Summary of Amendment to Companies Act, 2013

The Companies (Amendment) Act, 2015 (hereinafter referred to as 'Amendment Act') has amended some of the provisions of the Companies Act, 2013 (hereinafter referred to as 'Act'). The date of applicability of section 1 to 12 and 15 to 23 is notified to be 29th May, 2015.

Sr. No.	**Section No & Provision**	**Summary of Amendment**
1	Section 2(68) and 2(71) - Removal of restriction to have minimum paid up capital	The Amendment Act has done away with the requirement of a minimum paid up share capital for private and public companies. Accordingly, section 11 of the Act which deals with 'Commencement of business etc.,' is omitted.
2	Section 9 Effect of Registration	The requirement for the Company to have Common Seal is done away with. Accordingly, Section 12, 22 and 46 of the Act is also amended.
3	Section 76A Punishment for contravention for acceptance of deposits from public	The Amendment Act has inserted a new provision which states as follows: Where a company: Accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of the manner or conditions specified under section 73 or 76 or rules made there under OR fails to repay the deposit or part of deposit or any interest due, within the time specified under section 73 or 76 or rules made there under, or within such further time allowed by the Tribunal, the Company and officers shall be subject to the following punishments. (a) a minimum fine of Rs.1 crore and a maximum of Rs.10 crore, in addition to the repayment of deposit or interest that is due; and (b) for the officers of the company imprisonment upto 7 years and fine between Rs.25 lakh to Rs.2 crore or both (c) in case it is proved that the defaulting officer of the company did so wilfully, he will be liable for the offence of fraud under section 447 of the Act.
4	Section 123 Declaration of dividend	Proviso is inserted which states that the company can declare dividend only after setting off of carried over previous losses and depreciation not provided in previous years against profits of the company for the current year.
5	Section 124 Unpaid Dividend Account	The amended section now requires that the shares on which dividend is unpaid or unclaimed shall be transferred to IEPF in case the dividend is unpaid or unclaimed for 7 consecutive years or more.
6	Section 134	The Board report should now include the details in respect of

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	Financial Statements, Board's report, etc.	frauds reported by auditors under section 143(12) which are frauds that are other than those which the auditors have to report to the Central Government.
7	Section 143 Powers and Duties of Auditors	The act had cast a duty on the auditor, to report the matter to the Central Government in case the auditor of a company has reason to believe that an offence of fraud has been committed against the company, by its employees, within the specified time period and in the manner prescribed. The changes as per the Amendment Act are as follows: ➢ The amounts involved in case of fraud will be prescribed in the Rules. Only such frauds shall be reportable by the auditors to the Central Government. ➢ In case a fraud involving lesser amount than prescribed in the Rule, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases ➢ In case auditors have reported frauds under this sub-section to the audit committee or the Board but not reported to the Central Government, the Company shall disclose the details about such frauds in the Board's report.
8	Section 177 Audit Committee	The new proviso states that the audit committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to the conditions that may be prescribed.
9	Section 185 Loan to Directors, etc.,	The following exemptions are provided to the transactions mentioned in section 185 which were earlier provided by way of a rule: ➢ any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company OR ➢ any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company The loans made as above should be utilised by the subsidiary company for its principal business activities
10	Section 188 Related Party Transactions	The Act states that any contract of a particular sum that a company wants to enter into must be with the prior approval of the company by way of a special resolution. The Amendment Act replaces the requirement of obtaining a special resolution with that of ordinary resolution. It further states

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		that resolution is not necessary for transactions between a holding company and their wholly owned subsidiaries whose accounts is consolidated with such holding company and have been placed before the shareholders for their approval.
11	Section 248 Power of Registrar to remove name of company from register of companies.	One of the grounds on which the Registrar could remove the name of the Company was the subscribers to the Memorandum not paying the subscription within 180 days, which is now dispensed with.