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141	Eligibility, qualifications and disqualifications of Auditors
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Companies (Audit and Auditors) Rules, 2014 ✓ Total 14 Rules	ADT-1	Return of appointment	139 Rule 4
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Documents filed with ROC can be inspected by public (through MCA portal) as per Section 399 of the Act.

Eligibility, qualifications and disqualifications of auditors

Section 141 Read with Rule 10 Companies (Audit and Auditors) Rules, 2014

Eligibility for appointment as an auditor

- ✓ A person shall be eligible for appointment as an auditor of a company only If he is a chartered accountant
- ✓ A firm shall be eligible for appointment as an auditor of company(appointment shall be made in the name of a firm)only if majority of partners practising in India are qualified for appointment

> Where a firm including a limited liability partnership is appointed as an auditor of a company, only the partners **who are chartered accountants** shall be authorised to act and sign on behalf of the firm.

Disqualifications of auditor

The following persons shall not be eligible for appointment as an auditor of a company

- ✓ A body corporate other than a limited liability partnership.
- ✓ An officer or employee of the company.
- ✓ A person who is a partner, or who is in the employment, of an officer or employee of the company
- ✓ A person who, or his relative or partner
  - ➢ Is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company
  - ➢ Is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of 5,00,000/-; or
  - ➢ Has given a guarantee or given any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of 1,00,000/-

- A Person either by
- Himself or
- Through his Partner or
- Through his Realtive

Is

In

- Holding any security or
- Indebted in excess of 5,00,000/- or
- given guarantee or provided security in excess of 1 ,00,000/-
- Business Realtion Ship

- The Company or
- Its subsidiary or
- Its Holding or
- Subsidiary of such holding or associate company

A relative of an auditor may hold securities in the company of face value Not exceeding 1,00,000/- [limit is on Face Value not on market value] Don't Confuse
Note :- Exemption Regarding holding of securities upto 1,00,000/- is available only for relative. Auditor or his partners in firm should Not hold even a single security

Relatives for this purpose means:

- ✓ They are members of a Hindu Undivided Family
- ✓ Husband and wife;
- ✓ Father (including step-father);
- ✓ Mother (including step-mother);
- ✓ Son (including step-son);
- ✓ Son's wife;
- ✓ Daughter;
- ✓ Daughter's husband;
- ✓ Brother (including step-brother); and
- ✓ Sister (including step-sister).

Section 2(77) and Rule 4 of Companies (Specification of Definition details) Rules, 2014

Step Daughter NOT Covered

- ✓ A person or a firm who, whether directly or indirectly, has business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed

As Per Rule 10 the term "business relationship" shall be construed as any transaction entered into for a commercial purpose, except the following

- Commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Act and the Chartered Accountants Act, 1949 and the rules or the regulations made under those Acts
- Commercial transactions which are 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

- ✓ A person whose relative is a director or is in the employment of the company as a director or key managerial personnel.
- ✓ A person who is in full time employment.
- ✓ A person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of **more than twenty companies**

While Calculating the limits of 20 companies the following shall be **excluded**

- ✓ OPC Section 2(62)
- ✓ Dormant companies Section 455 } MCA Notification 5th June 2015
- ✓ Small companies Section 2(85) and
- ✓ Private companies having **paid-up** share capital less than 100 Cr

- ✓ A person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction
- ✓ 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 section 144.

Section 144

An auditor appointed under this Act shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be, but which shall not include any of the following services (whether such services are rendered directly or indirectly to the company or its holding company or subsidiary company, namely:—

- Accounting and book keeping services

- Internal audit
- Design and implementation of any financial information system
- Actuarial services
- Investment advisory services
- Investment banking services
- Rendering of outsourced financial services
- Management services and
- Any other kind of services as may be prescribed.

Where a person appointed as an auditor of a company incurs any of the disqualifications mentioned in section 141 after his appointment, he shall vacate his office as such auditor and such vacation shall be deemed to be a **casual vacancy** in the office of the auditor

For every company it is mandatory to appoint an Auditor (an individual or firm) the auditors are required to form an opinion as to whether the annual accounts of a company give a true and fair view of its profit or loss for the period under review. They are also required to certify that the accounts are prepared in accordance with the requirement of the Companies Act 2013

Section 139 Appointment of auditor

- Appointment of first auditors
- Appointment of Subsequent auditors

Appointment of the first auditor of a company, **other than a** Government company

The first auditor of a company, **other than a** Government company, shall be appointed by the Board of Directors within thirty days from the date of registration of the company and in the case of failure of the Board to appoint such auditor, it shall inform the members of the company, who shall within ninety days at an extraordinary general meeting appoint such auditor and such auditor shall hold office till the conclusion of the **1st AGM**

Appointment of the first auditor of a Govt company

The first auditor shall be appointed by the Comptroller and Auditor-General of India within sixty days from the date of registration of the company and in case the Comptroller and

Auditor-General of India does not appoint such auditor within the said period, the Board of Directors of the company shall appoint such auditor within the next thirty days; and in the case of failure of the Board to appoint such auditor within the next thirty days, it shall inform the members of the company who shall appoint such auditor within the sixty days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting.

> Government company section 2(45) 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

Appointment of Subsequent auditors of a company, **other than a** Government company

Every company shall, at the first annual general meeting, appoint an individual or a firm as an auditor who shall hold office from the conclusion of that meeting(1st AGM) till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting.

- The company shall place the matter relating to such appointment for ratification by members at **every** annual general meeting.

  > In other words, the company shall appoint an auditor for five years with yearly ratification by the shareholders in the annual general meeting. In practical terms, the auditor shall be appointed every year by the shareholders.

- Here, "Appointment" includes reappointment and "auditor" includes a 'firm' which includes a limited liability partnership (LLP).

Whether Public / Private –listed /Unlisted – limited by guarantee/limited by shares is required to appoint an auditor

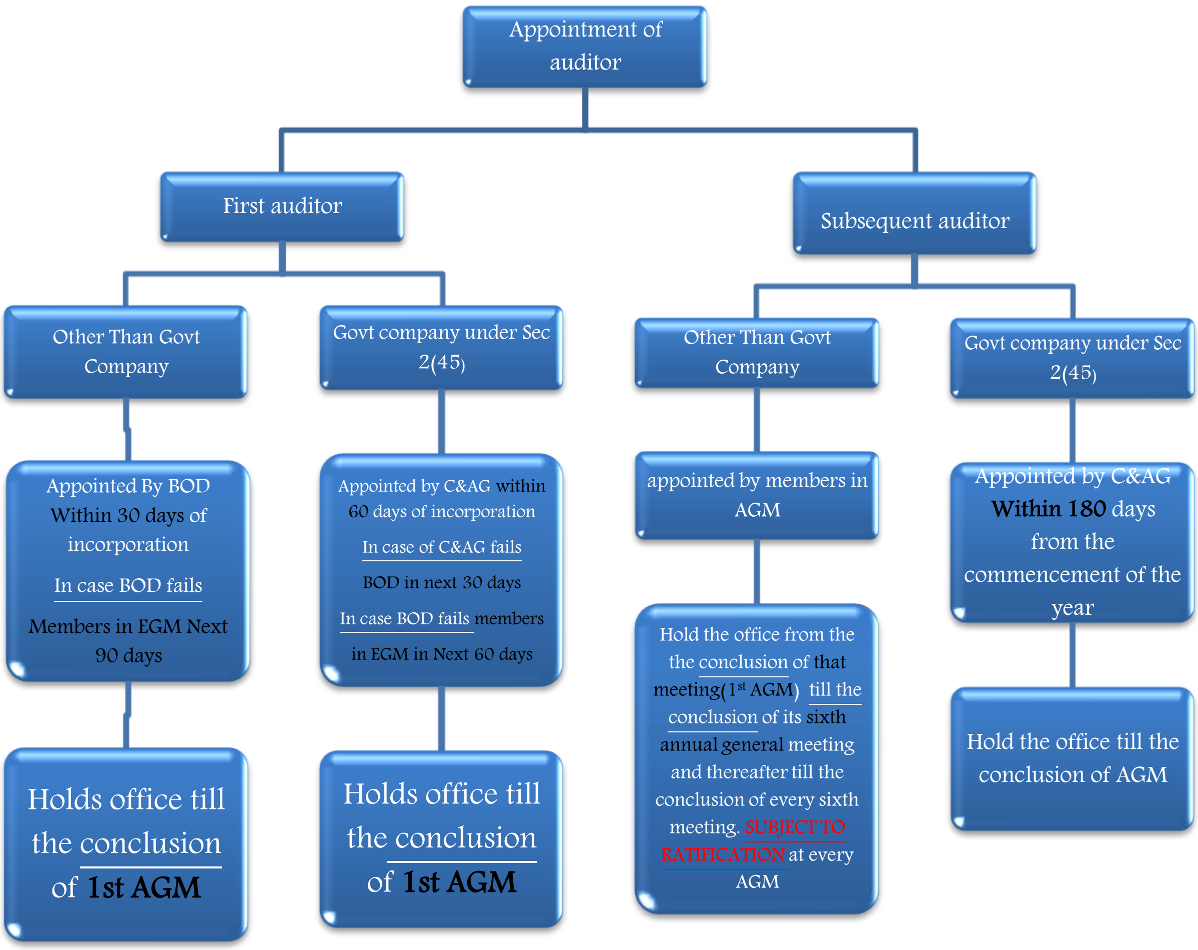
Before appointing any Person as auditor, a written consent and a certificate from him should be taken that if the appointment, is made, it shall be within the limits of Section 141(3)(g) i.e [Maximum 20 companies]

The certificate shall also state that the auditor is not disqualified under section 141:

> Company Shall File with ROC about appointment of auditor within 15 days from the date of appointment of auditor in General meeting in FORM ADT-1

Appointment of Subsequent auditors of a Government company

In the case of a Government company or any other company owned or controlled, directly or indirectly, 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, the Comptroller and Auditor- General of India shall, in respect of a financial year, appoint an auditor duly qualified to be appointed as an auditor of companies under this Act, within a period of one hundred and eighty days from the commencement of the financial year, who shall hold office till the conclusion of the annual general meeting.



- The Provisions of chapter Audit and auditors and the rules framed there under Shall **EQUALLY** applicable to a foreign company under Sec 2(42) – Section 383

A retiring auditor may be re-appointed at an annual general meeting, if—

- ✓ If he is not disqualified for re-appointment
- ✓ If he has not given the company a notice in writing of his unwillingness to be reappointed; and
- ✓ A special resolution has not been passed at that meeting appointing some other auditor or providing expressly that he shall not be re-appointed.

Filing of casual vacancy

Casual Vacancy in the office of auditor:-

A Casual Vacancy arise due to various reasons after an auditor was duly appointed

- ➢ Death of auditor
- ➢ Disqualification of auditor after duly appointed (auditor hits section 141 conditions)
- ➢ Resignation of auditor
- ➢ Dissolution of audit firm
- ➢ His appointment is NOT Ratified by members in Subsequent AGM

In Case of a company, **other than a** Government company

Vacancy will be filled by the Board of Directors within thirty days, but if such casual vacancy is as a result of the resignation of an auditor, such appointment shall also be approved by the company at a general meeting convened within three months of the recommendation of the Board and he shall hold the office till the conclusion of the next annual general meeting

In case of a Govt Company

Vacancy will be filled by the C&AG of India within thirty days:

In case the C&AG of India does not fill the vacancy within the said period, the Board of Directors shall fill the vacancy within next thirty days

If you observe In **all the ABOVE** cases it is within 30 days from date of vacancy
The auditor who has resigned from the company should file a statement within 30 days from the date of resignation in FORM ADT-3 ➢ with Company ➢ ROC ➢ C&AG (in case of Govt Company) If the auditor does not comply with this, he shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Rotation of auditors

The concept of rotation of auditors applies to

- ✓ Every Listed companies
- ✓ All unlisted public companies having paid up share capital of 10 Cr or more
- ✓ All private limited companies having paid up share capital of 20 Cr or more
- ✓ All companies(either Public or Private) having paid up share capital of below threshold limit mentioned in above, but having public borrowings from financial institutions, banks or public deposits of rupees 50 Cr or more.

The concept of rotation of auditors Doesnot applies to OPC and small companies

Companies Covered ABOVE **shall NOT** appoint or re-appoint

(a) An individual as auditor for more than one term of five consecutive years; and

(b) An audit firm as auditor for more than two terms of five consecutive years:

Where—

(i) An individual auditor who has completed his term under point (a) above shall not be eligible for re-appointment as auditor in the same company for five years from the completion of his term

(ii) An audit firm which has completed its term under point (b) above, shall not be eligible for re-appointment as auditor in the same company for five years from the completion of such term

As on the date of appointment no audit firm having a common partner or partners to the **other** audit firm, whose tenure has expired in a company immediately preceding the financial year, shall be appointed as auditor of the same company for a period of five years

A Transitional Period of 3 Years Has been given for companies to whom the provisions of rotation of auditors applies.

Audit Committee

Where a company is required to constitute an Audit Committee under section 177, all appointments, including the filling of a casual vacancy of an auditor under this section 139 shall be made after taking into account the recommendations of such committee

The limits for audit committee and N & R committee under section 178 are **SAME**

The Following companies are required to constitute an audit committee under Section 177:

- Every listed Company
- All public companies with a paid up capital of 10 Cr rupees or more
- All public companies having turnover of 100 Cr rupees or more
- All public companies, having in **aggregate**, outstanding loans or borrowings or debentures or deposits 50 Cr rupees or more

Procedure

In case of a company that is required to constitute an Audit Committee under section 177, the committee, and, in cases where such a committee is not required to be constituted, the Board, shall take into consideration the qualifications and experience of the individual or the firm proposed to be considered for appointment as auditor and whether such qualifications and experience are commensurate with the size and requirements of the company:

I. Where a company is required to constitute the Audit Committee, the committee shall recommend the name of an individual or a firm as auditor to the Board for consideration and in other cases, the Board shall consider and recommend an individual or a firm as auditor to the members in the AGM for appointment.

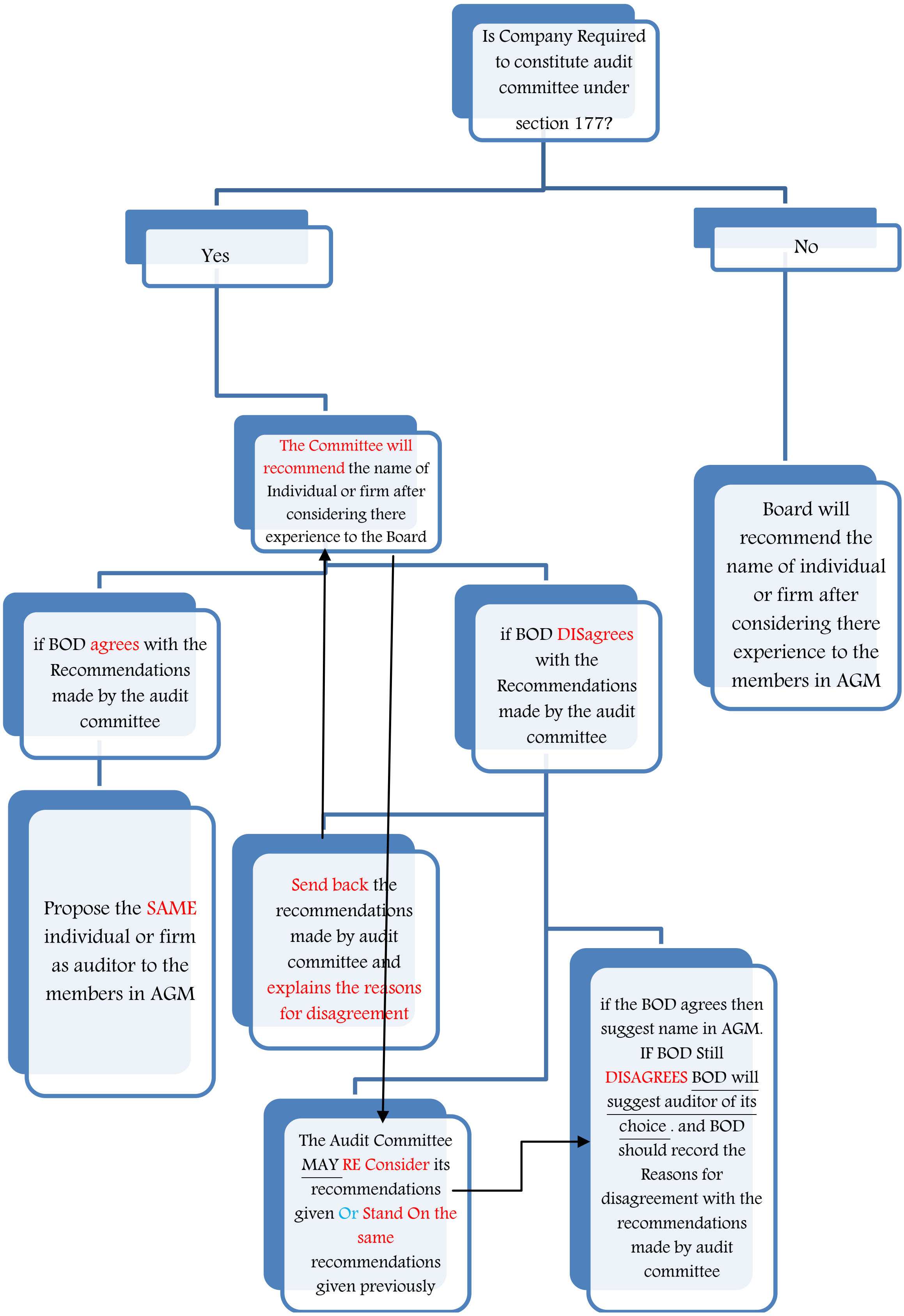
II. If the Board agrees with the recommendation of the Audit Committee, it shall further recommend the appointment of an individual or a firm as auditor to the members in the AGM.

III. If the Board disagrees with the recommendation of the Audit Committee, it shall refer back the recommendation to the committee for reconsideration citing reasons for such disagreement.

IV. If the Audit Committee, after considering the reasons given by the Board, decides not to reconsider its original recommendation, the Board shall record reasons for its disagreement with the committee and send its own recommendation for consideration of the members in the AGM; and if the Board agrees with the recommendations of the Audit Committee, it shall place the matter for consideration by members in the annual general meeting.

The auditor appointed in the AGM shall hold office from the conclusion of that meeting till the conclusion of the 6th AGM, with the meeting wherein such appointment has been made being counted as the first meeting.

Such appointment shall be subject to ratification in every annual general meeting till the sixth such meeting by way of passing of an ordinary resolution



Section140. Removal, resignation of auditor and giving of Special notice

The auditor appointed under section 139 may be removed from his office before the expiry of his term only by a special resolution of the company, after obtaining the previous approval of the Central Government

- ✓ The application shall be made to the Central Government within thirty days of the resolution passed by the Board in FORM ADT-2
- ✓ The company shall hold the general meeting within sixty days of receipt of approval of the Central Government for passing the special resolution

Every special resolution is required to be filed in Form No. MGT-14 Within 30 Days of passing resolution- section 117(3)(a) Please Note Private companies are exempted only from Section 117(3)(g). = 179(3) Notification 5th June 2015 Private companies are also required to file SR section 117(3)(a)

Appointment of auditor other than retiring auditor Section 140

Special notice shall be required for a resolution at an AGM appointing as auditor a person other than a retiring auditor, or providing expressly that a retiring auditor shall not be re-appointed, except where the retiring auditor has completed a consecutive tenure of five years or, as the case may be, ten years, as provided under section 139(2)

Section 115. Resolutions requiring special notice Any resolution which requires special notice, Then the intention to move such resolution shall be given to the company by such number of members holding not less than one percent of total voting power or holding shares on which an **aggregate sum** of five lakh rupees has been paid up **as on the date of the notice**.

(ii) On receipt of notice of such a resolution, the company shall forthwith send a copy thereof to the retiring auditor.

(iii) Where notice is given of such a resolution and the retiring auditor makes with respect thereto representation in writing to the company (not exceeding a reasonable length) and requests its notification to members of the company, the company shall, unless the representation is received by it too late for it to do so,—

(a) In any notice of the resolution given to members of the company, state the fact of the representation having been made; and

(b) send a copy of the representation to every member of the company to whom notice of the meeting is sent, whether before or after the receipt of the representation by the company, and if a copy of the representation is not sent as aforesaid because it was received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representation shall be read out at the meeting

Before Removing auditor before expiry of his term, the auditor concerned shall be given a reasonable opportunity of being heard

Amendment

If the Tribunal is satisfied on an application either of the company or of any other aggrieved person that the rights conferred by this section are being abused by the auditor, then, the copy of the representation may not be sent and the representation need not be read out at the meeting. **[w.e.f. 01 June 2016]**

Even Under Section 169 for removal of director an opportunity of being heard should be given to the director who is going to be removed and the representation given by the director should be read out in meeting unless the tribunal orders otherwise **[w.e.f.1st/06/16]**

Amendment

The Tribunal either on its own or on an application made to it by the Central Government or by any person concerned, if it is satisfied that the auditor of a company has, whether directly or directly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, it may, by order, direct the company to change its auditors.

Where an auditor, whether individual or firm, against whom final order has been passed by the Tribunal under this section shall **not** be eligible to be appointed as an auditor of **any company** for a period of five years from the date of passing of the order and the auditor shall also be liable for action under section 447. [Section 140(5)] **w.e.f. 01 June 2016]**

- The liability shall be of the firm **and** that of every partner or partners who acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its director or officers.
- The word "auditor" includes a firm of auditors.

✓ **Auditor and firm are Personally liable**

Section 447 Punishment for fraud

- **fraud**
  - fine not less than the amount involved but which may extend to 3 x amount of fraud;
  - imprisonment shall NOT be less than six months but which may extend to ten years
- **fraud involving public interest**
  - fine not less than the amount involved but which may extend to 3 x amount of fraud;
  - Imprisonment shall NOT be less than 3 years but which may extend to ten years

The liability specified under 447 is as follows

liability under contravention of respective section of companies act

+

Repayment of amount involved in fraud

+

liability under **any other law**

+

liability mentioned under 447

Section 142. Remuneration of auditors.

- ✓ The remuneration of the auditor of a company shall be fixed in its general meeting or in such manner as may be determined therein
- ✓ The Board may fix remuneration of the first auditor appointed by it.
- ✓ The remuneration under specified above shall, in addition to the fee payable to an auditor, include the expenses, if any, incurred by the auditor in connection with the audit of the company and any facility extended to him but does not include any remuneration paid to him for any other service rendered by him at the request of the company.

Section 145. Auditor to sign audit reports

The person appointed as an auditor of the company shall sign the auditor's report or sign or certify any other document of the company in accordance with section 141(2),

Section 141(2) Where a firm including a limited liability partnership is appointed as an auditor of a company, only the partners who are chartered accountants shall be authorised to act and sign on behalf of the firm.

and the qualifications, observations or comments on 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 general meeting and shall be open to inspection by any member of the company

As Per Section 134(3)(f) The Board in its Board report shall explain 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

Section 146. Auditors to attend general meeting.

All notices of, and other communications relating to, any general meeting shall be forwarded to the auditor of the company, and the auditor shall, unless otherwise exempted by the company, attend either by himself or through his authorised representative, who shall also be qualified to be an auditor, any general meeting and shall have right to be heard at such meeting on any part of the business which concerns him as the auditor.

Unlike in 1956 act where auditor attends general meeting depends on his wish 2013 act requires auditor must attend General meeting Unless he was exempted by the company from attending meeting or he has authorised an representative on his behalf. Please Note Only A PERSON WHO IS ALSO QUALIFIED TO BE APPOINTED AS AN AUDITOR OF A COMPANY CAN ONLY BE APPOINTED AS REPRESENTATIVE OF AN AUDITOR..

As Per Secretarial Standard 2 issued by ICSI. Company should send Notice of every meeting under section 101 to secretarial auditor appointed by company under section 204

Representative (agent) should also be a CA and hold certificate of practice

NOT Articled assistant X

Section 147. Punishment for contravention.

Liabilities for the company and its officer

If any of the provisions of sections 139 to 146 (both inclusive) is contravened, by company

Parties	Fine	imprisonment	Both
Company	min 25,000/- max 5,00,000/-	-	-
Officer in default	Min 10,000/- Max 1,00,000/- OR	May extend to 1 year OR	✓

Liabilities for the auditor

If an auditor of a company contravenes any of the provisions of sections 139, section 143, section 144 or section 145,

Cases	Fine	Imprisonment	Other liabilities
Auditor Unknowingly	Min 25,000/- Max 5,00,000/-	-	-
Auditor knowingly or wilfully	Min 1,00,000/- Max 25,00,000/- AND	may extend to one year AND	Refund the audit fee received and pay for damages

Where, in case of audit was conducted by an audit firm, it is proved that the partner or partners of the audit firm has or have acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to or by, the company or its directors or officers, the liability, whether civil or criminal as provided in this Act or in any other law for the time being in force, for such act shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally.

The liability for contravention of section 148 for the company and the COST auditor is same as liability prescribed under section 147 for company and auditor

Section 148. Central Government to specify audit of items of cost in respect of certain companies

- ✓ The Cost audit shall be conducted by a Cost Accountant in practice who shall be appointed by the Board on such remuneration as may be determined by the members
- ✓ A person appointed under section 139 as an auditor of the company shall NOT be appointed for conducting the audit of cost records

If any default is made in complying with the provisions of this section,148
The company and every officer of the company who is in default shall be punishable in the manner as provided in section 147
The cost auditor of the company who is in default shall be punishable in the manner as provided in of section 147

The qualifications, disqualifications, rights, duties and obligations applicable to auditors under this Chapter X(chapter ten) shall, so far as may be applicable, apply to a cost auditor appointed under this section 148 and it shall be the duty of the company to give all assistance and facilities to the cost auditor appointed under this section for auditing the cost records of the company:. Section 141 and 143 applies to cost auditor also

Section	Particulars	Turnover
Sec 148(1)	Maintaining cost Records	Overall Turnover exceeds 35 Cr or more
Sec 148 Rule 3	Applicability of cost audit	**Regulated** Overall turnover Rs. 50 Crores Or More AND Particular Product Turnover Rs. 25 Cr Or More **Non Regulated** Overall turnover Rs. 100 Crores Or More AND Particular Product Turnover Rs. 35 Cr Or More

Section 143. Powers and duties of auditors and auditing standards

Every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company, whether kept at the registered office of the company or at any other place and shall be entitled to require from the officers of the company such information and explanation as he may consider necessary for the performance of his duties as auditor and amongst other matters inquire into the following matters, namely:—

- ✓ 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
- ✓ Whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company
- ✓ Where the company not being an investment company or a banking company, whether so much of the assets of the company as consist of shares, debentures and other securities have been sold at a price less than that at which they were purchased by the company
- ✓ Whether loans and advances made by the company have been shown as deposits
- ✓ Whether personal expenses have been charged to revenue account
- ✓ Where it is stated in the books and documents of the company that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance sheet is correct, regular and not misleading:

The auditor of a company which is 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 with that of its subsidiaries.

The auditor's report shall also state—

- ✓ Whether he has sought and obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit and if not, the details thereof and the effect of such information on the financial statements
- ✓ 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

- ✓ Whether the report on the accounts of any branch office of the company audited under 143(8) by a person other than the company's auditor has been sent to him under the proviso to that sub-section and the manner in which he has dealt with it in preparing his report;
- ✓ 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
- ✓ 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;
- ✓ Whether any director is disqualified from being appointed as a director under section 164(2)
- ✓ Any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith
- ✓ Whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls
- ✓ Such other matters as may be prescribed

Other matters to be included in auditors report. —Rule 11

[The auditor's report shall also include their views and comments on the following matters, namely:-

(a) Whether the company has disclosed the impact, if any, of pending litigations on its financial position in its financial statement;

(b) 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;

(c) Whether there has been any delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the company.

Every auditor shall comply with the auditing standards. -Section 143(9)
The Central Government may, in consultation with the National Financial Reporting Authority(NFRA), by general or special order, direct, in respect of such class or description of companies, as may be specified in the order, that the auditor's report shall also include a statement on such matters as may be specified therein [MCA has notified CARO, 2016 vide Notification number S.O. 1228(E) dated 29th March 2016. – Section 143(11)

Section 143(12)* Read With Rule 13

If an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government

As Per Rule 13 The auditor shall report the matter to the Central Government as under:-

(a) The auditor shall report the matter to the Board or the Audit Committee, as the case may be, immediately but not later than two days of his knowledge of the fraud, seeking their reply or observations within forty-five days;

(b) On receipt of such reply or observations, the auditor shall forward his report and the reply or observations of the Board or the Audit Committee along with his comments (on such reply or observations of the Board or the Audit Committee) to the Central Government within fifteen days from the date of receipt of such reply or observations;

(c) In case the auditor fails to get any reply or observations from the Board or the Audit Committee within the stipulated period of 45 days, he shall forward his report to the Central Government along with a note containing the details of his report that was earlier forwarded to the Board or the Audit Committee for which he has not received any reply or observations

(d) The report shall be sent to the Secretary, Ministry of Corporate Affairs in a sealed cover by Registered Post with Acknowledgement Due or by Speed Post followed by an email in confirmation of the same;

(e) The report shall be on the letter-head of the auditor containing postal address, email address and contact telephone number or mobile number and be signed by the auditor with his seal and shall indicate his Membership Number; and

(f) The report shall be in the form of a statement as specified in Form ADT-4.

The provision of **this rule** and **Provisions of Section 143** shall equally apply, to a Cost Auditor and a Secretarial Auditor during the performance of his duties under section 148 and section 204

Provided that in case of a fraud involving less than 1 CRORE, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board immediately but not later than two days of his knowledge of the fraud. Provided further that the companies, whose auditors have reported frauds under this subsection [143(12)]to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report.

If any auditor, cost accountant or company secretary in practice do not comply with the provisions of section 143(12), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.