

Companies Act, 2013

Commencement of 98 sections on effective 12.09.2013

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FINALLY.....WE SEE THE MUCH AWAITED ACT FLUNGING INTO ACTION

- Ministry of Corporate Affairs issues Notification for Commencement of 98 Sections (out of 470 sections) of the New Act on 12th September, 2013



In PHASES

- It seems that it has been decided to enforce the provisions of the new legislation in phases.
- The provisions of the new Act which require statutory/regulatory consultation or functioning of new bodies or prescription of relevant rules/forms will be brought in force after the preparatory action is completed.



Probably, sections which do not require rules

- In the first instance it has been decided to notify those provisions of the Act which do not require such preparations.



Verbatim

- The exact language of Notification is:

In exercise of the powers conferred by subsection (3) of section 1 of the Companies Act 2013, the Central Government hereby appoints the 12th day of September, 2013 as the date on which the following provisions of the said Act shall come into force



Section 1 (3)

- This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision



By Way of a Notification

- <http://www.mca.gov.in/Ministry/pdf/CommencementNotificationOfCA2013.pdf>
- The notification has been signed by Renuka Kumar, Joint Secretary to the Government of India



New Provisions

- 27 new definitions now applicable
- 6-7 new sections/provisions now applicable.

All new provisions specifically identified and mentioned in bracket after each definition/section

There has been modifications in almost all the new sections in force now. For reference, corresponding sections of the Companies Act, 1956 is mentioned in bracket after each relevant new section of the Companies Act, 2013 which is now applicable.



Definitions-Section 2

- In this section, the following definitions given against each clause, becomes applicable:

- 1: abridged prospectus
- 3: alteration
- 4: appellate tribunal
- 5: articles
- 6: associate company
- 8: authorised capital (new)
- 9: banking company
- 10: board of directors or board
- 11: body corporate or corporation
- 12: book and paper and book or paper



Definition Continued.....

Clause 14 to 22

14: branch office

15: called-up capital (new)

16: charge (new)

17: chartered accountant (new)

18: chief executive officer (new)

19: chief financial officer (new)

20: company

21: company limited by guarantee

22: company limited by shares



Definition Continued....

24: company secretary

25: company secretary in practice

26: contributory

27: control (new)

28: cost accountant (new)

29: Court (except sub clause iv which talks about Special Court)

30: debenture

32: depository

33: derivative



Definition Continued....

- 34: director
- 35: dividend
- 36: document
- 37: employees' stock option
- 38: expert (new)
- 39: financial institution (new)
- 40: financial statement (new)
- 43: free reserves
- 44: global depository receipt (new)
- 45: government company



Definition Continued....

46: holding company

49: interested director

50: issued capital (new)

51: key managerial personnel (new)

52: listed company

53: manager

54: managing director

55: member

56: memorandum

57: networth



Definition Continued....

58: notification (new)

59: officer

60: officer who is in default

61: official liquidator

63: ordinary or special resolution (new)

64: paid up share capital (new)

65: postal ballot (new)

66: prescribed

67: previous company law (except sub clause
ix relating to Registration of Companies (Sikkim) Act,



Definition Continued....

68: private company

69: promoter (new)

70: prospectus

71: public company

72: public financial institution

73: recognised stock exchange

74: register of companies (new)

75: registrar

76: related party

77: relative (My Comment: the list of relatives as per sub clause iii is yet to be prescribed)



Definition Continued....

78: remuneration

79: schedule

80: scheduled bank

81: securities

82: securities and exchange board

84: share

85: small company (new)

86: subscribed capital (new)

87: subsidiary company or subsidiary (except
the proviso and explanation (d))



Definition Continued....

88: sweat equity shares

89: total voting power

90: tribunal (new)

91: turnover (new)

92: unlimited company (new)

93: voting right (new)

94: whole time director (new)

95: words & expression borrowed from SCRA,
SEBI and Depositories Act...



Other Sections in force

- Section 19: Subsidiary Company not to hold shares in its holding company (old section 42)
- Section 21: Authentication of documents, proceedings and contracts (old section 54)
- Section 22: Execution of Bills of Exchange, etc (old section 48)
- Section 23: Public offer and private placement (except clause (b) of sub section (1) and sub section (2) (New Provisions)



Other Sections in force

- Section 24: Power of securities and exchange board to regulate issue and transfer of securities etc (old section 55A)
- Section 25: Document containing offer of securities for sale to be deemed prospectus [except sub section (3)] (old section 64)
- Section 29: Public offer of securities to be in dematerialised form (old section 68B)
- Section 30: Advertisement of prospectus (old section 66)



Other Sections in force

- Section 31: Shelf prospectus (old section 60A)
- Section 32: Red herring prospectus (old section 60B)
- Section 33: Issue of application forms for securities [except sub section (3) which talks about penalty provisions] (old section 56)
- Section 34: Criminal liability for misstatement in prospectus (old section 63)



Other Sections in force

- Section 35: Civil liability for misstatement in prospectus [except clause (e) of sub section (1)] (old section 62)
- Section 36: Punishment for fraudulently inducing persons to invest money (old section 68)
- Section 37: Action to be taken by affected persons (new provisions)
- Section 38: Punishment for personation for acquisition etc of Securities (old Sec 68A)



Other Sections in force

- Section 39: Allotment of Securities by company [except sub section (4)] (old section 69, 75)
- Section 40: securities to be dealt with in stock exchanges [except sub section (6) which mentions about commission payments](old section 73 and 76)
- Section 44: Nature of shares or debentures (old section 82)
- Section 45: Numbering of shares (old Sec 83)



Other Sections in force

- Section 49: Calls on shares of same class to be made on uniform basis (old section 91)
- Section 50: Company to accept unpaid share capital, although not called up (old section 92)
- Section 51: Payment of dividend in proportion to amount paid up (old section 93)
- Section 57: Punishment for personation of shareholder (old Sec 116)



Other Sections in force

- Section 58: Refusal of registration and appeal against refusal (old section 111 and 111A)
- Section 59: Rectification of register of members (old section 111 and 111A)
- Section 60: Publication of authorised, subscribed and paid up capital (old section 148)
- Section 65: Unlimited company to provide for reserve share capital on re-registration (old Sec 98)



Other Sections in force

- Section 69: Transfer of certain sums to capital redemption reserve account (old section 77AA)
- Section 70: Prohibition for Buy Back in certain circumstances[except sub section (2)](old section 77B)
- Section 86: Punishment for contravention of Chapter V relating to acceptance of deposits by companies (old section 142)
- Section 91: Power to close register of members or debenture holders or other security holders (old Sec



Other Sections in force

- Section 100: Calling of extra ordinary general meeting [except sub section (6) relating to reasonable expenses incurred by the requisitionists] (old section 169)
- Section 102: Statement to be annexed with notice (old section 173)
- Section 103: Quorum for meetings (old section 174)
- Section 104: Chairman of meetings (old Sec 175)



Other Sections in force

- Section 105: Proxies [except 3rd and 4th proviso of sub section (1) and sub section (7)] (old section 176)
- Section 106: Restriction on voting rights (old section 181, 182, 183)
- Section 107: Voting by show of hands (old section 177, 178)
- Section 111: Circulation of Members' resolution (old Sec 188)



Other Sections in force

- Section 112: Representation of the President and Governors in meetings (old section 187A)
- Section 113: Representation of Corporations at meeting of companies and of creditors [except sub clause (b) of sub section (1) (old section 187)]
- Section 114: Ordinary & Special resolutions (old section 189)
- Section 116: Resolutions passed at adjourned meeting (old Sec 191)



Other Sections in force

- Section 127: Punishment for failure to distribute dividends within 30 days (old section 207)
- Section 133: Central government to prescribe accounting standards (old section 211)
- Section 161: Appointment of Additional Director, Alternate Director and Nominee Director [except sub section (2) (old section 260, 262, 313)]
- Section 162: Appointment of directors to be voted individually (old section 263)



Other Sections in force

- Section 163: Option to adopt principle of proportional representation for appointment of directors(old section 265)
- Section 176: Defects in appointment of Directors not to invalidate actions taken (old section 290)
- Section 180: Restriction on powers of board (old section 293)
- Section 181: Company to contribute to bonafide and charitable funds etc (old section 293)



Other Sections in force

- Section 182: Prohibitions and Restrictions regarding political contributions (old section 293A)
- Section 183: Power of Board and other persons to make contributions to national defence fund etc (old section 293B)
- Section 185: Loan to Directors etc (old section 295, 296)
- Section 192: Restriction on non cash transactions involving directors (new provisions)



Other Sections in force

- Section 194: Prohibition on forward dealings in securities of company by director or key managerial personnel (new provisions)
- Section 195: Prohibition on insider trading of securities (new provisions)
- Section 202: Compensation for loss of office of managing or whole time director or manager (old section 318)
- Section 379: Application of Act to Foreign Companies (old section 591)



Other Sections in force

- Section 382: Display of name etc of Foreign Company (old section 595)
- Section 383: Service on foreign company (old section 596)
- Section 386: Interpretation for purposes of Chapter XXII relating to companies incorporated outside India [except sub clause (a)](old section 602)
- Section 394: Annual reports on Government Companies (old section 619A)



Other Sections in force

- Section 405: Power of Central Government to direct companies to furnish information or statistics (old section 615)
- Section 407: Definitions under Chapter XXVII relating to NCLT and NCALT (old section 10FD)
- Section 408: Constitution of NCLT (old section 10FB and 10FC)
- Section 409: Qualifications of President and Members of Tribunal (old section 10FD)



Other Sections in force

- Section 410: Constitution of Appellate Tribunals (old section 10FR)
- Section 411: Qualifications of Chairperson and Members of Appellate Tribunal (old section 10FR)
- Section 412: Selection of Members of Tribunal and Appellate Tribunal (old section 10FX)
- Section 413: Term of office of President, Chairperson and other Members (old section 10FT and 10FE)



Other Sections in force

- Section 414: Salary, Allowances and other terms and conditions of service of members (old section 10FG, 10FW)
- Provisions Pertaining to Chapter XXVIII on Special Courts: Section 439, 443, 444, 445 & 446 (old sections 621, 624, 624A, 624B, 625, 626)
- Provisions Pertaining to Chapter XXIX-Miscellaneous Section 447 to 453 (pertaining to punishment for fraud, false statement, false evidence etc) (old sections 628, 629, 629A, 630, 631)



Other Sections in force

- Section 456: Protection of action taken in good faith (old section 635A)
- Section 457: Non disclosure of information in certain cases (old section 635AA)
- Section 458: Delegation by central government of its powers and functions (old section 637)
- Section 459: Powers of central government or Tribunal to accord approval etc (old section 637A)



Other Sections in force

- Section 460: Condonation of delay in certain cases (old section 637B)
- Section 461: Annual reports by central government (old section 638)
- Section 462: Power to exempt a class or classes of companies from provisions of this Act (old section 620)
- Section 463: Power of court to grant relief in certain cases (old section 633)



Other Sections in force

- Section 467: Power to central government to amend schedules (old section 641)
- Section 468: Power of central government to make rules relating winding up (old section 643)
- Section 469: Power to central government to make rules (old section 642)
- Section 470: Power to remove difficulties (new provisions)



THANK
YOU

