / REG. /4/87/2014 dated 22-01-2014]	₹ 50,000 + 1/20th of 1% Total Gross Premium written direct by an Insurer in India during the financial year preceding the year in which the application for renewal of Certificate is required to be made, or ₹ 5 Crores, whichever is less.	Page 17.3 – Q.No.3, Pt 5
Fees payable for issue of renewal of license to act as Insurance Agent Notfn F.No. IRDA /REG. /3/86/2014 dated 22-01-2014	The Fees payable to the Authority for issue or renewal of licence to act as Insurance Agent or a Composite Insurance Agent shall be ₹125 (Earlier, the fees was ₹ 250)	Page 17.11 – Q.No.1 6
Indian Promoter Notfn F.No. IRDA/REG./6/89/2014, dtd 24-4-2014	Indian Promoter includes a Core Investment Company as defined under Core Investment Companies (Reserve Bank) Directions, 2011 as amended from time to time.	Page 17.2, Q.No.1
4. Foreign Exchange Management, 1999		
ODI Regulations Notfn. 299/2014-RB [F. No.1/10/EM/2014] / GSR 323(E), dated 24-3-2014	In FEM (Transfer or Issue of Any Foreign Security) Regulations under the eligible party, apart from Partnership Firms, it also includes a Limited Liability Partnership (LLP).	Page 11.37 / Q.24
Realization of Export Proceeds in INR Notfn No. FEMA 300/2014 – RB [F.No. 1/ 11 / EM / 2014]/GSR 322(E), dated 28-3-2014	In FEM (Manner of Receipt and Payment) Regulations, 2000 – Point 2(d) shall be substituted as follows:– From a Rupee Account held in the name of an Exchange House with an AD if the amount does not exceed ₹ 5 Lakhs per export transaction.	Page 11.37 / Q.20

Area	Effect	Page								
FDI in LLP Notification [No.FEMA.298/2014–RB]/GSR 190(E), dated 13–3–2014	The following point shall be added in FEM (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 A Person resident outside India (other than a citizen of Pakistan or Bangladesh) or an Entity incorporated outside India, (other than an Entity in Pakistan or Bangladesh), not being a registered FII or Foreign Venture Capital Investor or Qualified Foreign Investor registered with SEBI or Foreign Portfolio Investor registered in accordance with SEBI guidelines, may contribute Foreign Capital either by way of capital contribution or by way of acquisition/transfer of profit shares in the capital structure of an LLP under Foreign Direct Investment, subject to the terms and conditions as specified in Schedule 9.	Page 11.37								
Registered Foreign Portfolio Investor RFPI Notfn [No.FEMA.297/2014–RB]/ GSR 189(E) dated 13–03–2014	The following point shall be added in FEM (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 Any Foreign Institutional Investor who holds a valid Certificate of Registration from SEBI shall be deemed to be a Registered Foreign Portfolio Investor (RFPI) till the expiry of the block of three years. A Registered Foreign Portfolio Investor (RFPI) means a person registered in accordance with the provisions of Securities Exchange Board of India (SEBI) (Foreign Portfolio Investors) Regulations, 2014, as amended from time to time.									
Credit Period for Exports reduced to 9 months instead of 12 Months Notification [No. FEMA 302/2014–RB]/GSR 362(E), dated 28–4–2014	Point 6 in Page 11.25 Q.No 19 shall be substituted as follows – Time Period for realization [Regulation 9 & 10]: No person shall enter into any contract to export goods on the terms which provide for a credit period longer than 9 months , without prior RBI approval. Hence, in all cases, the amount representing the full export value of goods or software exported shall be realized and repatriated to India, within 9 months from the date of export. The following relaxations also apply – <table><thead><tr><th>Situation</th><th>Relaxation</th></tr></thead><tbody><tr><td>Goods / Software exported by the units in SEZ.</td><td>9 Months (Previous relaxation of 12 months removed)</td></tr><tr><td>Export to a warehouse established outside India, with RBI approval.</td><td>Within 15 months.</td></tr><tr><td>Goods / Software exported by Status Holder Exporter as defined under EXIM policy.</td><td>Within 12 months.</td></tr></tbody></table> In the above cases, RBI is empowered to extend the period of 12 / 15 months, if sufficient and reasonable cause is shown by the Exporter. Project Exports (i.e. export on deferred payment terms or in execution of a turnkey project or a civil construction contract) shall require prior approval of the appropriate authority, as per RBI guidelines. Point 7 in Page 11.25 Q.No.19: 12 months shall be substituted for 9 months.	Situation	Relaxation	Goods / Software exported by the units in SEZ.	9 Months (Previous relaxation of 12 months removed)	Export to a warehouse established outside India, with RBI approval.	Within 15 months.	Goods / Software exported by Status Holder Exporter as defined under EXIM policy.	Within 12 months.	Page 11.25
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Goods / Software exported by Status Holder Exporter as defined under EXIM policy.	Within 12 months.									
5. Prevention of Money Laundering Act, 2002										
Notified Officers to Assist PMLA Authorities [Notfn No. GSR 30(E) [F.No. P.12011 /2/2009–S.O.(E.S.CELL)], dated 17–1–2014	Q.No. 7 / P.No. 16.34 / Sec.54: Notified Officers empowered to assist the Authorities in the enforcement of PMLA – The list to include “Competition Commission of India”	Page 16.34								
6. Competition Act, 2002										
Power of CG to Exempt Notfn No. SO.3641(E) [F.NO.5/20/2011–CS], dated 11–12–2013	- Vessel Sharing Agreements (VSAs) of Liner Shipping Industry is exempt from the provisions of Sec.3 of the Competition Act, for a period of 1 year from the date of publication of this Notification, in respect of carriers of all nationalities operating ships of any nationality from any Indian Port. - Director General, Shipping, Ministry of Shipping, Government of India shall monitor such agreements during such periods.	Page 12.31								

Chapter IX – Accounts of Companies

Chapter IX comprises Sec.128 to Sec.138. The relevant Rules are called Companies (Accounts) Rules, 2014.

OVERVIEW

(1) Part 1	(2) Part 2	(3) Part 3
- Books of Accounts - Financial Statement - Re-opening of Accounts - Voluntary Revision of Financial Statement / Board's Report	- NAFRA - Prescribed Accounting Standards - Financial Statement Approval / Authentication - Board's Report	- Corporate Social Responsibility - Circulation of Audited Fin.Statement - Filing Financial Statement with ROC - Internal Audit

List of abbreviations used: **A/c** = Account, **BOD** = Board of Directors, **MD** = Managing Director, **WTD** = Whole Time Director, **CFO** = Chief Financial Officer, **ROC** = Registrar of Companies, **NAFRA** = National Financial Reporting Authority, **CFS** = Consolidated Financial Statements, **SFS** = Separate Financial Statements, **CSR** = Corporate Social Responsibility.

1. Books of Accounts [Sec.128]

Particulars	Description
Items to be kept	- Books of Accounts, - Other relevant Books and Papers, - Financial Statements for every Financial Year.
Basic conditions as to Books	True and Fair view of the state of affairs of the Company (and its Branches if any), - To explain the transactions effected at Registered Office and Branches, Accrual Basis, and Double Entry System of Accounting.
Place of Keeping	- Registered Office, - Any other place in India as Board of Directors may decide. Note: In case of (2) above, a written notice shall be filed with ROC providing full address of other place.
Branch Accounts	For Local or Foreign Branches: [as per Sec.128] - Proper books of accounts relating to Branch's transactions shall be kept at the Branch. - Proper Summarised Returns shall be sent periodically to the Registered Office, or other place where books are kept. For Foreign Branches [As per Rules]: Summarised Returns of the Books of A/c kept and maintained outside India shall be sent to the Registered Office at quarterly intervals, which shall be kept and maintained at the Registered Office, and kept open to Directors for inspection.
Electronic Form	- Books of Account and other relevant books and papers maintained in electronic mode shall – remain accessible in India so as to be usable for subsequent reference. - be retained completely in the format in which they were originally generated, sent or received, or in a format which shall present accurately the information generated, sent or received and the information contained in the electronic records shall remain complete and unaltered. - be capable of being displayed in a legible form. - Information received from Branch Offices shall not be altered and shall be kept in a manner where it shall depict what was originally received from the Branches. - There shall be a proper system for storage, retrieval, display or printout of the electronic records as the Audit Committee, if any, or the Board may deem appropriate and such records shall not be disposed of or rendered unusable, unless permitted by law. - At the time of filing of Annual Financial Statements to the ROC, the Company should provide the following information in relation to maintenance of the Electronic Records – - Name of the Service Provider, - Internet Protocol Address of Service Provider, - Location of the Service Provider (wherever applicable), - Address as provided by Service Provider where the books are maintained on Cloud.

Particulars	Description
Period	Normal Period: Books of Accounts along with vouchers shall be kept by every Company for 8 preceding Financial Years. Shorter Period: The Company in existence less than 8 years, shall maintain books in respect of all such preceding years. Longer Period: If the Central Government has ordered an investigation on the Company, it should maintain the books for such longer period as directed in this regard.
Inspection of Books of A/c – General Points	Items: Books of Accounts, and the other books and papers maintained. Inspection: By any Director. Place: Registered Office or other place where they are kept. Time: During Business Hours.
Inspection of Books of A/c – Special Points	Foreign Financial Information: The conditions in this regard are – - Written Request is required from the Director, not by or through his Power of Attorney Holder or Agent or Representative. - The Request shall set out the full details of the financial information sought, the period for which such information is sought. - Details relating to Financial Information maintained outside India should be produced for inspection within 15 days from the date of receipt of request. Subsidiary Books: Inspection in respect of any Subsidiary of the Company shall be done only by the person authorized specifically by BOD's Resolution. Others: Officers and Employees of the Company shall give all reasonable assistance for the inspection, which the Company can be reasonably expected to give.
Non Compliance of Sec 128	Persons covered: - Managing Director, - Whole Time Director in charge of Finance, - Chief Financial Officer, - Any person authorised by Board of Directors to ensure compliance with Sec.128 Punishment: - Imprisonment of maximum 1 year, or - Fine of Minimum ₹ 50,000, Maximum ₹ 5,00,000, or - Both.

2. Financial Statement [Sec.129]

Particulars	Description
Financial Statements [Sec.2(40)]	"Financial Statement" in relation to a Company, includes – A Balance Sheet as at the end of the Financial Year, A Profit and Loss Account or an Income and Expenditure Account (in the case of a Company carrying on any activity not for Profit) for the Financial Year, Cash Flow Statement for the Financial Year, A Statement of Changes in Equity, if applicable, and Any Explanatory Note annexed to, or forming part of, any document referred to above. Note 1: The Financial Statement, with respect to One Person Company, Small Company and Dormant Company, may not include the Cash Flow Statement. Note 2: Financial Statement shall include any Notes annexed to or forming part of Financial Statements, giving information required to be given and allowed to be given in the form of such Notes.
Basic Requirements as to Financial Statements	- Give a true and fair view of the state of affairs of the Company(ies), - Comply with the Accounting Standards notified u/s 133, and - Be in the form(s) provided in Schedule III. - Items contained in Financial Statements shall be in accordance with the Accounting Standards.
Above Basic requirements, not applicable to	- Any Insurance Company, or - Any Banking Company, or - Any Company engaged in the Generation or Supply of Electricity, or

Particulars	Description								
	4. Any other Class of Company for which a form of Financial Statement is specified under the Act governing such class of Company.								
Disclosure Exempted under Specific Acts = True and Fair	- Where the disclosure of certain matters in Financial Statements are not required under the Governing Act (as listed below), then – - Financial Statements shall not be treated as not disclosing a true and fair view of the state of affairs of the Company. Category of Company / Relevant Law: <table border="1"> <tr> <td>Insurance Company</td><td>Insurance Act, 1938, or Insurance Regulatory and Development Authority Act, 1999</td></tr> <tr> <td>Banking Company</td><td>Banking Regulation Act, 1949</td></tr> <tr> <td>Company engaged in the Generation or Supply of Electricity</td><td>Electricity Act, 2003</td></tr> <tr> <td>Any other Class of Company, governed under separate Act, for which a form of Financial Statement is specified under that Act</td><td>That relevant Act</td></tr> </table>	Insurance Company	Insurance Act, 1938, or Insurance Regulatory and Development Authority Act, 1999	Banking Company	Banking Regulation Act, 1949	Company engaged in the Generation or Supply of Electricity	Electricity Act, 2003	Any other Class of Company, governed under separate Act, for which a form of Financial Statement is specified under that Act	That relevant Act
Insurance Company	Insurance Act, 1938, or Insurance Regulatory and Development Authority Act, 1999								
Banking Company	Banking Regulation Act, 1949								
Company engaged in the Generation or Supply of Electricity	Electricity Act, 2003								
Any other Class of Company, governed under separate Act, for which a form of Financial Statement is specified under that Act	That relevant Act								
Transitional Provisions with respect to Accounting Standards	- Accounting Standards specified under Companies Act, 1956 shall be deemed to be the Accounting Standards until Accounting Standards are specified by the Central Govt u/s 133. - Till NAFRA is constituted u/s 132, the Central Government may prescribe the Accounting Standards or any addendum thereto, as recommended by ICAI in consultation with and after examination of the recommendations made by the National Advisory Committee on Accounting Standards constituted u/s 210A of the Companies Act, 1956.								
If Fin.Statements do not comply with applicable Accounting Standards	The Company shall disclose in its Financial Statements – - The deviation from the Accounting Standards, - The reasons for such deviation, and - The financial effects, if any, arising out of such deviation.								
Presentation at AGM	At every AGM , the Board of Directors shall lay the Financial Statements for the Financial Year, before such AGM.								
Consolidated Financial Statements in respect of Subsidiaries	- A Company having one or more Subsidiaries, shall, prepare and lay at AGM– - Its Own Financial Statements (Separate Financial Statements=SFS), and - a Consolidated Financial Statement(CFS) of the Company and all its Subsidiaries. - CFS shall be in the same form and manner as that of its own, i.e. SFS. - The Company shall also attach along with its Financial Statement, a separate Statement containing the salient features of the Financial Statement of its Subsidiary(ies) in Form AOC-1. - For this purpose, Subsidiary shall include Associate Company and Joint Venture. - Manner of Consolidation: <table border="1"> <tr> <th>Particulars</th><th>CFS to be made in accordance with</th></tr> <tr> <td>Required to prepare CFS under AS</td><td>Sch III and Applicable AS</td></tr> <tr> <td>Not Required to prepare CFS under AS</td><td>Only Sch III</td></tr> </table> - The provisions applicable to the preparation, adoption and audit of the Financial Statements of a Holding Company, shall equally be applicable for Consolidated Financial Statements.	Particulars	CFS to be made in accordance with	Required to prepare CFS under AS	Sch III and Applicable AS	Not Required to prepare CFS under AS	Only Sch III		
Particulars	CFS to be made in accordance with								
Required to prepare CFS under AS	Sch III and Applicable AS								
Not Required to prepare CFS under AS	Only Sch III								
Power of CG to Exempt	- The Central Government may, - on its own or on an application by a class or classes of Companies, - by Notification, - exempt any class or classes of Companies, - from complying with any of the requirements of Sec.129 or the Rules, - if it is considered necessary to grant such exemption in the public interest, and - any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the Notification.								
Non Compliance of Sec.129	Person covered: - Managing Director, - Whole Time Director incharge of Finance, - Chief Financial Officer, - any person authorised by the BOD to ensure Compliance with Sec.129 - All Directors, in case of absence of any of the Officers in point (a) to (d).								

Particulars	Description
	2. Punishment: (a) Imprisonment of Maximum 1 year, or (b) Fine of Minimum ₹50,000, Maximum ₹ 5,00,000, or (c) Both.

3. Re-opening of Accounts on Courts' or Tribunals' order [Sec.130]

Particulars	Description
No Re-opening / Re-casting of Financial Statements	1. Rule: A Company shall not re-open its books of account or not recast its financial statements. 2. Exception: Re-opening of Books/ Re-casting of Financial Statements can be done only if an order is made by a court or Tribunal.
Grounds for re-opening / re-Casting	1. The relevant earlier accounts were prepared in a fraudulent manner , or 2. The affairs of the Company were mis-managed during the relevant period, thereby casting a doubt on the reliability of Financial Statements.
Person Eligible to apply for Reopening / Recasting	1. Central Government, 2. Income-Tax Authorities, 3. Securities and Exchange Board of India (SEBI), 4. Any other Statutory Regulatory Body or Authority, or 5. Any person concerned.
Order by Court / Tribunal	1. Court or Tribunal shall give notice to above Persons [1 to 4 (not 5) above] and shall take into consideration the representations made , if any before passing an order. 2. The accounts so revised or re-cast pursuant to the order shall be final .

4. Voluntary Revision of Financial Statements or Boards' Report [Sec.131]

Particulars	Description				
Grounds for Revision [Sec. 131(1)]	If it appears to the Directors of the Company that – (a) The Financial Statement of the Company, or (b) Board's Report } do not comply with the provisions of Sec. 129 or Sec. 134				
Restrictions / Conditions for Revision [Sec. 131(2)]	1. Revision can be in any of the 3 preceding financial years . 2. Revised Financial Statement or Report shall not be prepared or filed more than once in a Financial Year. 3. Reasons for revision of such Financial Statement or Report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made. 4. Revision must be restricted / confined as below: <table border="1" style="width: 100%; margin-top: 5px;"> <tr> <td style="width: 50%; text-align: center;">If the copies of the previous Financial Statement or Report have already been –</td><td style="width: 50%; text-align: center;">The revision must be confined to –</td></tr> <tr> <td style="vertical-align: top;"> (a) Sent out to Members, or (b) delivered to the Registrar, or (c) laid before the Company in General Meeting </td><td style="vertical-align: top;"> (a) The correction in respect of which the previous Financial Statement or Report do not comply with the provisions of Sec. 129 or Sec. 134, and (b) The making of any necessary consequential alternation. </td></tr> </table>	If the copies of the previous Financial Statement or Report have already been –	The revision must be confined to –	(a) Sent out to Members, or (b) delivered to the Registrar, or (c) laid before the Company in General Meeting	(a) The correction in respect of which the previous Financial Statement or Report do not comply with the provisions of Sec. 129 or Sec. 134, and (b) The making of any necessary consequential alternation.
If the copies of the previous Financial Statement or Report have already been –	The revision must be confined to –				
(a) Sent out to Members, or (b) delivered to the Registrar, or (c) laid before the Company in General Meeting	(a) The correction in respect of which the previous Financial Statement or Report do not comply with the provisions of Sec. 129 or Sec. 134, and (b) The making of any necessary consequential alternation.				
Procedure	1. The Company shall apply to the Tribunal for its approval. 2. Tribunal shall give notice to (a) the Central Government, and (b) Income Tax Authorities, and shall take into consideration the representations, if any, made. 3. Tribunal shall pass an order thereon. 4. A copy of the Tribunal's order shall be filed with the ROC. 5. Board shall effect the revision in Financial Statement / Report as per above order.				
Power of CG to make Rules [Sec. 131(3)]	Central Government may make Rules as to the application of the Act in relation to Revised Financial Statement or a Revised Director's Report, covering the following– 1. make different provisions according to which the previous Financial Statement or Report are replaced or are supplemented by a document indicating the corrections to be made,				

Particulars	Description
	2. make provisions with respect to the functions of the Company's Auditor in relation to the Revised Financial Statement or Report, 3. require the Directors to take such steps as may be prescribed.

5. National Financial Reporting Authority (NAFRA) [Sec.132]

- Constitution [Sec.132(1)]:** The Central Govt may, by notification, constitute a National Financial Reporting Authority (**NAFRA**) to provide for matters relating to Accounting and Auditing Standards under the Companies Act 2013.
- Members [Sec.132(3)]:** NAFRA shall consist of –
 - A Chairperson, who shall be a person of eminence and having expertise in Accountancy, Auditing, Finance or Law to be appointed by the Central Government, and
 - Other Members not exceeding **fifteen**, consisting of part-time and full-time Members as may be prescribed.
- Conditions as to Members of NAFRA [Sec.132(3) Provisos]:**
 - Terms and Conditions:** Terms and Conditions and the manner of appointment of the Chairperson and Members shall be prescribed by Central Government.
 - Independence / Conflict of Interest:** Chairperson and Members shall make a declaration to the Central Government regarding **no conflict of interest** or **lack of independence** in respect of his or their Appointment.
 - No Nexus with Audit Firm:** The Chairperson and Members, who are in full-time employment with NAFRA, shall **not** be associated with any Audit Firm (including related Consultancy Firms) **during** the course of their appointment and **two years** after ceasing to hold such appointment.
- Scope of NAFRA's Duties [Sec.132(2)]:**
 - Make **recommendations** to the Central Government on the formulation and laying down of Accounting and Auditing Policies and Standards for adoption by Companies or class of Companies or their Auditors,
 - Monitor** and enforce the compliance with Accounting and Auditing Standards in prescribed manner,
 - Oversee** the Quality of Service of the Professions associated with ensuring compliance with such Standards, and suggest measures required for improvement in Quality of Service and such other related matters as may be prescribed, and
 - Perform such **other functions** relating to the above points (a), (b) and (c) as may be prescribed.

Note: The above areas shall be NAFRA's duties, notwithstanding anything contained in any other law.
- Investigation and Other Powers of NAFRA [Sec.132(4)]:** Notwithstanding anything contained in any other law, NAFRA shall have the following powers –

(a) Investigation	- NAFRA have the power to investigate, either suo motu or on a reference made to it by the Central Government, for specified class of Bodies Corporate or Persons, into the matters of professional or other misconduct committed by any Member or Firm of Chartered Accountants, registered under the CA Act, 1949. - Where NAFRA has initiated an investigation, no other Institute or Body shall initiate or continue any proceedings in such matters of misconduct.
(b) Civil Court Powers	NAFRA have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of – - discovery and production of books of account and other documents, at the place and time specified by it, - summoning and enforcing the attendance of persons and examining them on oath, - inspection of any books, registers and other documents of any person at any place, - issuing commissions for examination of witnesses or documents,
(c) Punish for professional misconduct	Where professional or other misconduct is proved, NAFRA have the power to make order for – Imposing penalty of – - Minimum ₹ 1,00,000, Maximum five times of Fees Received, in case of Individuals, and - Minimum ₹ 10,00,000, Maximum ten times of Fees Received, in case of Firms, Debarring the Member or the Firm from engaging himself or itself from practice as Member of the ICAI for a period, Minimum 6 months, Maximum 10 years.

Note: "Professional or Other Misconduct" shall have the same meaning as u/s 22 of the CA Act, 1949.

6. **Appeal against NAFRA's Orders [Sec.132(5) to (9)]:**

(a) Constitution [Sec. 132(6)]	The Central Government may, by notification, constitute, an Appellate Authority consisting of a Chairperson and not more than two other Members, to be appointed by the Central Government, for hearing appeals arising out of the orders of the NAFRA.
(b) Appellant [Sec. 132(5)]	Any person aggrieved by any order of the NAFRA u/s 132(4)(c), may prefer an appeal before the Appellate Authority constituted u/s 132 (6).
(c) Appellate Authority [Sec. 132(7)]	The Central Government shall prescribe – • qualifications for appointment of the Chairperson and Members of Appellate Authority, • manner of selection, • terms and conditions of their service, • requirement of the supporting staff, and • procedure (including places of hearing the appeals, form and manner in which the appeals shall be filed) to be followed by the Appellate Authority.
(d) Fees [132(8)]	The Fee for filing the appeal shall be prescribed by the Central Government.
(e) Annual Report [Sec. 132(9)]	• The Officer authorised by the Appellate Authority shall prepare its Annual Report giving a full account of its activities. • He shall forward a copy thereof to the Central Government. • Central Govt shall cause the Annual Report to be laid before each House of Parliament.

7. **NAFRA's Working and Administration [Sec.132(10) to (15)]:**

(a) Procedure [Sec. 132(10)]	NAFRA shall meet at such times and places and shall observe rules of procedure in regard to the transaction of business at its meetings in such manner as prescribed.
(b) Secretary and Employees [Sec. 132(11)]	• The Central Government may appoint a Secretary and other Employees as it may consider necessary for the efficient performance of functions by the NAFRA. • The terms and conditions of service of the Secretary and Employees shall be prescribed by the Central Government.
(c) Head Office [Sec. 132(12)]	• The Head Office of the NAFRA shall be at New Delhi. • NAFRA may meet at such other places in India as it deems fit.
(d) Books [Sec. 132(13)]	NAFRA shall maintain books of account and other books in relation to its accounts, in the form and manner prescribed by the Central Government, in consultation with the C&AG of India.
(e) Audit [Sec. 132(14)]	• NAFRA's accounts shall be audited by the C&AG at specified intervals. • The accounts as certified by the C&AG, together with the Audit Report thereon shall be forwarded annually to the Central Government by NAFRA.
(f) Annual Report [Sec. 132(15)]	• NAFRA shall prepare its Annual Report, giving a full account of its activities during the Financial Year. • NAFRA shall forward a copy thereof to the Central Government. • The Central Government shall cause the Annual Report and the Audit Report given by the C&AG, to be laid before each House of Parliament.

6. **Central Government to prescribe Accounting Standards [Sec.133]**

The Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted u/s 3 of the Chartered Accountants Act, 1949, in consultation with and after examination of the recommendations made by the NAFRA.

7. **Financial Statement Approval / Authentication [Sec.134]**

1. **Signing of Financial Statements [Sec. 134(1)]:**

Approval	Before submission to the Auditor for his report, the Financial Statement, including Consolidated Financial Statement, shall be approved by the Board of Directors.			
Signing	The signing requirements of Financial Statement are as below –			
	(a) By the Chairperson of the Company, where he is authorised by the Board, or	AND	(a) The Chief Executive Officer, if he is a Director in the Company,	} wherever they are appointed
	(b) By two Directors out of which one shall be Managing Director,		(b) The Chief Financial Officer, and	
			(c) The Company Secretary of the Company	
	Note: In case of a One Person Company, the Financial Statement shall be signed only by one Director .			

2. **Circulation of Financial Statement [Sec. 134(7)]:** A signed copy of every Financial Statement, including Consolidated Financial Statement, if any, shall be **issued, circulated or published** along with a Copy each of–
 - (a) any **Notes** annexed to or forming part of such Financial Statement,
 - (b) the **Auditor's Report**, and
 - (c) the Board's Report referred u/s 134 (3).

Note: Auditors' Report shall be attached to every Financial Statement. **[Sec. 134 (2)]**

8. Board's Report [Sec.134]

To the statements laid before a Company in General Meeting, a Report by its Board of Directors shall be **attached**. The provisions in this regard are –

1. **Basis = SFS [Rules]:**
 - (a) The Board's Report shall be prepared based on the **stand-alone** Financial Statements of the Company.
 - (b) The Report shall contain a **separate section** wherein a report on the performance and financial position of each of the Subsidiaries, Associates and Joint Venture Companies included in the **Consolidated** Financial Statement is presented.
2. **Signature of Board's Report [Sec.134(6)]:** The Board's Report and any annexures thereto shall be signed by –
 - (a) Chairperson of the Company if he is authorised by the Board,
 - (b) where Chairperson is not so authorised, by atleast two Directors, one of whom shall be a Managing Director, or
 - (c) by the Director where there is one Director.
3. **Contents [Sec.134 (3)]:** This Board's Report shall include the following –
 - (a) the extract of the **Annual Return** as provided u/s 92 (3),
 - (b) **Number of Meetings** of the Board,
 - (c) Directors' **Responsibility Statement**, **[See Point 4]**
 - (d) a Statement on Declaration given by **Independent Directors** u/s 149(6),
 - (e) in case of a Company covered u/s 178(1), **Company's Policy on Directors' Appointment** and Remuneration, including criteria for determining qualifications, positive attributes, independence of a Director and other matters provided u/s 178(3),
 - (f) Explanations or Comments by the Board on every **Qualification, Reservation or Adverse Remark or Disclaimer** made–
 - (i) by the **Auditor** in his report, and
 - (ii) by the **Company Secretary** in practice in his Secretarial Audit Report,
 - (g) Particulars of **Loans**, Guarantees or Investments u/s 186,
 - (h) Particulars of Contracts or Arrangements with **Related Parties** referred to u/s 188(1) in **Form AOC–2**,
 - (i) the **state** of the Company's affairs,
 - (j) the Amounts, if any, which it proposes to carry to any **Reserves**,
 - (k) the Amount, if any, which it recommends should be paid by way of **Dividend**,
 - (l) **Material Changes and Commitments**, if any, affecting the Financial Position of the Company which have occurred between the end of the Financial Year of the Company to which the Financial Statements relate and the date of the Report,
 - (m) the Conservation of Energy, Technology Absorption, Foreign Exchange Earnings and Outgo, **[See Point 5]**,
 - (n) a Statement indicating development and implementation of a **Risk Management Policy** for the Company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the Company,
 - (o) the details about the policy developed and implemented by the Company on **Corporate Social Responsibility** initiatives taken during the year, as per Annexure attached to Companies (CSR) Rules, 2014,
 - (p) in case of a Listed Company and every other Public Company having Paid-Up Share Capital of ₹ 25 Crores or more, a Statement indicating the manner in which formal **annual evaluation** has been made by the Board of its own **performance** and that of its Committees and individual Directors,
 - (q) such **other matters** as may be prescribed. **[See Point 4]**

4. **Directors' Responsibility Statement [Sec.134(5)]:** The Directors' Responsibility Statement referred u/s 134(3)(c) shall state the following –
- in the preparation of the Annual Accounts, the applicable **Accounting Standards** had been followed along with proper explanation relating to material departures,
 - the Directors had selected such **accounting policies** and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the Company at the end of the Financial Year and of the Profit and Loss of the Company for that period,
 - the Directors had taken proper and sufficient care for the **maintenance** of adequate accounting records in accordance with the provisions of this Act for **safeguarding** the assets of the Company and for **preventing** and detecting fraud and other irregularities,
 - the Directors had prepared the annual accounts on a **going concern** basis, and
 - the Directors, in the case of a Listed Company, had laid down **Internal Financial Controls** to be followed by the Company and that such Internal Financial Controls are adequate and were operating effectively.
 - the Directors had devised proper systems to ensure **compliance with** the provisions of all **applicable laws** and that such systems were adequate and operating effectively.

Note: "Internal Financial Controls" means the policies and procedures adopted by the Company for ensuring the orderly and efficient conduct of its business, including adherence to Company's policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information.

5. **Information u/s 134(3)(m):** The Board's Report shall contain the following information and details –

(a) Conservation of Energy	- Steps taken or impact on Conservation of Energy, - Steps taken for utilizing alternate sources of Energy, - Capital Investment on Energy Conservation Equipments.
(b) Technology Absorption	- Efforts made towards Technology Absorption, - Benefits derived like Product Improvement, Cost Reduction, Product Development or Import Substitution, - In case of Imported Technology (imported during the last 3 years reckoned from the beginning of the financial year) – - Details of Technology imported, - Year of Import, - Whether the Technology has been fully absorbed, - If not fully absorbed, areas where absorption has not taken place, and reasons thereof. - Expenditure incurred on Research and Development
(c) Foreign Exchange Earnings and Outgo	- Foreign Exchange earned in terms of actual inflows during the year, - Foreign Exchange outgo in terms of actual outflows during the year.

6. **Information u/s 134(3)(q):** The Board's Report shall also contain the following –
- Financial Summary or Highlights,
 - Change in the nature of Business, if any,
 - Details of Directors or Key Managerial Personnel who were appointed or have resigned during the year,
 - Names of Companies which have become or ceased to be its Subsidiaries, Joint Ventures, or Associate Companies during the year,
 - Details relating to Deposits, covered under Chapter V of the Act –
 - accepted during the year,
 - remained unpaid or unclaimed as at the end of the year,
 - whether there has been any default in repayment of Deposits or payment of Interest thereon during the year and if so, number of such cases and the total amount involved –
 - at the beginning of the year,
 - maximum during the year,
 - at the end of the year,
 - Details of Deposits which are not in compliance with the requirements of Chapter V of the Act,

- (g) Details of significant and material orders passed by the Regulators or Courts or Tribunals impacting the Going Concern Status and Company's operations in future,
(h) Details in respect of adequacy of Internal Financial Controls with reference to the Financial Statements.

7. Other Points:

Punishment for Contravention of Sec.134 [Sec.134(8)]	For Company: Fine of Minimum ₹ 50,000, Maximum ₹ 25,00,000. For every Officer in Default: - Imprisonment of maximum 3 years, or - Fine of Minimum ₹ 50,000, Maximum ₹ 5,00,000, or - Both.
For One Person Company [Sec.134(4)]	In case of a One Person Company, the Board's Report u/s 134 shall mean a Report containing explanations or comments by the Board on every Qualification, Reservation or Adverse Remark or Disclaimer made by the Auditor in his Report. [Note: No other detailed contents required.]

9. Corporate Social Responsibility – CSR [Sec.135]

REFER PAGE 33

10. Right of Members to Copies of Audited Financial Statements [Sec.136]

Particulars	Description	
Items to be circulated	1. Copy of the Financial Statements, including Consolidated Financial Statements, if any, 2. Auditor's Report, and 3. Every other document required by law to be annexed or attached to the Financial Statements } which are to be laid before a Company in its General Meeting.	
Persons entitled to receive above	1. Every Member of the Company, 2. Every Trustee for the Debenture-holder of any Debentures issued by the Company, and 3. All Persons other than such Member or Trustee, being the person so entitled.	
Time Limit	Not less than 21 days before the date of the Meeting.	
Inspection	A Company shall allow every Member or Trustee of the Holder of any Debentures issued by the Company to inspect the above documents at its Registered Office during business hours.	
Punishment for Non-Compliance	1. For Company: Penalty of ₹ 25,000 2. For every Officer in Default: Penalty of ₹ 5,000	
Special Points for Listed Companies	1. Copies of above documents should be made available for inspection at its Registered Office during working hours for a period of 21 days before the date of the Meeting. 2. Unless the Shareholders ask for full Financial Statements, the Company may circulate as under, not less than 21 days before the date of the Meeting –	
	Items to be sent	To whom sent?
	(a) A Statement containing the salient features of these documents in Form AOC-3, or (b) Copies of the documents, as the Company may deem fit.	(a) To every Member of the Company, and (b) To every Trustee for the Holders of any Debentures issued by the Company.
Special Points for Circulation in certain cases	In case of all Listed Companies and Public Companies which have a Net Worth of more than ₹ 1 Crore and Turnover of more than ₹ 10 Crores, the Financial Statements may be sent – 1. By Electronic Mode to Members whose Shareholding is in Demat Form, and whose email ids are registered with the Depository for communication purposes, 2. By Electronic Mode to Members who have positively consented in writing to receiving by electronic mode, where the Shareholding is not in Demat Form, 3. By Despatch of Physical Copies through any recognised mode of delivery u/s 20, in all other cases.	
Website Hosting by Listed Companies	A Listed Company shall also place its Financial Statements including Consolidated Financial Statements, if any, and all other documents required to be attached thereto, on its Website, which is maintained by or on behalf of the Company.	

Particulars	Description
For Holding Companies	Every Company having a Subsidiary or Subsidiaries shall – 1. place Separate Audited Accounts in respect of each of its Subsidiary on its Website, if any, 2. provide a copy of Separate Audited Financial Statements in respect of each of its Subsidiary, to any Shareholder of the Company who asks for it.

11. Copy of Financial Statement to be filed with Registrar [Sec.137]

Particulars	Description
Documents to be filed with ROC	Following documents duly adopted at the AGM of the Company, should be filed with ROC – 1. Copy of the Financial Statements, including Consolidated Financial Statement, if any, along with 2. All the documents which are required to be or attached to such Financial Statements under the Act.
Time Limit	Within 30 days of the date of AGM.
Manner	1. Fees or Additional Fees as may be prescribed within the time specified u/s 403, shall be paid. 2. Company shall file the Financial Statements with ROC, together with Form AOC-4.
If Financial Statement not adopted at AGM	1. Where the Financial Statements are not adopted at AGM or adjourned AGM, such Unadopted Financial Statements along with the required documents shall be filed with the ROC within 30 days of the date of AGM. 2. The Registrar shall take them in his records as provisional till the Financial Statements are filed with him after their adoption in the adjourned AGM for that purpose.
After adoption at adjourned AGM	Adopted Financial Statements shall be filed with the Registrar within 30 days of such adjourned AGM, with fees or additional fees.
If AGM not held [Sec.137(2)]	If the AGM for any year has not been held, the following shall be filed with the ROC within 30 days of the last date before which the AGM should have been held, along with prescribed fees – 1. Financial Statements and other documents as normally required, duly signed, 2. Statement of Facts and Reasons for not holding the AGM.
For One Person Company	A One Person Company shall file a copy of the Financial Statements duly adopted by its Member, along with all the documents which are required to be attached to such Financial Statements, within 180 days from the closure of the Financial Year.
Subsidiaries outside India	Along with its Financial Statements to be filed with ROC, a Company shall attach the accounts of its Subsidiary or Subsidiaries which have been incorporated outside India and which have not established their place of business in India.
Punishment for Contravention [Sec.137(3)]	1. Act / Omission: Failure to file the copy of Financial Statements u/s 137(1)/(2), within the period specified u/s 403, i.e. 270 days from the date on which it should have been filed. 2. Persons punishable: (a) Company itself, (b) the Managing Director and the Chief Financial Officer of the Company, if any, (c) in the absence of the MD and CFO, any other Director who is charged by the Board with the responsibility of complying with the provisions of Sec.137, (d) in the absence of any such Director, all the Directors of the Company. 3. Punishment: (a) For Company: Fine of ₹ 1,000 per day during which failure continues, Maximum ₹ 10,00,000. (b) Other Persons in Default: • Imprisonment of maximum 6 months, or • Fine of Minimum ₹ 1,00,000, Maximum ₹ 5,00,000, or • Both.

12. Internal Audit [Sec.138]

The provisions relating to Internal Audit are as under –

Particulars	Description
Companies required to appoint Internal Auditor	- Every Listed Company - Every Unlisted Public Company, during the preceding Financial year having – - Paid Up Share Capital of ₹ 50 Crores or more, or - Turnover of ₹ 200 Crores or more, or - Outstanding Loans or Borrowings from Banks or Public Financial Institutions exceeding ₹ 100 Crores or more at any point of time during the preceding financial year, or - Outstanding Deposits of ₹ 25 Crores or more at any point of time during the preceding financial year. - Every Private Company having – - Turnover of ₹ 200 Crores or more during the preceding financial year, or - Outstanding Loans or Borrowings from Banks or Public Financial Institutions exceeding ₹ 100 Crores or more at any point of time during the preceding financial year.
Existing Companies	Existing Company covered under any of the above criteria shall appoint Internal Auditor within the month of Sep 2014 (i.e. 6 months from the commencement of this section).
Conditions as to appointment	- Internal Auditor may be an Individual or a Firm. - Internal Auditor, shall either be a Chartered Accountant or a Cost Accountant, or such other Professional as may be decided by the Board to conduct internal audit of the functions and activities of the Company. - The term Chartered Accountant shall mean a CA, whether engaged in practice or not. - The Internal Auditor may or may not be an Employee of the Company.
Other Points	- The Audit Committee or the Board shall, in consultation with the Internal Auditor, formulate the scope, functioning, periodicity and methodology for conducting the internal audit. - Manner and Intervals of Internal Audit shall be prescribed by the Central Government.

Chapter X – Audit and Auditors

Chapter X comprises Sec.139 to Sec.148. The relevant Rules are called Companies (Audit and Auditors) Rules, 2014.

OVERVIEW

(1) Qualifications	(2) Appointment	(3) Removal, Rights, Misc, etc.
1. Qualifications of Auditors 2. Disqualifications of Auditors 3. Auditor not to render Certain Services 4. Remuneration of Auditors 5. Audit of Branches	1. Appointment of First Auditors 2. Appointment of Auditors of Govt Companies 3. Appointment of Auditors at AGM 4. Manner & Procedure for Selection & Appointment of Auditors 5. Casual Vacancy 6. Re-appointment of Retiring Auditor 7. Rotation of Auditors 8. Illustration on Rotation of Auditors	1. Removal of Auditors before expiry of term 2. Removal of Auditors at AGM 3. Change of Auditors based on Tribunal's Direction 4. Resignation of Auditors 5. Rights of Auditors 6. Duties of Auditors 7. Punishment for Contravention 8. Cost Audit

1. Qualifications

1.1 Qualifications of Auditors [Sec.141(1), (2)]

1. A person shall be eligible for appointment as an Auditor of a Company only if he is a Chartered Accountant.
2. A Firm whereof **majority** of the Partners **practising in India** are qualified for appointment, as aforesaid, may be appointed by its Firm Name to be the Auditors of a Company.
3. Where a Firm (including a LLP) is appointed as Auditor of the Company, only the **Partners who are Chartered Accountants** are authorised to act and sign on behalf of the Firm.

1.2 Disqualifications of Auditors [Sec.141(3), (4) and Rules]

1. **Disqualifications [Sec.141(3)]:** The following persons are not eligible for appointment as an Auditor of a Company –
 - (a) a **Body Corporate** other than a Limited Liability Partnership,
 - (b) an **Officer** or **Employee** of the Company,
 - (c) a Person who is a **Partner**, or who is in the **employment**, of an Officer or Employee of the Company,
 - (d) a Person who, or his Relative or Partner –
 - (i) is holding any security of or interest in the Company or its Subsidiary, Holding or Associate Company or a Subsidiary of such Holding Company. (**Note:** A Relative may hold security or interest in the Company of Face Value not exceeding ₹ 1,00,000.)
 - (ii) is indebted to the Company or its Subsidiary, Holding or Associate Company or a Subsidiary of such Holding Company, in excess of ₹ 5,00,000, or
 - (iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the Company, or its Subsidiary, Holding or Associate Company or a Subsidiary of such Holding Company, in excess of ₹ 1,00,000.
 - (e) a Person or a Firm who, whether directly or indirectly, has **business relationship** with the Company, or its Subsidiary, Holding or Associate Company or Subsidiary of such Holding Company or Associate Company,
 - (f) a Person whose **Relative is a Director** or is in the employment of the Company as a Director or Key Managerial Personnel,
 - (g) a Person who is in full time employment elsewhere or a person or a Partner of a Firm **holding audits of more than 20 Companies** on the date of appointment or re-appointment as Auditor,
 - (h) a Person who has been **convicted** by a Court, of an offence involving **fraud**, and a period of 10 years has not elapsed from the date of such conviction,

- (i) any Person whose Subsidiary or Associate Company or any other form of Entity, is engaged as on the date of appointment, in **consulting and specialised services** as provided in Sec.144.

Note: For the purposes of Point (e) above, **Business Relationship** shall be construed as **any transaction** entered into for a **commercial purpose**, except –

- (a) Commercial Transactions which are in the nature of **Professional Services** permitted to be rendered by an Auditor or Audit Firm under the Companies Act or CA Act and Rules / Regulations thereunder
- (b) Commercial Transactions in the ordinary course of business of the Company at Arm's Length Price, like sale of products or services to the Auditor, as Customer, in the ordinary course of business, by Companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.

2. **Subsequent Disqualification = Casual Vacancy:** If an Auditor, after his appointment, becomes subject to any of the above disqualifications, he shall be deemed to have automatically vacated his office and that vacancy shall be considered to be a Casual Vacancy. **[Sec.141(4)]**

1.3 Auditor not to render Certain Services [Sec.144]

1. **Only Approved Services:** An Auditor of the Company can provide only those Other Services as approved by the Board of Directors or the Audit Committee.
2. **Prohibited Services:** The following services shall **not** be provided by an Auditor directly or indirectly to the Company or its Holding Company or Subsidiary Company –
 - (a) Accounting and Book Keeping Services,
 - (b) Internal Audit,
 - (c) Design and Implementation of any Financial Information System,
 - (d) Actuarial Services,
 - (e) Investment Advisory Services,
 - (f) Investment Banking Services,
 - (g) Rendering of Outsourced Financial Services,
 - (h) Management Services,
 - (i) Any other kind of Services as may be prescribed.
3. **1 Year Timeframe:** An Existing Auditor which renders any of the non-audit services, shall comply with Sec.144 before the closure of the first financial year after the date of commencement of this Act.

4. **Meanings:** The term “**directly or indirectly**” includes rendering of services by the Auditor –

In case of Auditor being an Individual	In case of Auditor being an Audit Firm
(a) either himself, or (b) through his Relative, or (c) any other person connected or associated with such Individual, or (d) through any other Entity, in which such Individual has significant influence or control, or whose Name or Trademark or Brand is used by such Individual,	(a) either itself, or (b) through any of its Partners, or (c) through its Parent, Subsidiary or Associate Entity, or (d) through any other Entity, in which the Firm or any Partner of the Firm has significant influence or control, or whose Name or Trademark or Brand is used by the Firm or any of its Partners.

1.4 Remuneration of Auditors [Sec.142]

1. The Remuneration of the Auditor shall be fixed by the Members – (a) in its General Meeting, or (b) in such manner as may be determined at the Meeting.
2. Remuneration of the First Auditor may be fixed by the Board of Directors.
3. Remuneration **includes** –
 - (a) Fees Payable to the Auditor,
 - (b) Expenses if any, incurred by the Auditor in connection with the audit and any facility extended to the Auditor.
4. However, Remuneration **does not include** amount paid for any other service rendered by the Auditor at the request of the Company.

1.5 Audit of Branches [Sec.143(8), Rules]

1. **Qualifications:** The following persons are eligible for appointment as Branch Auditors –

In case of Local Branches	In case of Foreign Branches
(a) The Company's Auditor appointed u/s 139, or (b) A person qualified for appointment as an Auditor u/s 139.	(a) The Company's Auditor appointed u/s 139, or (b) An Accountant or other person duly qualified to act as an Auditor in accordance with the laws of that foreign country.

2. **Audit Report of Branch:**

- (a) The Branch Auditor shall prepare a Report on the accounts of the Branch Office examined by him.
(b) The Branch Auditor shall submit his report to the Company's Auditor, who shall deal with it in the manner required to finalise his Audit Report.

3. **Duties and Powers of Company and Branch Auditor:** The duties and powers of the Company's Auditor with reference to the audit of the Branch, and the Branch Auditor, if any, shall be as contained in Sec.143(1) to 143(4).

4. **Frauds at Branch:** Sec.143(12) along with Rules, relating to reporting of fraud by the Company Auditor, shall also extend to Branch Auditor, to the extent it relates to the concerned Branch.

2. Appointment

2.1 Appointment of First Auditors [Sec.139(6), 139 (7)]

Provision	Sec.139(7)	Sec.139(6)
Type of Company covered	1. Government Companies, or 2. Any other Company owned or controlled, directly or indirectly, by – (a) By the Central Government, or (b) By any State Government or Governments, or (c) Partly by the Central Government and partly by one of more State Governments.	Any other Company
Appointment of First Auditor	Appointment by: C&AG of India. Time Limit: Within 60 days from the date of registration of the Company.	Appointment by: Board of Directors. Time Limit: Within 30 days from the date of registration of the Company.
In case of failure of above	The Board of Directors shall appoint the First Auditor, within the next 30 days .	See next point below.
In case of BOD failure	- BOD shall inform the Members of its failure. - Members shall appoint the Auditor, within 60 days, in an EGM.	- BOD shall inform the Members of its failure. - Members shall appoint the Auditor, within 90 days, in an EGM.
Tenure	First Auditor shall hold office till the conclusion of the First AGM .	First Auditor shall hold office till the conclusion of the First AGM .
Overriding of	The above provisions override Sec.139(1) & 139(5).	The above provisions override Sec.139(1).

2.2 Appointment of Auditors of Govt Companies [Sec.139(5)]

Point	Description
Type of Companies	1. Government Companies, or 2. Any other Company owned or controlled, directly or indirectly, by – (a) By the Central Government, or (b) By any State Government or Governments, or (c) Partly by the Central Government and partly by one of more State Governments.

Point	Description
Appointment of Auditors	Appointee: Auditor duly qualified to be appointed as Auditor under the Act. Appointment by: Comptroller and Auditor General (C&AG) of India. Time Limit: Within 180 days from the commencement of the financial year. Tenure: To hold office till the conclusion of the AGM.

2.3 Appointment of Auditors at AGM [Sec.139(1)]

Point	Description
Appointment at AGM	Every Company shall appoint an Individual or a Firm as Auditor of the Company, at its 1st AGM. Note: Appointment includes re-appointment. Firm includes a Limited Liability Partnership (LLP) incorporated under the LLP Act, 2008.
Tenure	- Auditor shall hold the office from the conclusion of 1st AGM to till the conclusion of its 6th AGM and thereafter till the conclusion of every 6th AGM. - For the above purpose, the Meeting wherein such appointment has been made will be counted as the first Meeting.
Ratification at every AGM	- The Company shall place the matter relating to appointment of Auditors, for ratification by Members, at every AGM, by way of passing an Ordinary Resolution. - If the appointment is not ratified by the Members of the Company at the AGM, the Board of Directors shall appoint another Individual / Firm as the Auditor(s), after following the procedure laid down in this behalf under the Act.
Duties of Company	- The Company should obtain the written consent of the Auditor, and the prescribed Certificate from the Auditor, before appointing the Auditor. [Note: See next point for Certificate.] - The Company should inform the Auditor about his appointment and file a notice with the Registrar, within 15 days of the Meeting in which Auditor was appointed, in Form ADT-1. ADT-1 Contents include details as to Auditors' – (a) Income Tax PAN, (b) Name, (c) Membership Number / Firm Registration Number, (d) Address, with City, State and PIN Code, (e) email id.
Contents of Certificate by Auditor	- The Auditor (Individual / Firm), is eligible for appointment, and is not disqualified for appointment under the Companies Act, the Chartered Accountants Act, 1949 and its related Rules or Regulations, - The proposed appointment is as per the term provided under the Act, - The proposed appointment is within the limits laid down by or under the authority of the Act, - The list of proceedings against the Auditor or Audit Firm or any Partner of the Audit Firm pending with respect to professional matters of conduct, as disclosed in the Certificate, is true and correct.
Effect of no appointment at AGM	If at any AGM, the Auditor is not appointed or re-appointed, the Existing Auditor shall continue to be the Auditor of the Company. [Sec.139(10)]

2.4 Manner & Procedure for Selection & Appointment of Auditors [S.139(1) & Rules]

Situation "A"	Where Audit Committee is required to be constituted u/s 177 (i.e. for Listed Companies and other prescribed class(es) of Companies)
Initial Selection of Auditors by Committee	The Audit Committee shall recommend to the BOD, the name of an Individual / Firm as Auditor, after considering the following – - Qualifications and Experience of the Individual / Firm. - Whether such Qualifications and Experience are commensurate with the size and requirements of the Company. - Order or Pending Proceedings against the Individual / Firm relating to professional matter of conduct, before the ICAI or Competent Authority or Court. - Any other information which the Committee has called for from the Proposed Auditor.

Situation "A"	Where Audit Committee is required to be constituted u/s 177 (i.e. for Listed Companies and other prescribed class(es) of Companies)
If Audit Committee and BOD agree	If the BOD agrees with the recommendation of Audit Committee, the BOD shall – 1. further recommend the appointment to the Members, 2. place the matter for consideration by Members in the AGM.
If Audit Committee and BOD disagree	1. If the BOD disagrees with Audit Committee's recommendation, it should refer back to the Audit Committee for its reconsideration, citing the reasons for its disagreement. 2. If the Audit Committee does not reconsider its recommendation, after taking the reasons given by the BOD, then, the BOD shall – (a) record the reasons for its disagreement with the Committee. (b) send its own recommendation for consideration of the Members in the AGM.

Note: If a Company is required to constitute Audit Committee u/s 177, all appointments, including the filling of a casual vacancy of an Auditor should be made after considering that Committee's recommendations. **[Sec.139(11)]**

Situation "B": When there is no requirement as to Audit Committee

The **Board of Directors** (BOD) shall recommend to the **Members** in the AGM, the name of an Individual / Firm as Auditor, after considering the factors mentioned in the Table above in Situation A.

2.5 Casual Vacancy [Sec.139(8)]

Type of Company	For Companies whose accounts are subject to audit by an Auditor appointed by the C&AG	For all other Companies
Filling of Casual Vacancy	• C&AG shall fill the Casual Vacancy, within 30 days. • If C&AG does not fill the vacancy within 30 days, the BOD shall fill the vacancy, within next 30 days.	• Board of Directors shall fill the casual vacancy, within 30 days. See Notes below.
Tenure	• Till the conclusion of the next AGM. [as per Sec.139(5)]	• Till the conclusion of the next AGM. [Sec.139(8)]

Note:

- If vacancy is caused by resignation, the appointment should also be approved by the Company at a General Meeting convened within 3 months of BOD recommendation.
- For Companies in which an Audit Committee u/s 177 is required, the recommendations of that Committee shall also be considered for Casual Vacancy.

2.6 Re-appointment of Retiring Auditor [Sec.139(9)]

Subject to Sec.139(1), the Retiring Auditor may be re-appointed at an AGM, if –

1. If the Retiring Auditor is **not disqualified** for re-appointment,
2. If the Retiring Auditor has **not given** the Company a notice in writing of his unwillingness to be re-appointed,
3. If a Special Resolution has **not** been passed at that AGM, appointing another Auditor instead of the Retiring Auditor or providing expressly that the Retiring Auditor shall not be re-appointed.

2.7 Rotation of Auditors [Sec.139(2), (3), (4), Rules]

Rotation Principles Applicable to	1. Listed Companies 2. All Unlisted Public Companies having Paid Up Share Capital of ₹ 10 Crores or more, 3. All Private Limited Companies having Paid Up Share Capital of ₹ 20 Crores or more, 4. All Companies having Paid Up Share Capital below the above specified limits, but having Public Borrowings from Financial Institutions, Banks or Public Deposits of ₹ 50 Crores or more. Note: Excluded Companies – (a) One Person Company, and (b) Small Company.
Maximum Tenure of Auditors	The above Companies shall not appoint / re-appoint – 1. An Individual as Auditor, for more than 1 term of 5 consecutive years, and 2. An Audit Firm as Auditor, for more than 2 terms of 5 consecutive years.

Auditors Ineligible for appointment – Different Scenarios	Cooling Off Period: Any Individual or Audit Firm shall not be eligible for re-appointment as Auditor in the same Company, for 5 years from the completion of their audit term. Common Partners: Any Audit Firm having common partner(s) on the date of appointment, in the retiring Audit Firm whose tenure has expired immediately preceding the financial year, shall not be appointed as Auditor, for a period of 5 years. Old Certifying Partner in New Firm: If a Partner, who is in charge of an Audit Firm and also certifies the Financial Statements of the Company, retires from the said Firm and joins another Firm of Chartered Accountants, then such Other Firm is also ineligible to be appointed for a period of 5 years. Same Network Firms: The Incoming Auditor or Audit Firm is not eligible to be appointed, if it is associated with the Outgoing Auditor or Audit Firm under the same network of Audit Firms. [Note: "Same Network" includes the Firms functioning, hitherto or in future, under the same brand name, trade name or common control.]
3 Year Time Period for Compliance	Every Existing Company which is required to comply with Sec.139(2), shall comply with the requirement, within 3 years from the date of commencement of this Act.
Additional Conditions [Sec.139(3)]	Subject to the provisions of the Act, the Members of a Company may resolve to provide that – - In the Audit Firm appointed by it, the Auditing Partner and his Team shall be rotated at such intervals, as may be resolved by the Members, or - The Audit shall be conducted by more than one Auditor.
Other Points	- When there is a Rotation of Auditors on expiry of 5-year term, the Audit Committee or BOD shall follow the Manner and Procedure for Selection and Appointment of Auditors, as specified u/s 139(1) and Rules above, e.g. consideration of qualifications, etc. - A break in the term for a continuous period of 5 years is considered as fulfilling the requirement of rotation. - Sec.139(2) shall not affect – (a) the right of the Company to remove an Auditor, or (b) the right of the Auditor to resign his office. Note: This means that the appointment for 5 year period is not irrevocable, and the Auditor may resign, or Company may remove the Auditor before that period.

2.8 Illustration on Rotation of Auditors [Rules]

Illustration 1: Illustration explaining Rotation in case of Individual Auditor

Number of consecutive years for which an Individual Auditor has been functioning as Auditor in the same Company [in the first AGM held after the commencement of provisions of Sec.139(2)]	Maximum number of consecutive years for which he may be appointed in the same Company (including Transitional Period)	Aggregate period which the auditor would complete in the same Company in view of Column I and II
I	II	III
5 years (or more than 5 years)	3 years	8 years or more
4 years	3 years	7 years
3 years	3 years	6 years
2 years	3 years	5 years
1 years	4 years	5 years

Notes:

- Individual Auditor shall include other Individuals or Firms whose Name or Trademark or Brand is used by such individuals, if any.
- Consecutive years shall mean all the preceding financial years for which the Individual Auditor has been the Auditor, until there has been a break by five years or more.

Illustration 2: Illustration explaining rotation in case of Audit Firm

Number of consecutive years for which an audit Firm has been functioning as Auditor in the same Company [in the first AGM held after the commencement of provisions of Sec.139(2)]	Maximum number of consecutive years for which the Firm may be appointed in the same Company (including Transitional Period)	Aggregate period which the Firm would complete in the same Company in view of Column I and II
I	II	III
10 years (or more than 10 years)	3 years	13 years or more
9 years	3 years	12 years
8 years	3 years	11 years
7 years	3 years	10 years
6 years	4 years	10 years
5 years	5 years	10 years
4 years	6 years	10 years
3 years	7 years	10 years
2 years	8 years	10 years
1 years	9 years	10 years

Notes:

1. Audit Firm shall include other Firms whose Name or Trademark or Brand is used by the Firm or any of its Partners.
2. Consecutive years shall mean all the preceding financial years for which the Firm has been the Auditor until there has been a break by five years or more.

3. Removal, Rights, Misc, etc.

3.1 Removal of Auditors before expiry of term [Sec.140(1) and Rules]

Procedure for Removal before expiry of term	1. BOD should pass a Resolution for removal of Auditors. 2. Application should be made to Central Government in Form ADT-2, within 30 days of BOD Resolution. 3. Previous Approval of Central Government should be obtained, in response to Form ADT-2. 4. A General Meeting should be held within 60 days of receipt of approval from Central Government. 5. Special Resolution should be passed in the above General Meeting, for removal of Auditors. 6. Before taking any action u/s 140(1), the Auditor shall be given a reasonable opportunity of being heard.
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Note: Contents of Form ADT-2 include the following –

1. Grounds of seeking removal of Auditor,
2. Details of Qualifications in Accounts in past 3 years,
3. Details of Opportunity of being heard given to the Auditor,
4. Details of Civil / Criminal Proceedings pending between Company / Concerned Officers,
5. Special Notice received for Removal of Auditors, if any.
6. Percentage of Capital held by Members who propose removal of Auditors,
7. Whether all due Audit Fees has been paid to the concerned Auditors,
8. Details of Other Services rendered by such Auditors to the Company,
9. Number of years for which audit is pending,
10. Stage of accounts for each financial year, e.g. yet to be approved by Board, or yet to be handed over to Auditors, etc.
11. Dispute with regard to Books of Accounts in the possession of Auditors but not delivered back to the Company,

3.2 Removal of Auditors at AGM [Sec.140(4) and Rules]

This is done by appointing an Auditor other than the Retiring Auditor with the following points –

2. **Special Notice:** Special Notice is required for a resolution at an AGM for –
 - (a) appointing as Auditor, a person other than the Retiring Auditor, or
 - (b) providing expressly that the Retiring Auditor shall not be re-appointed.

Note: If the Retiring Auditor has completed a consecutive tenure of 5 years (for Individual) or 10 years (for Firm), such Special Notice is not required.

3. **Copy to Auditor:** On receipt of above notice, the Company shall send **forthwith** a copy thereof to the Retiring Auditor.
4. **Rights of Retiring Auditor:** The Retiring Auditor has the following rights –
 - (a) To make a representation of a reasonable length to the Company,
 - (b) To request that such representation be circulated among the members,
 - (c) To require that the representations be read out at the AGM, and he be heard orally at the AGM.
5. **Company's Duties:** Where the Retiring Auditor makes a representation in writing to the Members of the Company, the Company shall –
 - (a) state the fact of representations being made, in any notice of the resolution given to Members of the Company, and
 - (b) send a copy of representation to every Member of the Company to whom notice of meeting is sent, whether before or after the receipt of representation by the Company.

Note: The Auditors' Representations **need not be circulated to Members** by the Company, if –

- (a) The representations are received too late by the Company, or
- (b) The Tribunal is satisfied, on the application made by the Company or any other aggrieved person, that the right of representation is being abused by the Auditor.

If the representation is not sent to the Members, a copy thereof should be filed with the ROC.

3.3 Change of Auditors based on Tribunal's Direction [Sec.140(5)]

Situation	Tribunal is satisfied that the Auditor of a Company has, directly or indirectly, – 1. acted in a fraudulent manner , or 2. abetted or colluded in any fraud by, or in relation to, the Company or its Directors or Officers.
Basis for Tribunal's findings	1. suo-motu by Tribunal, or 2. Application made to Tribunal by Central Government, or 3. Application made to Tribunal by any person concerned.
Order of Tribunal	1. The Tribunal can order the Company to change its Auditors, on the abovesaid grounds. 2. In case of Application by Central Government, the Tribunal shall make an order within 15 days of receipt of application, that the person shall not function as an Auditor. The Central Government may appoint another Auditor in his place.
Effect of Tribunal's Final Order	1. The Individual / Firm against whom a Final Order u/s 140 is passed by Tribunal, is not eligible to be appointed as Auditor of any Company for a period of 5 years from the date of the order. 2. If the order is against any Firm, the liability shall be of the Firm and of every Partner(s) who have acted in a fraudulent manner, or abetted or colluded in the fraud. 3. The erring Auditors are also liable for action u/s 447. 4. In case of criminal liability of any Audit Firm, the liability other than fine shall devolve only on the concerned Partner(s) who acted in a fraudulent manner, or abetted or colluded in the fraud.

3.4 Resignation of Auditors [Sec.140(2), (3) and Rules]

Procedure	1. An Auditor has the right to resign from the Company, before the expiry of his term. 2. The Resigning Auditor should file Form ADT-3, within 30 days of date of resignation.
Form ADT-3 Time Limit	Form ADT-3 shall be filed with – 1. the Company, 2. the ROC, and also 3. the C&AG in case of Sec.139(5) Companies.
Form ADT-3 Contents	Form ADT-3 requires details to be furnished in respect of – (a) reasons for resignation, and (b) any other facts as may be relevant with regard to the resignation.
Non-Compliance	If the Auditor fails to furnish Form ADT-3 as above, he is punishable with Fine of Minimum ₹ 50,000 to Maximum ₹ 5,00,000.

3.5 Rights of Auditors

1. **Right of Access to Books and Vouchers [Sec.143(1)]:**

- (a) The Company Auditor shall have a right of access **at all times** to the books of accounts and vouchers of the Company, whether kept at the Registered Office of the Company or elsewhere.
- (b) The Auditor of a Holding Company shall also have the right of access to the records of all its Subsidiaries in so far as it relates to the **consolidation** of its Financial Statements.

2. **Right to obtain information and Explanations[Sec.143(1)]:**

The Company Auditor is entitled to require from the Officers of the Company, such information and explanations as the Auditor may think necessary for the performance of his duties.

3. **Right to visit Branches, and access Branch Accounts [Sec.143(8)]:**

See Para 1.5

4. **Right to Remuneration [Sec. 142]:**

See Para 1.4

5. **Right to have Qualifications, etc. read out at General Meeting [Sec.145]:** Qualifications, Observations or Comments on the Financial Transactions or matters, which have any adverse effect on the functioning of the Company mentioned in the Auditor's Report, shall be –

- (a) **read** before the Company in its General Meeting.
- (b) **open for inspection** by any Member of the Company.

6. **Right to receive Notices and to attend General Meetings [Sec.146]**

- (a) All Notices of and other communications relating to, any General Meeting of a Company should be forwarded to the Auditors of a Company.
- (b) The Auditor shall be entitled to attend any General Meeting and to be heard at any General Meeting, which concerns him as Auditor.
- (c) Unless otherwise exempted by the Company, the Auditor shall attend the General Meeting –
 - either by himself, or
 - through his Authorised Representative, who shall also be qualified to be an Auditor.

Note: Thus, it is also the **duty** of the Auditor to attend the General Meeting.

3.6 Duties of Auditors

1. **Inquiry into specified areas [Sec.143(1)]:** The Company Auditor shall inquire into the following aspects –

- (a) Whether Loans and Advances made by the Company on the basis of security have been properly secured and whether the terms on which they have been made are prejudicial to the interests of the Company or its Members,
- (b) Whether transactions of the Company, which are represented merely by Book Entries, are prejudicial to the interests of the Company,
- (c) Where the Company is not an Investment Company or Banking Company, whether Assets of the Company consisting of Shares, Debentures, and other Securities have been sold at a price less than that at which they were purchased by the Company.
- (d) Whether Loans and Advances made by the Company have been shown as Deposits,
- (e) Whether Personal Expenses have been charged to Revenue Account,
- (f) Where any Shares have been allotted for cash, whether cash has actually been received, and if no cash has been received, whether the position as stated in the account books and the Balance Sheet is correct, regular and not misleading.

2. **Reporting as to True and Fair [Sec.143(2)]:**

Items reported on	The Auditor shall make a Report to the Members of the Company – (a) on the accounts examined by him, and (b) on every Financial Statements which are required by or under this Act to be laid before the Company in General Meeting.
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Reporting Considerations	The Report shall be made after taking into account, the following – (a) the provisions of the Act, (b) the accounting and auditing Standards, (c) matters which are required to be included in the Audit Report under the provisions of the Act / Rules / Order u/s 143(11) (d) best of his information and knowledge.
Essence of Report	In addition to other reporting matters, the Audit Report shall state whether the said Accounts, Financial Statements, give a true and fair view of – (a) the state of the Company's affairs as at the end of the financial year, (b) Profit or Loss, (c) Cash Flow for the year.

3. **Reporting Requirements [Sec.143(3)]:** The Auditor's Report shall also state –

- (a) Whether he has sought and obtained all **information and explanations** to the best of his knowledge and belief that are necessary for the purpose of his audit. If the required information is not obtained, details and effect in Financial Statements should be mentioned.
- (b) Whether, in his opinion, **proper books of account** as required by law have been kept by the Company so far as appears from his examination of those books and proper returns adequate for the purposes of his audit have been received from Branches not visited by him,
- (c) Whether the report on the **accounts of any Branch Office** audited by a person other than the Company Auditor has been forwarded to him and how he has dealt with the same in preparing the Auditor's Report,
- (d) Whether the Company's Balance Sheet and Profit and Loss account dealt with in the report are in **agreement with the books** of account and returns,
- (e) Whether, in his opinion, the Financial Statements **comply with the Accounting Standards**, the observations or comments of the Auditors on financial transactions or matters which have any **adverse effect** on the **functioning** of the company,
- (f) Whether any Director is disqualified from being appointed as a Director u/s 164(2),
- (g) any **Qualification, Reservation or Adverse Remark** relating to the maintenance of accounts and other matters connected therewith,
- (h) Whether the Company has adequate **Internal Financial Controls** system in place and the operating effectiveness of such controls,
- (i) Other matters as may be prescribed –
 - (i) whether the Company has disclosed the impact, if any, of **pending litigations** on its financial position in its Financial Statement,
 - (ii) whether the Company has made provision, as required under any law or Accounting Standards, for **material foreseeable losses**, if any, on long-term contracts including Derivative Contracts,
 - (iii) whether there has been any **delay** in transferring amounts, required to be transferred, to the **Investor Education and Protection Fund** by the Company.

4. **Reasons for Negative / Qualification [Sec.143(4)]:**

- (a) In case of Negative Remark or Qualification in any of the reporting matters u/s 143, the Audit Report shall state the **reasons** therefor.
- (b) Qualifications, Observations or Comments on the Financial Transactions or matters, which have any adverse effect on the functioning of the Company mentioned in the Auditor's Report, shall be –
 - **read** before the Company in its General Meeting.
 - **open for inspection** by any Member of the Company. **[Sec.145]**

5. **Duties w.r.t. audit of Government Companies [Sec.143(5), (6), (7)]:**

Directions by C&AG	The C & AG of India can issue directions to the Statutory Auditors on the manner in which the accounts are required to be audited, in case of Auditors appointed by C&AG u/s 139(5) or 139(7).
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Audit Report	The Auditor shall submit a copy of the Audit Report to C&AG. In addition to the matters u/s 143, the report shall include the following additional points – (a) Directions issued by C&AG, (b) Actions taken thereon, and (c) Its impact on the Accounts and Financial Statement of the Company.
Supplementary Audit	Within 60 days from the receipt of above Audit Report, the C&AG have right to – (a) Conduct a Supplementary Audit of the accounts with the help of authorized persons. C&AG shall also direct persons to provide additional information and other details for conducting supplementary audit. (b) Comment upon or supplement the Audit Report.
Comments of C&AG	(a) The comments or supplement given by C&AG on the Audit Report shall be sent to the Company. (b) The Company shall forward the same to every person entitled to copies of Financial Statements u/s 136(1). (c) The comments / supplement shall also be placed in the AGM similar to that of the Audit Report.
Test Audit	(a) The C&AG, if it deems fit, may order for conduct of Test Audit in case of a Company covered u/s 139(5) or 139(7). (b) The provisions of Sec.19A of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, shall apply to the report of such test audit.

6. **Compliance with Auditing Standards [Sec.143(9), (10)]:**

- Every Auditor shall comply with the Auditing Standards.
- The Central Government may prescribe the Standards of Auditing, as recommended by the ICAI, in consultation with and after examination of the recommendations made by the National Financial Reporting Authority.
- Till such Auditing Standards are notified, Standards of Auditing specified by the ICAI shall be deemed to be the Auditing Standards.

7. **Additional Matters reporting per NAFRA [Sec.143(11)]:** In consultation with the National Financial Reporting Authority (NAFRA), the Central Government may order for the inclusion of a Statement on specified matters in the Auditor's Report for specified class or description of Companies.

8. **Reporting of Frauds [Sec.143(12), (13), (15)]:**

Situation	If the Company Auditor, in the course of performance of his duties, has reason to believe that an offence involving fraud is being or has been committed against the Company, by Officers or Employees of the Company.
Auditors' Duties – to report to Central Govt within 60 days	Immediate Report to BOD / Audit Committee: Immediately after he comes to knowledge of the fraud, the Auditor shall forward his Report to the Board or the Audit Committee seeking their reply or observations within 45 days. Report to Central Government: Within 15 days of receipt of reply / observations as above, the Auditor shall forward to the Central Government – - his Report (on Fraud), - Reply or Observations of BOD / Audit Committee thereon, and - his Comments on above reply or observations. Note: If no reply is received from BOD / Audit Committee in 45 days, the Auditor shall forward his report only to the Central Government, mentioning the fact of non-receipt of reply/observations.
Report Requirements	Sent to: The Secretary, Ministry of Corporate Affairs, in a sealed cover. Mode: Registered Post with Acknowledgement Due, or by Speed post, followed by an e-mail in confirmation thereof. Stationery: Report shall be in Auditors' Letterhead, containing his Membership Number, Postal Address, Email Address and Contact Number. It shall be signed and sealed by Auditor. Format: Report shall be in Form ADT-4.
ADT-4 Contents	- Full details of suspected offence involving fraud (with documents in support), - Particulars of Officers / Employees who are suspected to be involved in the offence, - Basis on which fraud is suspected, - Period during which the suspected fraud has occurred,

	(e) Date of sending report to BOD / Audit Committee, and Date of reply, if any, received, (f) Whether Auditor is satisfied with the reply / observations of BOD / Audit Committee, (g) Estimated amount involved in the suspected fraud, (h) Steps taken by the Company, if any, in this regard, with full details of references.
Good faith [Sec.143(13)]	No duty to which the Company Auditor may be subject to shall be regarded as having been contravened by reason of his reporting the matter referred u/s 143(12), if it is done in good faith.
Contravention	(a) Persons: Auditor / Cost Accountant / Company Secretary, who do not comply with S.143(12) (b) Punishment: Fine of Minimum ₹ 1,00,000 Maximum ₹ 25,00,000.

Note:	Cost Audit / Secretarial Audit [Sec.143(14)]: Sec.143 (in entirety) shall be applicable for – (a) A Cost Accountant in Practice, conducting Cost Audit u/s 148, and (b) A Company Secretary in Practice, conducting Secretarial Audit u/s 204.
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9. Signing Audit Report [Sec.145]:

- The person appointed as Auditor of the Company shall – (i) sign the Auditor's Report, and (ii) sign or certify any other document of the Company as per Sec.141(2).
- If a Firm is appointed as Auditor of the Company, signing or certification shall be done only by the Chartered Accountants who are Partners and are authorised to act and sign on behalf of the Firm.

3.7 Punishment for Contravention [Sec.147]

Sec.	Nature of Act / Omission	Person punishable	Punishment
147 (1)	Contravention of Sec.139 to Sec.146	(a) Company	Fine of Minimum ₹ 25,000 Maximum ₹ 5,00,000.
		(b) Every Officer in Default	- Imprisonment of Maximum 1 Year, or - Fine of Minimum ₹ 10,000 Maximum ₹ 1,00,000, or - Both of the above.
147 (2)	Contravention of Sec.139, 143, 144, 145	Auditor	(a) Normal: Fine of Minimum ₹ 25,000 Maximum ₹ 5,00,000. (b) If done knowingly or wilfully, with intention to deceive the Company or its Shareholders or Creditors or Tax Authorities: - Imprisonment of Maximum 1 Year, or - Fine of Minimum ₹ 1,00,000 Maximum ₹ 25,00,000, or - Both of the above.

Notes: Additional Liability of Auditor [Sec.147(3), (4)]

- If the Auditor is convicted u/s 147(2), he shall be liable to –
 - refund the remuneration** received by him to the Company, and
 - pay for damages** to the Company, Statutory Bodies or Authorities or to any other persons for loss arising out of incorrect or misleading statements made in his Audit Report.
- The Central Government can notify any Statutory Body / Authority / Officer, to ensure prompt payment of damages to the Company or other entitled parties, and to file a report for compliance.

Joint and Several Liability in case of Audit by Firm [Sec.147(5)]

Situation	Where it is proved that the Partner or Partners of the Audit Firm has or have – (a) acted in a fraudulent manner, or (b) abetted or colluded in any fraud by, or in relation to or by, the Company or its Directors or Officers
Liability	The civil or criminal liability, as provided in this Act or in any other law, for such act shall be of the Partner or Partners concerned of the Audit Firm and of the Firm jointly and severally.

3.8 Cost Audit [Sec.148]

1. Maintenance of Cost Accounts / Records [Sec.148(1)]:

- The Central Government can order for maintenance of Cost Accounts / Records.
- Cost Accounts / Records shall comprise particulars relating to – (i) utilisation of material or labour, or (ii) other items of cost as may be prescribed.
- Such order may be for specified class of Companies, engaged in – (i) production of specified goods, or (ii) providing prescribed services.
- For such Companies, the books of account shall include these Cost Accounts / Records.
- In case of Companies regulated under a Special Act, the Central Government shall consult that Regulatory Body established under that Act, before ordering maintenance of Cost Records.

2. Cost Audit [Sec.148(2)]:

- The Central Government may, if it feels necessary, direct by an order that an audit of the Cost Records kept by a Company shall be conducted in the prescribed manner.
- Such order relating to Cost Audit shall be given in case of Companies –
 - which are covered u/s 148(1), i.e. maintenance of Cost Records / Accounts, **and**,
 - which have a Net Worth or Turnover of prescribed amounts.

3. Cost Auditor [Sec.148(3)]:

- Cost Audit shall be conducted by a Cost Accountant in practice (either Individual or Firm)
- A Statutory Auditor of the Company u/s 139 **cannot** be a Cost Auditor of the Company.
- Cost Auditor shall comply with the Cost Auditing Standards issued by the Institute of Cost and Works Accountants of India, with the approval of the Central Government.
- The appointment and remuneration of Cost Accountant is as under –

Situation	If Audit Committee is required u/s 177	No Requirement as to Audit Committee
Appointment	By Board, on the recommendations of the Audit Committee.	By Board, on its own.
Remuneration	- Recommended by Audit Committee, - Approved by Board of Directors, and - Ratified by Shareholders.	- Fixed by Board of Directors, and - Ratified by Shareholders.

- Cost Audit shall be in addition to the audit conducted u/s 143.

4. Rights, etc. of Cost Auditor [Sec.148(5)]:

- The Qualifications, Disqualifications, Rights, Duties and Obligations applicable to Auditors under Chapter X, are applicable to Cost Auditor also.
- The Company is duty bound to give all assistance and facilities to the Cost Auditor for auditing the Cost Records.

5. Cost Audit Report [Sec.148(5), (6), (7)]:

- The Cost Auditor shall submit his report to the **Board of Directors** of the Company.
- Within 30 days** from the receipt of Cost Audit Report, the Company shall furnish full information and explanation on every reservation or qualification contained in the Cost Audit Report, to the Central Government.
- If Central Government calls for further information and explanations, the Company should furnish the same within the timeframe specified by Central Government.

6. Non Compliance [Sec.148(8)]:

- The Company / Officer in Default is punishable in the manner provided in Sec.147(1).
- The Cost Auditor is punishable in the manner provided in Sec.147(2) to (4).

Notified Sections of Companies Act 2013–relating to CA Final Syllabus

Note:

- In this material, COA 2013 refers to Companies Act 2013, and COA 1956 refers to Companies Act 1956.
- The provisions of COA 2013 are given in this material, with Page and Paragraph References of COA 1956 provisions.

1. Punishment for failure to distribute dividends [Sec.127 COA 2013]

Corresponding to Sec.207 of COA 1956 **See Page 1.55**

Particulars	Description
Non Payment of Dividend – Situation	- Where a dividend has been declared by a Company, - but has not been paid, or the warrant in respect thereof has not been posted, - Within 30 days from the date of declaration, - to any Shareholder entitled to the payment of the Dividend.
Punishment	(a) For Director: - Every Director of the Company shall, if he is knowingly a party to the default, be punishable. Punishment: Max. Imprisonment – 2 Years, and Fine of Min. ₹ 1,000 per day of default. (b) For Company: The Company shall be liable to pay simple interest at 8% p.a. during the period for which such default continues.
Exemption from Liability	No offence shall be deemed to have been committed, if the non-payment of dividend is due the following: (a) Reason of operation of any law, (b) Shareholder has given directions to the Company regarding the payment of dividend, and those directions cannot be complied with, and the same has been communicated to him, (c) Dispute exist regarding the right to receive the Dividend, (d) Lawfully adjusted by the Company against any sum due to it from the Shareholder, (e) For any other reason which was not due to any default on the part of the Company.

2. Central Government to Prescribe Accounting Standards [Sec.133 COA 2013]

Corresponding to Sec.211(3)(c) of COA 1956 **See Page 1.10 / Q.No. 10**

Particulars	Description
Power to prescribe AS	- The Central Government may prescribe - The standards of accounting or any addendum thereto, - As recommended by the ICAI constituted u/s 3 of the CA Act, 1949 - In consultation with and after examination of the recommendations made by the National Financial Reporting Authority. (NAFRA)

Note: National Advisory Committee on Accounting Standards (NACAS) earlier has become the National Financial Reporting Authority. NAFRA shall only advise CG with respect to the standards recommended by ICAI for adoption. Till CG provides for any AS, the AS already notified under Companies Act, 1956 shall continue to prevail.

3. Corporate Social Responsibility (CSR) [Sec .135 COA 2013]

Particulars	Description
Applicability [Sec.135(1)]	Every Company having – (a) Net Worth ≥ ₹ 500 Crores, or (b) Turnover ≥ ₹ 1,000 Crores, or (c) Net Profit ≥ ₹ 5 Crores during any financial year. Note: (a) CSR applies to every Company including its Holding or Subsidiary, and a Foreign Company as per Sec.2(42) having its Branch Office or Project Office in India, which fulfills the above criteria. (b) Net Profit means Net Profit as per Financial Statement prepared in accordance with the applicable provisions of the Act, but does not include –

Particulars	Description
	- Profits from any Overseas Branch(es) of the Company, whether operated as a separate Company or otherwise, - Dividend received from other Companies in India, which are covered under and complying with the provisions of Sec.135.
CSR Committee	(a) Such Company shall constitute a Corporate Social Responsibility (CSR) Committee of the Board consisting of 3 or more Directors, out of which atleast one Director shall be an Independent Director. (b) An Unlisted Public Company or a Private Company which is not required to appoint an Independent Director, shall have its CSR Committee without such Director. (c) A Private Company having only 2 Directors on its Board, shall constitute its CSR Committee with two Directors.
Duties of CSR Committee	The CSR Committee shall – (a) formulate and recommend to the Board, a CSR Policy which shall indicate the activities to be undertaken by the Company as specified in Schedule VII, (b) recommend the amount of expenditure to be incurred on the activities referred above, and (c) institute a transparent monitoring mechanism for implementation of CSR projects / programs / activities, and monitor the CSR Policy of the Company from time to time.
CSR Policy	The Company's CSR Policy shall state, inter-alia – (a) List of CSR Projects or Programs which a Company plans to undertake, specifying modalities of execution thereof, and implementation schedules, (b) Monitoring Process of such activities or programs, (c) A Statement that the Surplus arising out of CSR Projects or Programs shall not form part of the Business Profit of the Company.
CSR Activities covered	CSR means and includes, but is not limited to Projects or Programs relating to activities – (a) specified in Schedule VII to the Act, (b) undertaken by the Board, in pursuance of the CSR Committee, as per the declared CSR Policy of the Company, subject to the condition that CSR Policy will cover subjects enumerated in Schedule VII.
Activities Specified in Schedule VII	(a) Eradicating hunger, Poverty and Malnutrition, promoting Preventive Health Care and Sanitation and making available safe Drinking Water, (b) Promoting Education, including Special Education and Employment enhancing Vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects, (c) Promoting Gender Equality, Empowering Women, setting up homes and hostels for women and orphans, setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups, (d) Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of Natural Resources and maintaining quality of soil, air and water, (e) Protection of National Heritage, art and Culture including restoration of buildings and sites of Historical Importance and works of art, setting up Public libraries, promotion and development of traditional arts and handicrafts, (f) Measures for the benefit of Armed Forces Veterans, War Widows and their dependents, (g) Training to Promote Rural Sports, nationally recognised sports, paralympic sports and Olympic sports, (h) Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women, (i) Contributions or funds provided to technology incubators located within academic institutions which are approved by the central Government, (j) Rural Development Projects.
CSR Activities / Expenditure – Exclusions	(a) Activities undertaken in pursuance of normal course of business of the Company. (b) Activities undertaken outside India. (c) Activities that benefit only the Employees of the Company and their families. (d) Contribution of any amount, directly or indirectly, to any Political Party, u/s 182. (e) Expenditure on an item not in conformity or not in line with activities specified in Schedule VII.
Manner of CSR Activities	(a) CSR Activities shall be undertaken as per the Company's stated CSR Policy, as projects or programs or activities (either new or ongoing). (b) CSR Activities may be undertaken by either – (a) a Registered Trust, or (b) a Registered Society, or (c) a Company established by the Company or its Holding / Subsidiary / Associate Co. u/s 8 or otherwise. (c) If the Trust / Society / Co. is not established by the Company or its Holding / Subsidiary / Associate –

Particulars	Description
	- such Trust, etc. shall have an established track record of 3 years in undertaking similar programs or projects, and - the Company has specified – (i) the project / programs to be undertaken through these Entities, (ii) modalities of fund utilization, and (iii) monitoring and reporting mechanism. (d) A Company may also collaborate with other Companies for undertaking CSR activities, such that the CSR Committees of respective Companies are in a position to report separately on CSR Projects. (e) Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of atleast 3 Financial Years but such expenditure shall not exceed 5% of total CSR expenditure of the Company in One Financial Year.
CSR Spending	(a) The Board of every such Company shall ensure that the Company spends, in every financial year, atleast 2% of the Average Net Profits of the Company made during the three immediately preceding financial years, in pursuance of its CSR Policy. (b) The Company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for CSR activities.
Board's Duties	The Board's shall – (a) Disclose the composition of the CSR Committee, in its report u/s 134(3). (b) after taking into account the recommendations made by the CSR Committee, approve the CSR Policy for the Company and disclose contents of such Policy in its Report and also place it on the Company's website, if any, in the prescribed manner, and (c) ensure that the activities as are included in Company's CSR Policy are undertaken by the Company. (d) specify the reasons for not spending the amount, in the Board's Report u/s 134(3)(o), in case the Company fails to spend such amount. (e) include an Annual Report on CSR containing the particulars specified in the CSR Rules.
Exclusions of Companies	Every Company which ceases to be a Company covered u/s 135(1) for 3 consecutive financial years shall not be required to – (a) constitute a CSR Committee, and (b) comply with Sec.135, till such time it meets the criteria specified in Sec. 135(1).
For Foreign Companies	(a) Net Worth, Turnover and Net Profit shall be computed in accordance with the Balance Sheet and Profit and Loss Account of such Company prepared in terms of Sec.381(1)(a) and Sec.198. (b) CSR Committee shall comprise of atleast 2 persons of which one person shall be as specified u/s 380(1)(d), and another person shall be nominated by the Foreign Company. (c) Balance Sheet filed u/s 381(1)(b) shall contain an Annexure regarding CSR Report.

4. Appointment of Additional Director [Sec.161(1) COA 2013]

Corresponding to Sec.260 of COA 1956 **See Page 3.28**

Particulars	Description
Provision in AOA – Power to Board	The Articles of a Company may confer on its Board of Directors the power to appoint any person as Additional Director at any time.
Restriction	A person who fails to get appointed as a Director in a General Meeting shall not be appointed as Additional Director.
Additional Director appointed shall hold office –	(a) From: Date of appointment (b) To: Date of the Next AGM or the last date on which the AGM should have been held, whichever is earlier.

5. Appointment of Alternate Director [Sec.161(2) COA 2013]

Corresponding to Sec.313 of COA 1956 **See Page 3.31**

Particulars	Description
Power to appoint	The Board of Directors of a Company may, if so authorized by its Articles or by a resolution passed by the Company in General Meeting, appoint an Alternate Director .
Condition for appointment	Original Director is absent for a period of not less than 3 months from India .
Same Alternate for 2 Directors, prohibited	The person shall not hold any Alternate Directorship for any other Director in the Company.

Particulars	Description
Alternate for Independent Director – Conditions	No person shall be appointed as an Alternate Director for an Independent Director, unless he is qualified to be appointed as an Independent Director under the Act.
Tenure	An Alternate Director shall not hold office for a period longer than that permissible to the director in whose place he has been appointed.
Vacation of Office	The Alternate Director shall vacate the office if and when the Director in whose place he has been appointed, returns to India.
No Automatic Re-appointment	If the term of office of the Original Director is determined before he so returns to India, any provision for the automatic re-appointment of Retiring Directors in default of another appointment shall apply to the Original, and not to the Alternate Director.

6. Appointment of Nominee Director [Sec.161(3) COA 2013]

New Section – See Page 3.34

Particulars	Description
Power	Subject to the Articles of a Company, the Board may appoint any Nominated Person, as a Nominee Director.
Persons nominated by –	Any Institution in pursuance of the provisions of any law for the time being in force or of any agreement, or Central Government or State Government, by virtue of its Shareholding in a Government Company.

7. Filling of Casual Vacancy [Sec.161(4) COA 2013]

Corresponding to Sec.262 of COA 1956 **See Page 3.30**

Particulars	Description
Applicability	Public Company
Casual Vacancy	Vacancy in the Office of any Director appointed by the Company in General Meeting, before his term of office expires in the normal course.
Appointment by Board	The resulting casual vacancy may be filled up - As per the Regulations in the Articles of the Company. If there is not provision in AOA - Be filled by the Board of Directors at a Meeting of the Board.
Tenure	The person so appointed shall hold office only up to the date up to which the Director in whose place he is appointed would have held office if it had not been vacated.

8. Appointment of Directors to be voted Individually [Sec.162 COA 2013]

Corresponding to Sec.263 of COA 1956 **See Page 3.34**

Particulars	Description
Appointment of 2 or more Directors by Single Resolution	- Generally, appointment of Directors should be voted individually, i.e. separate resolution for each person's appointment as Director. - However, 2 or more persons may be appointed as Directors by a single resolution only if a proposal to move such a motion has first been agreed to at the meeting, without any vote being cast against it, i.e. unanimously.
Void Resolution	A Resolution moved in contravention of the above shall be void , whether or not any objection was taken when it was moved.
Motion for Appointment	A motion for approving a person for appointment, or for nominating a person for appointment as a director, shall be treated as a motion for his appointment.

9. Option to adopt Proportional Representation for Directors appointment [S.163 COA 2013]

Corresponding to Sec.265 of COA 1956 **See Page 3.25**

Particulars	Description
Provision in AOA	Articles of a Company may provide for the appointment of Directors by Proportional Representation, notwithstanding anything contained in this Act.
Number of Directors	Not less than 2/3 rd of the Total Number of Directors.
Method of Election	(a) Single Transferable Vote, or (b) By a system of cumulative voting, or (c) Otherwise.
Tenure of Appointment	Appointments may be made once in every 3 years. Interim Casual Vacancies of such Directors shall be filled as per Sec.161(4).

10. Defects in appointment of Directors not to invalidate actions taken [Sec.176 COA 2013]

Corresponding to Sec.290 of COA 1956 **See Page 3.50**

Particulars	Description
Situation	Appointment of Director noticed as – (a) invalid by reason of any defect or disqualification, or (b) terminated by virtue of any provision contained in this Act or in the AOA.
Protection of acts	Acts done by a person as a Director shall not be deemed to be invalid (i.e. it is valid, protected)
Effect after it is brought to the notice	No act shall deem to be valid after his appointment has been noticed by the Company to be invalid or to have terminated.

11. Restrictions on Powers of Board [Sec.180 COA 2013]

Corresponding to Sec.293 of COA 1956 **See Page 4.23**

Particulars	Description
Following powers of Board can be exercised only after Special Resolution in General Meeting [Sec.180 (1)]	(a) To sell, lease or otherwise dispose off the whole or substantially the whole of the undertaking of the Company, or where the Company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings. (Note 1 to Note 4) (b) To invest otherwise in Trust Securities, the amount of compensation received by it as a result of any merger or amalgamation. (c) To borrow money, where the money to be borrowed, together with the money already borrowed by the Company will exceed aggregate of its Paid-Up Share Capital and Free Reserves, apart from Temporary Loans obtained from the Company's Bankers in the ordinary course of business. (Note 5 to Note 8) (d) To remit, or give time for the repayment of, any debt due from a Director.

Notes

- Undertaking** shall mean an Undertaking in which the Investment of the Company exceeds 20% of its Net Worth as per the audited Balance Sheet of the preceding financial year, or an Undertaking which generates 20% of the Total Income of the Company during the previous financial year.
- "Substantially the whole of the Undertaking"** in any financial year shall mean 20% or more of the value of the Undertaking, as per the audited Balance Sheet of the preceding Financial Year.
- Nothing shall affect the – (a) the title of a Buyer or other person who buys or takes on lease any property, investment or undertaking in good faith, or (b) the sale or lease of any property of the Company where the ordinary business of the Company consists of, or comprises, such selling or leasing.
- Any Special Resolution passed by the Company consenting to the transaction u/s 180(1)(a) may stipulate such conditions as may be specified in such resolution, including conditions regarding the use, disposal or investment of the sale proceeds which may result from the transactions. However it shall not be deemed to authorise the Company to effect any reduction in its Capital.
- Acceptance by a Banking Company, in the ordinary course of its business, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by Cheque, Draft, Order or otherwise, shall **not** be deemed to be a borrowing of monies by the Banking Company.
- Temporary Loans** means loans repayable on demand or within 6 months from the date of the loan such as short-term, cash credit arrangements, discounting of bills, and the issue of other short-term loans of a seasonal character. However, it does not include Loans raised for the purpose of financial expenditure of a capital nature.

7. Every Special Resolution passed by the Company in General Meeting, in relation to the exercise of the Borrowing Powers, shall **specify the total amount** up to which monies may be borrowed by the Board of Directors.
8. No Debt incurred by the Company in excess of the borrowing limit imposed shall be valid or effectual, unless the **Lender proves** that he advanced the loan in good faith and without knowledge that the limit imposed by Sec.180(1)(c) had been exceeded.

12. Company to contribute to bonafide and Charitable Funds, etc. [Sec.181 COA 2013]

Corresponding to Sec.293(1)(e) of COA 1956 **See Page 4.23**

Particulars	Description
Charitable Donations	Board of Directors of a Company may contribute to bonafide charitable and other funds.
Maximum Power of Board	Aggregate Amount per Financial Year = 5% of Average Net Profits for the 3 immediately preceding financial years.
Donations above 5% Limit	Prior permission of the Company in general meeting is required.

13. Prohibitions and Restrictions regarding Political Contribution [Sec.182 COA 2013]

Corresponding to Sec.293A of COA 1956 **See Page 4.37**

Particulars	Description
Applicability	Contribution, directly or indirectly, to any Political Party ("Political Party" means a Political Party registered u/s 29A of the Representation of the People Act, 1951)
Companies which cannot contribute to Political Party	(a) A Government Company, and (b) A Company which has been in existence for less than 3 financial years.
Maximum Amount of Donations	Aggregate Amount in any Financial Year = 7.5% of Average Net Profits during the 3 immediately preceding financial years.
Board Resolution	Resolution at Board Meeting is a must . This resolution shall be deemed as justification in law, for the making and the acceptance of the contribution authorised by it.
Disclosure in P&L A/c	- Total Amount contributed, and - Name of the Party to which such amount has been contributed.
Consequences = Company makes any contribution, in contravention of the provisions	Company punishable with fine upto 5 times the amount contributed. - Every Officer in default is punishable with imprisonment upto 6 months, and with fine upto 5 times the amount contributed.

Note: Deemed Political Purpose:

- (a) A donation or subscription or payment caused to be given by a Company on its behalf or on its account to a person who, to its knowledge, is carrying on any activity which, at the time at which such donation or subscription or payment was given or made, can reasonably be regarded as likely to affect public support for a Political Party shall also be deemed to be contribution of the amount of such donation, subscription or payment to such person for a Political Purpose.
- (b) The amount of expenditure incurred, directly or indirectly, by a Company on an advertisement in any publication, being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like, shall be deemed to be –
 - where such publication is by or on behalf of a political party, to be a contribution of such amount to such Political Party, and
 - where such publication is not by or on behalf of, but for the advantage of a Political Party, to be a contribution for a political purpose.

14. Contributions to National Defence Fund [Sec.183 COA 2013]

Corresponding to Sec.293B of COA 1956 **See Page 4.40**

Particulars	Description
Applicability	Contribution by Company to National Defence Fund or any other Fund approved by the Central Government for the purpose of National Defence.
Power exercised By	(a) Board of Directors, (b) Any person or authority exercising the powers of the Board of Directors, (c) Company in General Meeting,

Particulars	Description
Overriding Provision	Right to contribute u/s 183 is supreme, and P&L A/c is not affected by Sec. 180, 181, 182 or any other provision of this Act, or in the Memorandum, Articles or any other instrument relating to the Company.
Limit	Contribution can be of such amount as it thinks fit. No Limit / restriction.
Disclosure	Total Amount(s) contributed during the financial year to which the amount relates.

15. Loan to Directors [Sec.185 COA 2013]

Corresponding to Sec.295/296 of COA 1956 **See Page 4.49**

Particulars	Description
No Loan to Director / Interested Persons	No Company shall, directly or indirectly , (a) advance any Loan, including any Loan represented by a Book Debt, to, (b) give any Guarantee or provide any security in connection with any Loan taken by
Exempted Transactions, i.e. Permissible Loans	(a) Loan to a Managing or Whole Time Director, – (i) as a part of the conditions of service extended by the Company to all its Employees, or (ii) pursuant to any scheme approved by the members by a special resolution, (b) A Company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan, and in respect of such loans an interest is charged at a rate not less than the Bank Rate declared by the RBI.
Specified Persons (i.e. any other person in whom Director is interested)	(a) Any Director of the Lending Company, or of a Company which is its Holding Company or any Partner or Relative of any such Director, (b) Any Firm in which any such Director or Relative is a Partner, (c) Any Private Company of which any such Director is a Director or Member, (d) Any Body Corporate at a General Meeting of which not less than 25% of Total Voting Power may be exercised or controlled by any such Director, or by two or more such Directors, together, or (e) Any Body Corporate, the Board of Directors, Managing Director or Manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any Director(s), of the Lending Company.
Consequences of contravention is punishable	(a) Company: With fine Minimum ₹ 5 Lakhs, Maximum ₹ 25 Lakhs. (b) Director/Others: Director / Other Person to whom any Loan/ Guarantee /Security is advanced / given / provided in connection with any loan taken by him or the person, is punishable with – (i) Imprisonment upto 6 months, or (ii) Fine Min. ₹ 5 Lakhs , Max. ₹ 25 Lakhs , or (iii) Both.

16. Restriction on Non Cash Transactions involving Directors [Sec.192 COA 2013]

[New Section]

1. **Scope of Section:** The following types of **to/from** transactions are covered by Sec.192.

Company	Acquires or is to acquire assets	→	(a) Director of the Company, or its Holding, Subsidiary or Associate Company, or (b) A person connected with him.
	← for consideration other than cash		

2. **Permissibility:** Above arrangements can be entered into if –

- Company Resolution:** Prior Approval for such arrangement is accorded by a resolution of the Company in General Meeting. If the Director or connected person is a Director of its Holding Company, approval is also required to be obtained by passing a resolution in general meeting of the Holding Company.
- Valuation Disclosure:** The notice for approval of the above resolution shall include the particulars of the arrangement along with the value of the assets involved in such arrangement duly calculated by a Registered Valuer.

3. **Consequences of Contravention:** Any arrangement entered into by a Company or its Holding Company in contravention of the Sec.192 shall be **voidable** at the instance of the Company, unless –

- The restitution of any money or other consideration which is the subject matter of the arrangement is no longer possible, and the Company has been indemnified by any other person for any loss or damage caused to it, or

- (b) Any rights are acquired bonafide for value and without notice of the contravention of the provisions of Sec.192, by any other person.

17. Prohibition on Forward Dealings in Securities of Co. by Director or KMP [S.194 COA 2013]

Note: KMP = Key Managerial Personnel

[New Section]

Particulars	Description
Prohibition on Forward Dealings	No Director / KMP of a Company shall buy in the Company, or in its Holding, Subsidiary or Associate Company – (a) A right to call for delivery or a right to make delivery at a specified price and within a specified time, of a specified number of relevant Shares or a specified amount of relevant Debentures, or (b) A right, as he may elect, to call for delivery or to make delivery at a specified price and within a specified time, of a specified number of relevant Shares or a specified amount of relevant Debentures.
Relevant Shares and Relevant Debentures	It means Shares and Debentures of the Company in which the concerned person is a Whole-Time Director or other KMP, or Shares and Debentures of its Holding and Subsidiary Companies.
Effect of Contravention by Director or any KMP	(a) Punishment: Imprisonment upto 2 years and / or Fine – Min. ₹ 1 Lakhs, Max. ₹ 5 Lakhs. (b) Surrender / No Transfer: - Securities so acquired, is liable to be surrender to the Company and the Company shall not register the Securities so acquired in his name in the Register. - If they are in dematerialised form, the Company shall inform the Depository not to record such acquisition. - Such Securities, shall continue to remain in the names of the Transferors.

18. Prohibition on Insider Trading of Securities [Sec.195 COA 2013]

[New Section]

Particulars	Description
Prohibition u/s 195	No person including any Director or KMP of a Company, shall enter into Insider Trading.
Insider Trading means –	(a) an act of subscribing, buying, selling, dealing or agreeing to subscribe, buy, sell or deal in any Securities by any Director or KMP or any other Officer of a Company either as Principal or Agent, if such Director or KMP or any other Officer of the Company is reasonably expected to have access to any non –public price sensitive information in respect of Securities of Company, or (b) an act of counselling about procuring or communicating directly or indirectly any non–public price–sensitive information to any person.
Price Sensitive Information	It means any information which relates, directly or indirectly, to a Company, and which if published is likely to materially affect the price of Securities of the Company.
Excepted Items	Any communication required in the ordinary course of business or profession or employment or under any law shall not be treated as Insider Trading.
Consequences of Contravention	(a) Imprisonment upto 5 years, or (b) Fine – Min. ₹ 5 Lakhs / Max. ₹ 25 Crores or 3 times the amount of profits made out of Insider Trading, whichever is higher , or (c) Both .

19. Compensation for Loss of Office of MD or WTD or Manager [Sec.202 COA 2013]

Corresponding to Sec.318 of COA 1956 **See Page 3.48**

Particulars	Description
Nature of Compensation	(a) As Compensation for Loss of Office, or (b) As Consideration for Retirement from Office, or (c) In connection with such Loss or Retirement.

Particulars	Description
	Sec.202 shall not prohibit the payment to a Managing or Whole–Time Director, or Manager, of any remuneration for services rendered by him to the Company in any other capacity.
Eligible Persons	Only for Managing or Whole–Time Director or Manager (Not for any other Director).
Payment not permitted in cases	(a) Where the Director resigns from his office as a result of the reconstruction of the Company, or of its amalgamation with any other Body(ies) Corporate, and is appointed as the Managing or Whole–Time Director, Manager or other Officer of the reconstructed company or of the Body Corporate resulting from the amalgamation, (b) Where the Director resigns from his office otherwise than on the reconstruction of the Company or its amalgamation as aforesaid, (c) Where the office of the Director is vacated u/s 167(1), (d) Where the Company is being wound up , whether by an order of the Tribunal or voluntarily, provided the winding up was due to the negligence or default of the Director, (e) Where the Director has been guilty of fraud or breach of trust in relation to, or of gross negligence in or gross mismanagement of, the conduct of the affairs of the Company or any Subsidiary Company or Holding Company thereof, and (f) Where the Director has instigated , or has taken part directly or indirectly in bringing about, the termination of his office.
Maximum Amount of Compensation	(a) Limit: Payment made u/s 202(1) to MD / WTD / Manager, shall not exceed the remuneration which he would have earned, if he had been in office for the remainder of his term or for 3 years, whichever is shorter . (b) Basis: The above is calculated on the basis of the Average Remuneration actually earned by him during a period of three years immediately preceding the date on which he ceased to hold office, or where he held the office for a lesser period than 3 years, during such period.
No Compensation in case of Winding–up	No payment shall be made to the Director in the event of the commencement of the winding up of the Company, whether before or at any time within 12 months after, the date on which he ceased to hold office, if the Assets of the Company on the winding up, after deducting the expenses thereof, are not sufficient to repay to the Shareholders, the Share Capital, including the premiums, if any, contributed by them.

20. Application of Act to Foreign Companies [Sec.379/ 382 / COA 2013]

Corresponding to Sec.591/595 of COA 1956 **See Page 9.1/9.5**

- Meaning of Foreign Company [Sec.2(42)]: “Foreign Company”** means any Company or Body Corporate incorporated outside India which –
 - has a place of business in India whether by itself or through an Agent, physically or through electronic mode, and
 - conducts any business activity in India in any other manner.

- Compliance by certain Foreign Companies:**

A Foreign Company in which not less than 50% of the Paid-up Share Capital, whether Equity or Preference or partly Equity and partly Preference, held by

- one or more citizens of India, or
- one or more Companies or Bodies Corporate incorporated in India, or
- one or more citizens of India and one or more Companies or Bodies Corporate incorporated in India, whether singly or in the aggregate.

- Such Company shall comply with the provisions of Chapter XXII (Sec. 379 to 393) and other prescribed provisions of the Act.
- With regard to the business carried on by it in India,
- as if it were a Company incorporated in India.

- Provisions relating to Foreign Companies:**

Particulars	Description
Display of Name, etc. of Foreign Company (Sec. 382)	Every Foreign Company shall— - conspicuously exhibit on the outside of every Office or place where it carries on business in India, the Name of the Company and the country in which it is incorporated, in letters easily legible in English characters, and also in the characters of the language or one of the languages in general use in the locality in which the office or place is situated. - cause the Name of the Company and of the country in which the Company is incorporated, to be stated in legible English characters in all business letters, billheads and letter paper, and in all notices, and other official publications of the Company, and

Particulars	Description
	3. If the liability of the Members of the Company is limited, cause notice of that fact – (a) To be stated in every such Prospectus issued and in all Business Letters, Bill-Heads, Letter Paper, Notices, Advertisements and other official publications of the Company, in legible English Characters, and (b) To be conspicuously exhibited on the outside of every Office or place where it carries on business in India, in legible English characters and also in legible characters of the language or one of the languages in general use in the locality in which the office or place is situate.
Service on Foreign Company (Sec.383)	Any Process, Notice, or other document required to be served on a Foreign Company shall be deemed to be sufficiently served, if addressed to any person whose Name and Address have been delivered to the Registrar u/s 380 and left at, or sent by post to, the address which has been so delivered to the Registrar or by electronic mode.
Interpretation for S.379 to 385 (S.386)	(a) "Certified" means certified in the prescribed manner to be a true copy or a correct translation. (b) "Director", in relation to a Foreign Company, includes any person in accordance with whose directions or instructions the Board of Directors of the Company is accustomed to act, and (c) "Place of Business" includes a Share Transfer or Registration Office.

21. Annual Report of Government Companies [Sec.394 COA 2013]

Corresponding to Sec.619A of COA 1956 **See Page 1.33**

Particulars	Description
Annual Report of Government Companies	Where the Central Government is a Member of a Government Company, the Central Government shall cause an Annual Report on the working and affairs of that Company to be – (a) Prepared within 3 months of its AGM where the comments given by the Comptroller and Auditor General of India (C & AG) and the Audit Report u/s 143(6) is placed, and (b) As soon as may be after such preparation, laid before both Houses of Parliament together with a copy of the Audit Report and comments upon or supplement to the Audit Report, made by the (C & AG). Where in addition to the Central Government, any State Government is also a Member of a Government Company, that State Government shall cause a copy of the Annual Report to be laid before the House or both Houses of the State Legislature, together with a copy of the Audit Report and the comments upon or supplement to the Audit Report.

22. Power of CG to direct Companies to furnish information or statistics [S.405 COA 2013]

Corresponding to Sec.615 of COA 1956 **See Page 9.29**

Particulars	Description	
Order to furnish Information or Statistics	The Central Government may, by order, require Companies generally, or any class of Companies, or any Company, to furnish such information or statistics with regard to their or its constitution or working, and within a specified time.	
Order to be published in Gazette	(a) Every such order shall be published in the Official Gazette and may be addressed to Companies generally or to any class of Companies, in such manner, as the Central Government may think fit. (b) The date of such publication shall be deemed to be the date on which requirement for information or statistics is made on the Company (ies).	
Inspection of Information	For the purpose of satisfying itself that any information or statistics furnished by a Company or Companies is correct and complete, the Central Govt may by order require such Company / (ies) to – (a) produce such records or documents in its possession, or (b) allow inspection thereof by such Officer, or (c) furnish such further information as that Government may consider necessary.	
Consequences of Contravention	Act / Omission	Punishment
	(a) Failure to comply with order, (b) Knowingly furnishing materially incorrect or incomplete information / statistics	(a) For Company: Fine upto ₹ 25,000. (b) For Officer in Default: (i) Imprisonment upto 6 months, or (ii) Fine Min ₹ 25,000, Max ₹3,00,000, or (iii) both.
Applicability to Foreign Co.	Where a Foreign Company carries on business in India, all references to a Company u/s 405 shall be deemed to include references to the Foreign Co. in relation, and only in relation, to such business.	

23. National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) [Sec.407 to Sec.414 COA 2013]

1. Meaning of Terms [Sec.407]:

- (a) "Chairperson" means the Chairperson of the NCLAT.
- (b) "Judicial Member" means a Member of NCLT or NCLAT appointed as such and includes the President of NCLT or the Chairperson of NCLAT.
- (c) "Member" means a Member, whether Judicial or Technical of NCLT / NCLAT, and includes the President of NCLT or the Chairperson of NCLAT.
- (d) "President" means the President of the NCLT.
- (e) "Technical Member" means a Member of the NCLT or NCLAT appointed as such.

2. Constitution of NCLT and NCLAT [Sec.408 and Sec.410]

Particulars	NCLT [Sec.408]	NCLAT [Sec.410]
Constitution	The Central Government shall, by notification, constitute, with effect from a specified date, a Tribunal to be known as the National Company Law Tribunal (NCLT).	The Central Government shall, by notification, constitute, with effect from a specified date, a Tribunal to be known as the National Company Law Appellate Tribunal (NCLAT).
Members	NCLT shall consist of a President and such number of Judicial and Technical Members, as the Central Government may deem necessary, to be appointed by it by notification.	NCLAT shall consist of a Chairperson and such number of Judicial and Technical Members, not exceeding 11, as the Central Government may deem fit, to be appointed by it by notification.
Purpose	NCLT shall exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.	NCLAT shall be for hearing appeals against the orders of the NCLT.

3. Qualification of Members of NCLT and NCLAT [Sec.409 and Sec.411]

Particulars	NCLT [Sec.409]	NCLAT [Sec.411]
President / Chairperson	The President shall be a person who is or has been a Judge of a High Court for 5 years.	The Chairperson shall be a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court.
Judicial Member	A person is qualified for appointment as a Judicial Member only if he – (a) is, or has been, a judge of a High Court, or (b) is, or has been, a District Judge for atleast 5 years, or (c) has, for at least 10 years been an Advocate of a Court. [See Note below]	A Judicial Member shall be a person who is or has been a Judge of a High Court or is a Judicial Member of the Tribunal for 5 years.
Technical Member	A person is be qualified for appointment as a Technical Member only if he – (a) has, for at least 15 years been a Member of the Indian Corporate Law Service or Indian Legal Service out of which atleast 3 years shall be in the pay scale of Joint Secretary to the Government of India or equivalent or above in that service, or (b) is, or has been, in practice as a Chartered Accountant for atleast 15 years, or (c) is, or has been, in practice as a Cost Accountant for atleast 15 years, or (d) is, or has been, in practice as a Company Secretary for atleast 15 years, (e) is a person of proven ability, integrity and standing having special knowledge and experience, of not less than 15 years, in law, industrial finance, industrial management or administration, industrial reconstruction, investment, accountancy, labour matters, or such other disciplines	A Technical Member shall be a person of proven ability, integrity and standing having special knowledge and experience, of not less than 25 years, in law, industrial finance, industrial management or administration, industrial reconstruction, investment, accountancy, labour matters, or such other disciplines related to management, conduct of affairs, revival, rehabilitation and winding up of Companies.

Particulars	NCLT [Sec.409]	NCLAT [Sec.411]
	related to management, conduct of affairs, revival, rehabilitation and winding up of Companies, or (f) is, or has been, for atleast 5 years, a Presiding Officer of a Labour Court, Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947.	

Note (For Judicial Member of NCLT): In computing the period during which a person has been an Advocate of a Court, any period during which the person has held Judicial Office or the Office of a Member of a Tribunal or any post, under the Union or a State, requiring special knowledge of law after he become an Advocate, shall be included.

4. Selection of Members of Tribunal and Appellate Tribunal [Sec.412]

- The President of NCLT and the Chairperson and Judicial Members of NCLAT, shall be appointed after consultation with the **Chief Justice of India**.
- The Members of NCLT and the Technical Members of NCLAT shall be appointed on the recommendation of a **Selection Committee** consisting of—
 - Chief Justice of India or his Nominee —Chairperson,
 - A Senior Judge of the Supreme Court or a Chief Justice of High Court— Member,
 - Secretary in the Ministry of Corporate Affairs—Member,
 - Secretary in the Ministry of Law and Justice—Member, and
 - Secretary in the Department of Financial Services in the Ministry of Finance— Member.
- Convener:** The Secretary, Ministry of Corporate Affairs shall be the Convener of the Selection Committee.
- Procedure:** The Selection Committee shall determine its procedure for recommending persons.
- Protection:** No appointment of the Members of NCLT or NCLAT shall be invalid merely by reason of any vacancy or any defect in the constitution of the Selection Committee.

5. Term of Office of President, Chairperson and other Members [Sec. 413/Sec.414]

- The term of office of President of NCLT / Chairperson of NCLAT / Member of NCLT or NCLAT shall be **5 years** from the date on which he enters upon his office, but shall be eligible for re-appointment for another 5 years.
- A person who has not completed 50 years of age shall **not** be eligible for appointment as Member of NCLT / NCLAT.
- The Member may retain his lien with his Parent Cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding 1 year.
- Salary, Allowances and other Terms and Conditions of service shall be prescribed by the Central Government and shall not be varied to their disadvantage after their appointment.
- The **maximum age limits** for Members are as follows –

NCLT	NCLAT
- President: 67 years - Any Other Member: 65 years.	- Chairperson: 70 years - Any Other Member: 67 years.

24. Offences to be Non Cognizable [Sec.439 COA 2013]

Corresponding to Sec.621/624 of COA 1956 **See Page 9.15**

Particulars	Description
Nature of Offence [Sec. 439(1)]	Notwithstanding anything in the Code of Criminal Procedure, 1973, every offence under this Act except the offences referred to in Sec. 212(6), shall be deemed to be non-cognizable within the meaning of the said Code.
Compliant by Authorized Person [Sec. 439(2)]	- Court shall take cognizance of any offence under this Act which is alleged to have been committed by any Company or any Officer thereof, except on the complaint in writing of – - the Registrar, (ii) a Shareholder of the Company, or (iii) a Person authorised by the Central Government in that behalf. - The Court may take cognizance of offences relating to issue and transfer of securities and non-payment of dividend, on a complaint in writing, by a person authorized by SEBI. - Nothing in this sub-section shall apply to a prosecution by a Company of any of its Officers.

Particulars	Description
Personal Attendance Waiver [Sec. 439(3)]	Notwithstanding anything contained in the Code of Criminal Procedure, 1973, where the Complainant is the Registrar or a person authorised by the Central Government, the presence of such Officer before the Court trying the offences shall not be necessary, unless the Court requires his personal attendance at the trial.
Companies in Winding up [Sec. 439(4)]	(a) Sec. 439(2) shall not apply to any action taken by the Liquidator of a Company, in respect of any offence alleged to have been committed in respect of any of the matters in Chapter XX or in any other provision of this Act relating to winding up of Companies. (b) The Liquidator of a Company shall not be deemed to be an Officer of the Company.

25. Power of Central Government to appoint Company Prosecutors [Sec.443 COA 2013]

Corresponding to Sec.624A of COA 1956 **See Page 9.19**

Particulars	Description
Who shall appoint?	Central Government
Purpose	One or more persons shall be appointed as Company Prosecutors, for the conduct of prosecutions arising out of this Act.
Types of Cases	(a) Generally, or (b) for / in any case, or (c) for any specified class of cases in any local area.
Powers of Appointee	All the powers and privileges conferred us/ 24 of the Code on Public Prosecutors.

26. Appeal against Acquittal [Sec.444 COA 2013]

Corresponding to Sec.624B of COA 1956 **See Page 9.19**

Particulars	Description
Who shall direct?	Central Government
Purpose	The Central Government shall direct any Company Prosecutor or authorize any other person either by name or by virtue of his office, to present an appeal from an order of acquittal passed by any Court, other than a High Court.
Effect	An appeal presented by such Prosecutor or other person shall be deemed to have been validly presented to the Appellate Court.

27. Compensation for accusation without reasonable cause [Sec.445 COA 2013]

Corresponding to Sec.625 of COA 1956 **See Page 9.17**

The provisions of Section 250 of the Code of Criminal Procedure, 1973 shall apply *mutatis mutandis* to compensation for accusation without reasonable cause before the Special Court or the Court of Session.

28. Application of Fines [Sec.446 COA 2013]

Corresponding to Sec.626 of COA 1956 **See Page 9.19**

The Court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards –

- (a) payment of the **costs** of the proceedings, or
- (b) in or towards the payment of a **reward** to the person on whose information the proceedings were instituted.

29. Punishment for Fraud [Sec.447 COA 2013]

[New Section]

1. Meaning of Fraud:

- (a) Fraud in relation to affairs of a Company or any Body Corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the Company or its Shareholders or its Creditors or any other person, whether or not there is any wrongful gain or wrongful loss.

- (b) Wrongful Gain means the gain by unlawful means of property to which the person gaining is not legally entitled.
 (c) Wrongful Loss means the loss by unlawful means of property to which the person losing is legally entitled.

2. Punishment for Fraud:

Situation	Punishment
Punishment for any person who is found to be guilty of fraud.	• Imprisonment: Minimum 6 months, but Maximum 10 years, (Note: Minimum is 3 years, where the fraud in question involves public interest) AND • Fine: Min = Amount involved in the fraud, Max = 3 times the amount involved in the fraud.

30. Punishment for False Statement [Sec.448 COA 2013]

Situation	Punishment
If in any Return, Report, Certificate, Financial Statement, Prospectus, Statement or other document required by, or for the purpose of any of the provisions of this Act or the rules made thereunder, any person makes a statement – (a) which is false in any material particulars, knowing it to be false, or (b) which omits any material fact, knowing it to be Material.	Liable u/s 447, i.e. Imprisonment and Fine as applicable for fraud.

31. Punishment for False Evidence [Sec.449 COA 2013]

Corresponding to Sec.629 of COA 1956 **See Page 9.18**

Situation	Punishment
If any person intentionally gives false evidence – (a) upon any examination on oath or solemn affirmation, authorised under this Act, or (b) in any Affidavit, Deposition or solemn affirmation, in or about the winding up of any Company under this Act, or otherwise in or about any matter arising under this Act.	• Imprisonment: Min.3 years, Max.7 years, AND • Fine upto ₹ 10 Lakhs.

32. Punishment where no specific penalty or punishment is provided [Sec.450 COA 2013]

Corresponding to Sec.629A of COA 1956 **See Page 9.18**

Situation	Punishment
If a Company or any Officer of a Company or any other person contravenes – • any of the provisions of this Act or the Rules made thereunder, or • any condition, limitation or restriction – (a) subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, AND (b) for which no penalty or punishment is provided elsewhere in this Act.	The Company and every Officer in default, or such other person shall be punishable with – (a) Fine upto ₹ 10,000, and (b) Where the contravention is continuing one, further fine which may extend to ₹ 1,000 for every day after the first during which the contravention continues.

33. Punishment in case of repeated default [Sec.451 COA 2013]

[New Section]

Situation	Punishment
If a Company or an Officer of a Company commits an offence punishable either with fine or with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of 3 years	Company and every Officer in default shall be punishable with twice the amount of fine for such offence, in addition to any imprisonment provided for that offence.

34. Punishment for wrongful withholding of property [Sec.452 COA 2013]

Corresponding to Sec.630 of COA 1956 **See Page 9.18**

Situation	Punishment and Related Points
If any Officer or Employee of a company – - wrongfully obtains possession of any property, including cash of the Company, or - having any such property including cash in his possession, wrongfully withholds it or knowingly applies it for the purposes other than those expressed or directed in the Articles and authorised by this Act.	(a) Complaint = Company or any Member or Creditor or Contributory thereof. (b) Person in default is punishable with fine of Min ₹ 1 Lakh, Max ₹ 5 Lakhs. (c) The Court trying an offence may also order such Officer or employee to deliver up or refund, within a time specified, any such property or cash wrongfully obtained or wrongfully withheld or knowingly misapplied, the benefits that have been derived from such property or cash or in default, to undergo imprisonment for a term which may extend to 2 years.

35. Punishment for Improper use of “Limited” or “Private Limited” [Sec.453 COA 2013]

Corresponding to Sec.631 of COA 1956 **See Page 9.18**

Situation	Punishment
Person(s) trade or carry on business under any name or title, of which the word “Limited” or the words “Private Limited” or any contraction or imitation thereof is or are the last word(s) and not duly incorporated with limited liability or as a Private Company with limited liability	Fine of Minimum ₹ 500, Maximum ₹ 2,000, for every day for which that name or title has been used.

36. Protection of action against taken in Good Faith [Sec.456 COA 2013]

Corresponding to Sec.635A of COA 1956 **See Page 9.20**

No suit, prosecution or other legal proceeding shall lie against the Government or any Officer of the Government or any other person in respect of anything which is in good faith done or intended to be done –

- (a) in pursuance of this Act, any Rules or orders made thereunder, or
- (b) in publication by or under the authority of the Government or such Officer, of any report, paper or proceedings.

37. Non Disclosure of Information in certain cases [Sec.457 COA 2013]

Corresponding to Sec.635AA of COA 1956 **See Page 9.20**

The Registrar, any Officer of the Government or any other person shall not be compelled to disclose to any court, Tribunal or other authority, the source from where he got any information which –

- (a) Has led the Central Government to order an investigation u/s 210, or
- (b) Is or has been material or relevant in connection with such investigation.

Note: The above protection applies notwithstanding anything contained in any other Law.

38. Delegation by Central Government of its powers and functions [Sec.458 COA 2013]

Corresponding to Sec.637 of COA 1956 **See Page 9.27**

Particulars	Description
Delegation of Powers except Rule-Making Powers	(a) The Central Government may, by notification, and subject to such conditions, limitations and restrictions as may be specified therein, delegate any of its powers or functions under this Act (other than the power to make Rules), to such Authority or Officer as may be specified in the notification. (b) A copy of every Notification issued, as soon as may be after it is issued, be laid before each House of Parliament.
Powers to enforce provisions in Sec. 194 & 195 (relating to Forward Dealing and Insider Trading)	(a) Delegated to SEBI, in case of Listed Companies or Companies which intend to get their securities listed. (b) Any Officer authorized by the SEBI shall have the power to file a complaint in the Court of competent jurisdiction, in such case.

39. Powers of Central Government or Tribunal to accord approval, etc. subject to conditions and to prescribe fees on applications [Sec.459 COA 2013]

Corresponding to Sec.637A of COA 1956 **See Page 9.27**

Particulars	Description
Where the Central Government or the Tribunal is required or authorised by any provision of this Act – (a) To accord approval, sanction, consent, confirmation or recognition to, or in relation to, any matter, or (b) To give any direction in relation to any matter, or (c) To grant any exemption in relation to any matter.	(a) The Central Govt or the Tribunal may accord, give or grant such approval, sanction, consent, confirmation, recognition, direction or exemption, subject to such conditions, limitations or restrictions as it may think fit to impose. (b) In case of a contravention of any such condition, limitation or restriction, the CG / Tribunal may rescind or withdraw such approval, sanction, consent, confirmation, recognition, direction or exemption.

Note: Applications to CG / Tribunal shall be accompanied by prescribed fees. Different Fees may be prescribed for applications in respect of different matters or in case of applications by different classes of Companies.

40. Condonation of Delay in certain cases [Sec.460 COA 2013]

Corresponding to Sec.637B of COA 1956 **See Page 9.27**

Notwithstanding anything contained in this Act –

- Where any application required to be made to the Central Government under any provision of this Act in respect of any matter, is not made within the time specified therein, that Government may, for reasons to be recorded in writing, condone the delay,
- Where any document required to be filed with the Registrar under any provision of this Act is not filed within the time specified therein, the Central Government may, for reasons to be recorded in writing, condone the delay.

41. Annual Report by Central Government [Sec.461 COA 2013]

Corresponding to Sec.638 of COA 1956 **See Page 9.28**

The Central Government shall cause a General Annual Report on the working and administration of this Act to be prepared and laid before each House of Parliament within one year of the close of the year to which the Report relates.

42. Power to exempt class(es) of Companies from provisions of this Act [Sec.462 COA 2013]

Corresponding to Sec.620 of COA 1956 **See Page 9.12**

Particulars	Description
By Whom?	Central Government may exempt, by a Notification.
Basis of Exemption	In the public interest.
Nature of Exemption	CG may direct that any provision – (a) shall not apply to such class or classes of Companies, or (b) shall apply to the class or classes of Companies with such exceptions, modifications and adaptations as may be specified in the Notification.
Notification laid before Parliament	(a) A copy of every Notification proposed to be issued shall be laid in draft before each House of Parliament, while it is in session. (b) It shall be laid for a total period of 30 days which may be comprised in one session or in two or more successive sessions. (c) If before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the Notification or both Houses agree in making any modification in the notification, then the Notification shall not be issued or, shall be issued only in such modified form as may be agreed upon by both the Houses.

43. Power of Court to grant relief in certain cases [Sec.463 COA 2013]

Corresponding to Sec.633 of COA 1956 **See Page 9.20**

Particulars	Description
Situation	- If in any proceeding for negligence, default, breach of duty, misfeasance or breach of trust against an Officer of a Company, - It appears to the Court hearing the case that he is or may be liable in respect of the negligence, default, breach of duty, misfeasance or breach of trust, - But that he has acted honestly and reasonably, and - That having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused.
Court's power to grant Relief	(a) The Court may relieve him, either wholly or partly, from his liability on such term, as it may think fit. (b) However, in a criminal proceeding, the Court shall have no power to grant relief from any civil liability which may attach to an Officer in respect of such negligence, default, breach of duty, misfeasance or breach of trust.
Application to High Court	(a) Situation: Where any Officer has reason to apprehend that any proceeding will or might be brought against him in respect of any negligence, default, breach of duty, misfeasance or breach of trust. (b) Application: Such Officer may apply to the High Court for relief. (c) High Court's Powers: High Court may have such power to relieve him as it would have had if it had been a Court before which a proceedings against that Officer for negligence, default, breach of duty, misfeasance or breach of trust had been brought.

Note: No Court shall grant any relief to any Officer unless it has, by notice served in the manner specified by it, required the Registrar and such other person, if any, as it thinks necessary, to show cause why such relief should not be granted.

44. Power to Central Government to amend schedules [Sec.467 COA 2013]

Corresponding to Sec.641 of COA 1956 **See Page 9.28**

Particulars	Description
Power to Alter	(a) Power: Subject to the provisions of Sec.467, the Central Government may, by notification, alter any of the Regulations, Rules, Tables, Forms and other provisions contained in any of the Schedules to this Act. (b) Effect: Alteration shall have effect as if enacted in this Act, and shall come into force on the date of the notification, unless the notification otherwise directs. Note: No such alteration in Table F of Schedule I shall apply to any Company registered before the date of such alteration.
Alteration laid before Parliament	(a) Every alteration made by the Central Government shall be laid as soon as may be after it is made before each House of Parliament, while it is in session. (b) It shall be laid for a total period of 30 days, which may be comprised in one session or in two or more successive sessions. (c) If before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the alteration, or both Houses agree that the alteration should not be made, the alteration shall thereafter have effect only in such modified form or be of no effect, as the case may be. (d) However, any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that alteration.

45. Powers of Central Government to make Rules relating to winding up [Sec.468 COA 2013]

Corresponding to Sec.643 of COA 1956 **See Page 9.28**

Particulars	Descriptions
General Power	The Central Government shall, make Rules consistent with the Code of Civil Procedure, 1908 providing for all matters relating to the winding up of Companies, which by this Act, are to be prescribed, and may make Rules providing for all prescribed matters.

Particulars	Descriptions
Matters for which provision shall be made in Rules	1. Mode of Proceedings to be held for winding up of a Company by the Tribunal, 2. Voluntary winding up of Companies, whether by Members or by Creditors, 3. Holding of Meetings of Creditors and Members in connection with proceedings u/s 230, 4. For giving effect to the provisions of this Act as to the reduction of the Capital, 5. Generally for all applications to be made to the Tribunal under the provisions of this Act, 6. Holding and Conducting of Meetings to ascertain the wishes of Creditors and Contributories, 7. Settling of Lists of Contributories and the rectifying of the Register of Members where required, and collecting and applying the assets, 8. Payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the Liquidator, 9. Making of Calls, and 10. Fixing of a time within which Debts and Claims shall be proved.
Existing Rules of Supreme court valid for transition period	1. All Rules made by the Supreme Court on the matters referred to in this section as it stood immediately before the commencement of this Act and in force at such commencement, shall continue to be in force, till such time the Rules are made by the Central Government. 2. Any reference to the High Court in relation to winding up of a Company in such Rules shall be construed as a reference to the Tribunal.

46. Power of Central Government to make Rules [Sec.469 COA 2013]

Corresponding to Sec.642 of COA 1956 **See Page 9.28**

Particulars	Description
Power of CG	1. CG is empowered to make Rules for carrying out the provisions of the Act. 2. Rules cover all or any of the matters which are required by the Act to be "prescribed", or in respect of which provision is made by Rules.
Fine for Contravention of Rules	Any Rule made may provide that a contravention thereof shall be punishable with fine which may extend to ₹ 5,000 and where the contravention is a continuing one, with a further fine which may extend to ₹ 500 for every day after the first during which such contravention continues.
Rules / Regulations to be laid before Parliament	1. Every Rule CG u/s 469, and every Regulation made by SEBI under this Act, shall be laid by as soon as may be after it is made, before each House of Parliament, while it is in session. 2. It shall be laid for a total period of 30 days, which may be comprised in one session or in two or more successive sessions. 3. If before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Rule or Regulation, or both Houses agree that the Rule or Regulation should not be made, the Rule or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be. 4. However, any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule or Regulation.

47. Power to remove difficulties [Sec.470 COA 2013]

[New Section]

Particulars	Description
Situation	Any Difficulty arises in giving effect to the provisions of this Act
Power of CG	• Central Government may, • by order published in the Official Gazette, • make such provisions, • not inconsistent with the provisions of this Act, • as appear to it to be necessary or expedient for removing the difficulty.
Time Limit for passing order	No such order shall be made after the expiry of a period of 5 years from the date of commencement of Section 1 of this Act.
Laid before Parliament	Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

48. Definitions [Sec.2 COA 2013]

Definitions	Page
"Abridged Prospectus" means a Memorandum containing such salient features of a Prospectus as may be specified by the Securities and Exchange Board by making regulations in this behalf, [Sec. 2(1)]	General
"Alter" or "Alteration" includes the making of additions, omissions and substitutions, [Sec. 2(3)]	General
"Appellate Tribunal" means the National Company Law Appellate Tribunal constituted u/s 410.[Sec. 2(4)]	General
"Articles" means the Articles of Association of a Company as originally framed or as altered from time to time or applied in pursuance of any previous Company Law or of this Act. [Sec. 2(5)]	General
Associate Company in relation to another Company, means a Company in which that other Company has a significant influence, but which is not a Subsidiary Company of the Company having such influence and includes a Joint Venture Company. Significant Influence means control of atleast 20% of Total Share Capital, or of business decisions under an agreement. [Sec. 2(6)]	New Defn.
"Authorised Capital" or "Nominal Capital" means such Capital as is authorized by the Memorandum of a Company to be the maximum amount of Share Capital of the Company, [Sec. 2(8)]	General
"Banking Company" means a Banking Company as defined in Sec.5(c) of the Banking Regulation Act, 1949.[Sec. 2(9)]	New Defn.
"Board of Directors" or "Board" , in relation to a Company, means the collective body of the Directors of the Company. [Sec. 2(10)]	3.2
"Body Corporate" or "Corporation" includes a Company incorporated outside India, but does not include – (a) a Co-Operative Society registered under any law relating to Co-Operative Societies, and (b) any other Body Corporate (not being a Company as defined in this Act), which the Central Government may, by notification, specify in this behalf. [Sec. 2(11)]	General
"Book and Paper" and "Book or Paper" include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form. [Sec. 2(12)]	General
"Branch Office" , in relation to a Company, means any establishment described as such by the Company. [Sec. 2(14)]	General
"Called-Up Capital" means such part of the Capital, which has been called for payment, [Sec. 2(15)]	General
"Charge" means an interest or lien created on the property or assets of a Company or any of its undertakings or both as security, and includes a mortgage. [Sec. 2(16)]	General
"Chartered Accountant" means a Chartered Accountant as defined in Sec. 2(1)(b) of the Chartered Accountants Act, 1949 who holds a valid Certificate of Practice u/s 6(1) of that Act. [Sec. 2(17)]	1.26
"Chief Executive Officer" means an Officer of a Company, who has been designated as such by it. [Sec. 2(18)]	New Defn.
"Chief Financial Officer" means a person appointed as the Chief Financial Officer of a Company. [Sec. 2(19)]	New Defn.
"Company" means a Company incorporated under this Act or under any previous Company law. [Sec.2(20)]	New Defn.
"Company limited by Guarantee" means a Company having the liability of its Members limited by the Memorandum to such amount as the Members may respectively undertake to contribute to the Assets of the Company in the event of its being wound-up. [Sec.2(21)]	General
"Company limited by Shares" means a Company having the liability of its Members limited by the Memorandum to the amount, if any, unpaid on the Shares respectively held by them.[Sec. 2(22)]	General
"Company Secretary" or "Secretary" means a Company Secretary as defined in Sec.2(1)(c) of the Company Secretaries Act, 1980 who is appointed by a Company to perform the functions of a Company Secretary under this Act. [Sec. 2(24)]	10.1, 10.2
"Company Secretary in Practice" means a Company Secretary who is deemed to be in practice u/s 2(2) of the Company Secretaries Act, 1980. [Sec. 2(25)]	General
"Contributory" means a person liable to contribute towards the Assets of the Company in the event of its being wound up.[Sec. 2(26)] A person holding fully paid-up shares in a Company shall be considered as a Contributory but shall have no liabilities of a Contributory under the Act, whilst retaining rights of such a contributory.	7.2
"Control" shall include the right to appoint majority of the Directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their Shareholding or management rights or Shareholders agreements or voting agreements or in any other manner.[Sec. 2(27)]	New Defn.

Definitions	Page
"Cost Accountant" means a Cost Accountant as defined in Sec.2(1)(b) of the Cost and Works Accountants Act, 1959. [Sec. 2(28)]	1.43
"Court" means – (a) the High Court having jurisdiction in relation to the place at which the Registered Office of the Company concerned is situate, except to the extent to which jurisdiction has been conferred on any District Court or District Courts, subordinate to that High Court (as below) (b) the District Court, in cases where the Central Government has, by notification, empowered any District Court to exercise all or any of the jurisdictions conferred upon the High Court, within the scope of its jurisdiction in respect of a Company whose Registered Office is situated in the District, (c) the Court of Session having jurisdiction to try any offence under this Act or under any previous Company Law, (d) the Special Court established u/s 435, (e) any Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction to try any offence under this Act or under any previous Company Law. [Sec. 2(29)]	General
"Debenture" includes Debenture Stock, Bonds or any other instrument of a Company evidencing a Debt, whether constituting a charge on the assets of the Company or not. [Sec.2(30)]	General
"Depository" means a Depository as defined in Sec.2(1)(e) of the Depositories Act, 1996. [Sec. 2(32)]	General
"Derivative" means the Derivative as defined in Sec.2(ac) of the Securities Contracts (Regulation) Act, 1956. [Sec. 2(33)]	13.2
"Director" means a Director appointed to the Board of a Company. [Sec.2(34)]	3.1
"Dividend" includes any Interim Dividend. [Sec. 2(35)]	General
"Document" includes summons, notice, requisition, order, declaration, form and register, whether issued, sent or kept in pursuance of this Act or under any other law for the time being in force or otherwise, maintained on paper or in electronic form. [Sec. 2(36)]	General
"Employees' Stock Option" means the option given to the Directors, Officers or Employees of a Company or of its Holding Company or Subsidiary Company or Companies, if any, which gives such Directors, Officers or Employees, the benefit or right to purchase, or to subscribe for, the Shares of the Company at a future date at a pre-determined price. [Sec.2(37)]	General
"Expert" includes an Engineer, a Valuer, a Chartered Accountant, a Company Secretary, a Cost Accountant and any other person who has the power or authority to issue a Certificate in pursuance of any law for the time being in force. [Sec.2(38)]	General
"Financial Institution" includes a Scheduled Bank, and any other Financial Institution defined or notified under the Reserve Bank of India Act, 1934. [Sec.2(39)]	New Defn.
"Financial Statement" in relation to a Company, includes – [Sec.2(40)] (i) a Balance Sheet as at the end of the financial year, (ii) a Profit and Loss Account, or in the case of a Company carrying on any activity not for profit, an Income and Expenditure Account for the financial year, (iii) Cash Flow Statement for the financial year, (iv) a Statement of Changes in Equity, if applicable, and (v) any Explanatory Note annexed to, or forming part of, any document referred to above. Note: The Financial Statement, with respect to One Person Company, Small Company and Dormant Company, may not include the Cash Flow Statement.	New Defn.
"Free Reserves" means such Reserves which, as per the latest audited Balance Sheet of a Company, are available for distribution as dividend. [Sec.2(43)] Note: The following shall not be treated as Free Reserves – (a) any amount representing Unrealized Gains, Notional Gains or Re-valuation of Assets, whether shown as a Reserve or otherwise, or (b) any change in the Carrying Amount of an Asset or of a Liability recognized in Equity, including Surplus in Profit and Loss Account on measurement of the Asset or the Liability at Fair Value.	4.56
"Global Depository Receipt" means any instrument in the form of a Depository Receipt, by whatever name called, created by a Foreign Depository outside India, and authorized by a Company making an issue of such Depository Receipts. [Sec.2(44)]	New Defn.
"Government Company" means any Company in which not less than 51% of the Paid-Up Share Capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a Company which is a Subsidiary Company of such a Government Company. [Sec.2(45)]	9.11
"Holding Company" , in relation to one or more other Companies, means a Company of which such Companies are Subsidiary Companies. [Sec.2(46)]	General

Definitions	Page
"Interested Director" means a Director who is in any way, whether by himself or through any of his Relatives or Firm, Body Corporate or other Association of Individuals in which he or any of his relatives is a Partner, Director or a Member, interested in a contract or arrangement, or proposed contract or arrangement, entered into or to be entered into by or on behalf of a Company. [Sec.2(49)]	4.73
"Issued Capital" means such Capital as the Company issues from time to time for subscription, [Sec. 2(50)]	General
"Key Managerial Personnel", in relation to a Company, means – [Sec.2(51)] (i) the Chief Executive Officer or the Managing Director or the Manager, (ii) the Company Secretary, (iii) the Whole-Time Director, (iv) the Chief Financial Officer, and (v) such other Officer as may be prescribed.	New Defn.
"Listed Company" means a Company which has any of its Securities listed on any Recognised Stock Exchange, [Sec.2(52)]	General
"Manager" means an individual who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a Company, and includes a Director or any other person occupying the position of a Manager, by whatever name called, whether under a contract of service or not. [Sec.2(53)]	3.54
"Managing Director" means a Director who, by virtue of the Articles of a Company or an agreement with the Company or a resolution passed in its General Meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the Company and includes a Director occupying the position of Managing Director, by whatever name called. [Sec.2(54)] Explanation: For the purposes of this Clause, substantial powers of management do not include the power to do administrative acts of a routine nature when so authorised by the Board, such as the power – (c) to affix the Common Seal of the Company to any document, or (d) to draw and endorse any cheque on the account of the Company in any Bank, or (e) to draw and endorse any negotiable instrument, or (f) to sign any Certificate of Share, or (g) to direct registration of transfer of any Share. [Sec.2(54)]	3.53
"Member", in relation to a Company, means – [Sec.2(55)] (a) the subscriber to the Memorandum of the Company, who shall be deemed to have agreed to become Member of the Company, and on its registration, shall be entered as Member in its Register of Members, (b) every other person who agrees in writing to become a Member of the Company, and whose name is entered in the Register of Members of the Company, (c) every person holding Shares of the Company and whose name is entered as a Beneficial Owner in the records of a Depository.	General
"Memorandum" means the Memorandum of Association of a Company as originally framed or as altered from time to time in pursuance of any previous Company Law or of this Act. [Sec.2(56)]	General
"Net Worth" means the aggregate value of the Paid-Up Share Capital and all Reserves created out of the Profits and Securities Premium Account, after deducting the aggregate value of the Accumulated Losses, Deferred Expenditure and Miscellaneous Expenditure not written off, as per the audited Balance Sheet, but does not include Reserves created out of Revaluation of Assets, write-back of depreciation and amalgamation. [Sec.2(57)]	General
"Notification" means a Notification published in the Official Gazette and the expression "notify" shall be construed accordingly, [Sec. 2(58)]	General
"Officer" includes any Director, Manager or Key Managerial Personnel or any person, in accordance with whose directions or instructions the Board of Directors or any one or more of the Directors is or are accustomed to act. [Sec.2(59)]	General
"Officer who is in default", for the purpose of any provision in this Act which enacts that an Officer of the Company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following Officers of a Company, namely – [Sec.2(60)] (a) Whole-Time Director, (b) Key Managerial Personnel, (c) where there is no Key Managerial Personnel, such Director or Directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the Directors, if no Director is so specified, (d) Any person who, under the immediate authority of the Board or any Key Managerial Personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default,	General

Definitions	Page
(e) any person in accordance with whose advice, directions or instructions the Board of Directors of the Company is accustomed to act, other than a person who gives advice to the Board in a professional capacity, (f) every Director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance, (g) in respect of the issue or transfer of any Shares of a Company, the Share Transfer Agents, Registrars and Merchant Bankers to the issue or transfer.	
"Official Liquidator" means an Official Liquidator appointed u/s 359(1). [Sec.2(61)]	7.2
"One Person Company" means a Company which has only one person as a Member, [Sec. 2(62)]	General
"Ordinary or Special Resolution" means an Ordinary Resolution or Special Resolution as referred to in Sec.114. [Sec.2(63)]	New Defn.
"Paid-Up Share Capital" or "Share Capital Paid-Up" means such aggregate amount of money credited as paid-up as is equivalent to the amount received as paid-up in respect of Shares issued. It also includes any amount credited as paid-up in respect of Shares of the Company, but does not include any other amount received in respect of such Shares, by whatever name called. [Sec.2(64)]	General
"Postal Ballot" means voting by post or through any electronic mode. [Sec.2(65)]	New Defn.
"Prescribed" means prescribed by rules made under this Act, [Sec. 2(66)]	13.2
"Previous Company Law" means any of the laws specified below – [Sec.2(67)] (a) Acts relating to Companies in force before the Indian Companies Act, 1866, (b) the Indian Companies Act, 1866, (c) the Indian Companies Act, 1882, (d) the Indian Companies Act, 1913, (e) the Registration of Transferred Companies Ordinance, 1942, (f) the Companies Act, 1956, and (g) any law corresponding to any of the aforesaid Acts or the Ordinances and in force – - in the merged territories or in a Part B State (other than the State of Jammu and Kashmir), or any part thereof, before the extension thereto of the Indian Companies Act, 1913, or - in the State of Jammu and Kashmir, or any part thereof, before the commencement of the Jammu and Kashmir (Extension of Laws) Act, 1956, in so far as Banking, Insurance and Financial Corporations are concerned, and before the commencement of the Central Laws (Extension to Jammu and Kashmir) Act, 1968, in so far as other corporations are concerned, (h) the Portuguese Commercial Code, in so far as it relates to sociedades anonimas, and (i) the Registration of Companies (Sikkim) Act, 1961.	General
"Private Company" means a Company having a minimum Paid-Up Share Capital of ₹ 1,00,000 or such higher prescribed amount, and which by its Articles – [Sec.2(68)] (a) restricts the right to transfer its Shares, (b) except in case of One Person Company, limits the number of its Members to 200, (c) prohibits any invitation to the public to subscribe for any Securities of the Company. Note: Joint Members = Single Members: Where two or more persons hold one or more Shares in a Company jointly, they shall be treated as a single member for this purpose. Present and Past Employees excluded: Persons who are in the employment of the Company, and persons who, having been formerly in the employment of the Company, were Members of the Company while in that employment and have continued to be Members after the employment ceased, shall not be included in the number of Members.	General
"Promoter" means a person – [Sec.2(69)] (a) who has been named as such in a Prospectus or is identified by the Company in the Annual Return referred u/s 92, or (b) who has control over the affairs of the Company, directly or indirectly whether as a Shareholder, Director or otherwise, or (c) in accordance with whose advice, directions or instructions the Board of Directors of the Company is accustomed to act. [Note: This shall not apply to a person who is acting merely in a professional capacity.]	New Defn.
"Prospectus" means any document described or issued as a Prospectus and includes – (a) a Red Herring Prospectus referred u/s 32, or (b) Shelf Prospectus referred u/s 31, or	General

Definitions	Page
(c) any Notice, Circular, Advertisement or other document inviting offers from the public for the subscription or purchase of any Securities of a Body Corporate. [Sec.2(70)]	
"Public Company" means a Company which – [Sec.2(71)] (a) is not a Private Company, (b) has a minimum Paid-Up Share Capital of ₹ 5,00,000 or such higher prescribed amount. Note: A Company which is a Subsidiary of a Company, not being a Private Company, shall be deemed to be Public Company for the purposes of this Act, even where such Subsidiary Company continues to be a Private Company in its Articles.	General
"Public Financial Institution" means – [Sec.2(72)] (a) the Life Insurance Corporation of India, established u/s 3 of the Life Insurance Corporation Act, 1956, (b) the Infrastructure Development Finance Company Limited, referred to Sec.4A(1)(vi) of the Companies Act, 1956 so repealed under Sec.465 of this Act, (c) Specified Company referred to in the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, (d) Institutions notified by the Central Government u/s 4A(2) of the Companies Act, 1956 so repealed under Sec.465 of this Act, (e) such other Institution as may be notified by the Central Government in consultation with the RBI. Note: No Institution shall be so notified unless— • it has been established or constituted by or under any Central or State Act, or • not less than 51% of the Paid-Up Share Capital is held or controlled by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments.	General
"Recognised Stock Exchange" means a Recognised Stock Exchange as defined in Sec.2(f) of the Securities Contracts (Regulation) Act, 1956. [Sec.2(73)]	13.2
"Register of Companies" means the Register of Companies maintained by the Registrar on paper or in any electronic mode under this Act. [Sec.2(74)]	General
"Registrar" means a Registrar, an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar, having the duty of registering Companies and discharging various functions under this Act, [Sec. 2(75)]	General
"Related Party", with reference to a Company, means– [Sec.2(76)] (a) a Director or his relative, (b) a Key Managerial Personnel or his relative, (c) a Firm, in which a Director, Manager or his Relative is a Partner, (d) a Private Company in which a Director or Manager is a Member or Director, (e) a Public Company in which a Director or Manager is a Director or holds along with his relatives, more than 2% of its Paid-Up Share Capital, (f) any Body Corporate whose Board of Directors, Managing Director or Manager is accustomed to act in accordance with the advice, directions or instructions of a Director or Manager, (g) any person on whose advice, directions or instructions a Director or Manager is accustomed to act, (h) any Company which is – • a Holding, Subsidiary or an Associate Company of such Company, or • a Subsidiary of a Holding Company to which it is also a Subsidiary, (i) such other person as may be prescribed. Note: Points (f) & (g) shall not apply to the advice, directions or instructions given in a professional capacity.	General
"Relative", with reference to any person, means anyone who is related to another, if – (a) they are Members of a Hindu Undivided Family, (b) they are Husband and Wife, or (c) one person is related to the other in such manner as may be prescribed. [Sec.2(77)]	General
"Remuneration" means any money or its equivalent given or passed to any person for services rendered by him, and includes perquisites as defined under the Income-Tax Act, 1961. [Sec.2(78)]	3.68
"Schedule" means a Schedule annexed to this Act. [Sec.2(79)]	General
"Scheduled Bank" means the Scheduled Bank as defined in Sec.2(e) of the RBI Act, 1934. [Sec.2(80)]	16.1
"Securities" means the Securities as defined in Sec.2(h) of the Securities Contracts (Regulation) Act, 1956. [Sec.2(81)]	13.3
"Securities and Exchange Board" means the Securities and Exchange Board of India established u/s of the Securities and Exchange Board of India Act, 1992. [Sec.2(82)]	14.1
"Share" means a Share in the Share Capital of a Company and includes Stock. [Sec.2(84)]	General

Definitions	Page
" Subscribed Capital " means such part of the capital which is for the time being subscribed by the Members of a Company. [Sec.2(86)]	General
" Subsidiary Company " or " Subsidiary ", in relation to any other Company (that is to say the Holding Company), means a Company in which the Holding Company – [Sec.2(87)] (a) controls the composition of the Board of Directors, or (b) exercises or controls more than one-half of the Total Share Capital either at its own or together with one or more of its Subsidiary Companies. Note: - A Company shall be deemed to be a Subsidiary Company of the Holding Company even if the control referred to above is of another Subsidiary Company of the Holding Company. - The composition of a Company's Board of Directors shall be deemed to be controlled by another Company, if that other Company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the Directors. - The expression "Company" includes any Body Corporate.	General
" Sweat Equity Shares " means such Equity Shares as are issued by a Company to its Directors or Employees at a discount or for consideration, other than cash, for providing their know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called. [Sec.2(88)]	General
" Total Voting Power ", in relation to any matter, means the total number of votes which may be cast in regard to that matter on a poll at a meeting of a Company if all the Members thereof or their proxies having a right to vote on that matter are present at the meeting and cast their votes. [Sec.2(89)]	General
" Tribunal " means the National Company Law Tribunal constituted u/s 408. [Sec.2(90)]	General
" Turnover " means the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the Company during a financial year. [Sec.2(91)]	1.41
" Unlimited Company " means a Company not having any limit on the liability of its Members. [Sec.2(92)]	General
" Voting Right " means the right of a Member of a Company to vote in any meeting of the Company or by means of Postal Ballot. [Sec.2(93)]	General
" Whole-Time Director " includes a Director in the whole-time employment of the Company. [Sec.2(94)]	3.54
Words and Expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 shall have the meanings respectively assigned to them in those Acts. [Sec.2(95)]	General