

# Redefining New Normal: A Comprehensive Checklist on Companies Act

A compilation of checklists by research empanelled professionals



**THE INSTITUTE OF  
Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**  
IN PURSUIT OF PROFESSIONAL EXCELLENCE  
Statutory body under an Act of Parliament  
(Under the jurisdiction of Ministry of Corporate Affairs)

Centre for  
Corporate  
Governance,  
Research &  
Training

## **“Dynamism is a function of change”**

These words of Hilary Clinton seem to perfectly befit the moment, the present times, the uncertainty entailing and the measures and counter initiatives undertaken by all of us as individuals, as professionals and even as professional bodies & institutions in this regard.

With the Government introducing and launching initiatives like the Aatmanirbhar Bharat, the role of professionals, especially Governance Professionals has heightened, now more than ever.

Understanding the need for dedicated support structure in place for the Company Secretaries to perform their duties and responsibilities with diligence and ensure compliance across the length and breadth of India Inc., the Institute has undertaken a novel initiative in this regard.

The ICSI-Centre for Corporate Governance, Research and Training (ICSI-CCGRT) has developed a unique e-bulletin under the aegis of **‘Redefining New Normal: A Comprehensive Checklist on Companies Act’**. The intent of the publication is to serve as a ready reckoner for the Governance Professionals in dispensing with their responsibilities.

We would like to acknowledge the efforts of the team of researchers at ICSI-CCGRT and Dr. K S Ravichandran for guiding the team in the completion of this task. We would also like to place on record our appreciation towards the team at ICSI-CCGRT and ICSI-COE (Hyderabad) led by Dr. Trupti Amit Karkhanis and Dr. Sapna Malhotra respectively for their dedicated efforts in compilation and presenting of this publication as well as the members of the review team comprising professional from across the nation.

The e-publication will be released on a Chapter-wise basis in the days to follow and the entire book compiling all checklists will be released on the occasion of Independence Day. The compiled single volume will be published and offered to CS fraternity members.

The checklist will be available at the ICSI-CCGRT research initiative portal <https://www.icsi.edu/ccgrt/research-initiatives-2/>.

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**Checklist for the Chapter on Incorporation**  
**(Chapter – II of the Companies Act, 2013)**

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**Notes:**

1. This checklist is applicable only to private and public companies with share capital incorporated for profit making objectives. In other words, this checklist does not incorporate questions pertaining to companies without share capital and companies that are incorporated under section 8 of the 2013 Act which are not for profit companies.
2. This checklist is purely based on provisions of the 2013 Act and rules thereto. It does not include any reference to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 or any other law or rules and regulations that may apply to the subject matter of Chapter II of the 2013 Act.
3. This checklist is intended to serve a ready referencer for company secretaries in employment as well as those in practice. In other words, it is to be applied by persons who are qualified members of the Institute of Company Secretaries of India (ICSI). The views expressed in this checklist are of the research empanelled professionals of ICSI CCGRT - COE.
4. This checklist takes into account amendments to the provisions and rules upto 6<sup>th</sup> Aug 2020.
5. While every care has been taken to incorporate all the applicable provisions and the rules falling with the subjects covered by Chapter II, it is possible that a particular aspect or point has not been factored. Hence, if any reader brings anything to be incorporated in this checklist or modified or varied, it may be brought to the knowledge of CCGRT of ICSI for consideration and necessary action as may be desirable.
6. This checklist is not intended to serve as a full proof document to insulate members from any professional liability. Members are required to apply the same with due diligence and care as is expected of professionals.

**Legends**

- i. The Companies Act, 2013 - the 2013 Act.
- ii. Ministry of Corporate Affairs - MCA
- iii. Non- Banking Financial Company – NBFC
- iv. Registrar of Companies – ROC
- v. Regional Director, MCA - RD
- vi. Reserve Bank of India – RBI
- vii. Securities and Exchange Board of India – SEBI

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- viii. Insurance Regulatory and Development Authority of India – IRDAI
- ix. Ministry of Information and Broadcasting – MIB
- x. Institute of Company Secretaries of India – ICSI
- xi. National Company Law Tribunal – Tribunal
- xii. The Companies (Incorporation) Rules, 2014 – the Rules
- xiii. Foreign Direct Investment – FDI

### Class of Company Code

- i. Private Company – PVC
- ii. Unlisted Public Company – UPC
- iii. Listed Company – LC
- iv. All classes of Companies – AC
- v. Section 8 / 25 Companies – S8C

### The Concise Checklist for Chapter II (Sections 3 to 22)

Sl.No.	Section of the Act	Class of Company Code	Activity Code	Questions
1.	3	AC	DCQ	Check status of the company with respect to whether it is company with share capital and check whether its members have limited liability or unlimited liability and check if it has limitation specified on its number of members
2.	3(1)	OPC	DCQ	Check the memorandum of association of the OPC and check who is the sole shareholder and who is his nominee
3.	3(1)(c)	OPC	AQ	Check whether the Memorandum of OPC and check whether the written consent of the other person, who will become a member in case of death of original subscriber or incapacity of original subscriber in prescribed form is taken.  Check whether the consent of nominee person has been filed at the time of incorporation of the company along with MOA/AOA.
4.	3(1) r/w Rule 3(1) of the Rules	OPC	AQ	Check if the sole shareholder is / continues to be an Indian citizen and resident in India. Check if there has been any change in the citizenship or residential status.
5.	3(1) r/w rule 3(2) of the Rules	OPC	AQ	Check if the sole shareholder has been the sole shareholder or his nominee is the sole shareholder or nominee of any other OPC

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Sl.No.	Section of the Act	Class of Company Code	Activity Code	Questions
				Check if the nominee is not a minor and he is also a citizen of India residing in India.
6.	3(1) – first proviso r/w Rule 4 of the Rules	OPC	AQ	Check if there has been any change in the person whose name has been furnished as the nominee of the sole shareholder and if so check whether the change has been carried out or brought into effect in the prescribed manner and further check if the same has been intimated to the ROC
7.	3(1) r/w Rule 3(6) of the Rules	OPC	AQ	Check if the company has carried on the business of a Non-Banking Financial Investment activities
8.	3(1) r/w Rule 4(6) of the Rules	OPC	AQ	Check if any time during the audit period there has been death or any other incapacity of the sole shareholder of the OPC and check if the nominee who has thereby become the sole shareholder has appointed a nominee within 15 days of becoming the sole shareholder
9.	3A	AC	AQ	<p>Check if at any time during the period of audit, the number of members of the company has fallen below the minimum number of members prescribed under the 2013 Act.</p> <p>If so, check if its members have incurred unlimited liability for the debts of the company contracted during the time its strength of members was below the number prescribed under the 2013 Act.</p> <p>Check if steps have been initiated to increase the number of its members to have the prescribed minimum number of members</p>
10.	4	AC	DCQ	<p>Note the name, objects, registered office, capital, liability and important clauses of the memorandum of association of the company. Check if it carries any business that are not within the scope of its objects.</p> <p>Check if the objects of the company indicate any requirement for approval or licence of any sectoral regulator such as the RBI, SEBI, IRDAI, MIB.</p> <p>Check if the company has received FDI under automatic route, if it carries on business not entitled to receiving FDI under automatic route.</p>
11.	4 (1) (d) (i)	AC	DCQ	In the case of a company limited by shares, check if there are partly paid up shares in the capital of the company; calls if any made; forfeiture if any done; tally the amount of share capital, members; entries in the Register of

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Sl.No.	Section of the Act	Class of Company Code	Activity Code	Questions
				Members; the amount credited as paid up; amount left as unpaid on the shares held by members.
12.	5(1) and 5(7) r/w Rule 11 of the Rules	AC	DCQ	<p>Check if as per company's Articles of Association any of the following Regulations have been made applicable depending upon class of the company.</p> <p>a) A Company limited by shares- <b>Table F (Annexure Table F)</b>  b) A Company limited by Guarantee and having a share capital-<b>Table G</b>  c) A company limited by Guarantee and not having a share capital- <b>Table H</b>  d) Unlimited company and having a share capital- <b>Table I</b>  e) Unlimited company and not having share capital- <b>Table J</b></p>
13.	5(8) and (9) r/w Rule 11 of the Rules	AC	AC	<p>Check in the case of a company registered after the commencement of the 2013 Act whether regulations contained in the model articles specified in respective Tables apply if the Articles of Association of the company do not expressly exclude or modify the model articles.</p> <p>Check in the case of a company registered under any previous company law if section 5 is applicable.</p>
14.	5(5) r/w Rule 10 of the Rules	AC	AQ	<p>Check whether the Articles of the company contains any provision for entrenchment, if yes, then such provision whether made on formation or through amendment has been duly notified to the Registrar.</p> <p>Where there are entrenchment provisions, check if the requisite Form, INC.2 or INC.32 or MGT.14 has been duly filed at the time of incorporation or within 30 days of date of entrenchment, as the case may be.</p>
15.	6(a) & (b)	AC	AQ	Check if there is any provisions in Memorandum of Association or Articles of Association or in any agreement or in any resolution passed in general meeting or Board Meeting which is contrary or repugnant to any of the provisions of the Act.
16.	7(4)	AC	AQ	Check if the company maintains and preserve at its registered office copies of all documents and information as originally filed for incorporation of company till its dissolution.
17.	8(4) (ii) along	AC	AQ	In case of a company which was converted from

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Sl.No.	Section of the Act	Class of Company Code	Activity Code	Questions
	with Rule 21 & Rule 22 of the Rules			<p>being a company registered under s. 8 of the 2013 Act, check if it has received the approval of the RD;</p> <p>Where a company which has been registered under s. 8 of the 2013 Act is converted into a company of any other class, check if it complied with the applicable provisions including the filing of the Special Resolution with ROC in eFrom MGT.14</p> <p>Check if the company has complied with terms and conditions if any imposed by the RD</p> <p>Check whether the company has duly altered its Memorandum of Association and Articles of Association consequent to the conversion of the company into a different class and check if it has filed with ROC Form MGT.14 and INC.20 within the prescribed time</p>
18.	8(6) and 8(7) of the Act r/w Rule 23 of the Rules	AC (which was previously S8C)	AQ	In case that company was one in respect of which the licence granted under s. 8 of the 2013 Act has been revoked, check if the company has filed Form INC.20 with the ROC for converting its status and change of name accordingly
19.	9	AC	AQ	In the case of a company newly incorporated, check if the subscribers to the Memorandum of Association have become members and their names have been duly entered in the Register of members and check if they have paid for the shares subscribed to by them through the subscription clause of the memorandum of association.
20.	10 (2)	AC	AQ	Check whether there are any dues from any member to the Company whether for the shares subscribed by those members or for any other reason whatsoever.
21.	10A(1)	AC	AQ	In case of a company incorporated after 12 <sup>th</sup> January 2019, check whether a declaration is filed in Form INC-20A with ROC, by every director within 180 days of incorporation and form has been verified and that every subscriber has paid the value of shares agreed to be taken by him on the date of such declaration; and check if the company has filed with the ROC a verification of its registered office.
22.	10A(1)(b) and 12(2) r/w 25 of the Rules	AC	AQ	Check that the company has filed a verification of its registered office within a period of 30 days of its incorporation in Form INC-22 together with

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Sl.No.	Section of the Act	Class of Company Code	Activity Code	Questions
				documents showing the right of the company to have its registered office at the premises mentioned in the eForm22.
23.	12 (2) along with Rule 25A of the Rules	AC	AQ	Check whether the company has filed Form ACTIVE and further check if the company has not been able to file any other forms or returns due to non filing of Form ACTIVE
24.	12(3) r/w Rule 26 of the Rules	AC	AQ	<p>Check whether the company has painted or affixed its name and the address of RO on the outside of every office or at place of business and RO.</p> <p>Check whether the said painted board or fixture of its name and address of RO should is in legible letters.</p> <p>Check whether the company has engraved its name in legible characters on its seal, if any.</p> <p>Check whether the company has printed its letter head, bill heads, business letters, letter papers, etc. with the information of name of the Company, RO, CIN, telephone no., etc.</p> <p>Check whether the Company has printed its name on hundies, promissory notes, bills of exchange and such other documents.</p> <p>Check whether the company has displayed all details namely, name, address of its RO, CIN, Telephone number, fax number, email and website addresses, name of the person who may be contacted.</p> <p>Check whether the company has printed former name or names along with its name in case of any change of name during the last two years.</p> <p>Check whether the company has mentioned the words "One Person Company" in brackets below the name of the company, in case of OPC.</p>
25.	12(4) and Rule 27, 28 and 30 of the Rules r/w s. 117 of the 2013 Act	AC	AQ	<p>Where a company has changed its registered office, check if the requisite special resolution has been passed in case of shifting of registered office outside local limits of any city, town, or village where the registered office has been hitherto situated and check if the company has filed the special resolution with ROC in Form MGT-14 within the prescribed time.</p> <p>Where a company has shifted its registered office from the jurisdiction of on ROC to the jurisdiction of another ROC, check if the</p>



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Sl.No.	Section of the Act	Class of Company Code	Activity Code	Questions
				<p>company has secured the confirmation of RD for the same besides filing the MGT-14 for the special resolution and further check if the company has filed the order confirming the shifting registered office issued by RD with ROC in Form INC28 within the prescribed time</p> <p>check in all the above cases, whether the company has filed a notice for change of the situation of the Registered Office in Form INC.22 along with verification documents as per sec. 12(2), with the ROC within the prescribed time from the date of the change.</p>
26.	13(1), (2), (3), (6), (8) r/w Rule 29, 32	AC	AQ	<p>Check whether the company has filed special resolution passed by shareholders for alteration of any of the conditions of memorandum of association with the ROC in Form MGT.14 within the prescribed time</p> <p>If the company has changed its name, check whether the change of name has been duly approved by the ROC and if it has received the fresh certificate of incorporation in INC.25.</p> <p>If the company is one which had raised money from public through prospectus and still has any unutilised amount out of the money so raised, check if has passed necessary special resolution with the notice of general meeting containing the prescribed particulars and also check if the company has provided requisite opportunity for exit to the dissenting shareholders and check if it has filed Form MGT.14 within the prescribed time for the special resolution so passed and check if the ROC has registered the change in the objects clause.</p>
27.	13 (4), (5) and (7) r/w Rule 30 and 31 of the Rules.	AC	AQ	<p>Where the company has changed its registered office from one State or Union Territory to another State or Union Territory, it has obtained the approval of RD and filed the order of RD Form INC.28 with both ROC having jurisdiction over each of the States or Union Territories and check if the company has received the fresh Certificate of Incorporation from the ROC having jurisdiction over the State or Union Territory where the registered office is being shifted.</p>
28.	14(1)& (2)& (3) and Rule			<p>Where the company has altered its Articles of Association, check whether the Special</p>

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Sl.No.	Section of the Act	Class of Company Code	Activity Code	Questions
	33 of the Rules			<p>resolution has been duly filed with ROC in Form MGT.14</p> <p>Where the alteration pertained to converting a public company into a private company, check if the same has been approved by RD and check if the company has filed the order of RD with ROC in Form INC.27 within the prescribed time</p> <p>Check whether the company having been a private company, by altering its Articles of Association in such a way that they no longer include the restrictions and limitations which are required to be included in the Articles of Private Company has become a public company.</p>
29.	16(1) (a)	AC	AQ	<p>Check whether the company has received any direction from RD for change of existing name of the company because its identical or too resembles with existing company and check if it has complied with the directions.</p> <p>Check whether the company has passed an ordinary resolution for change of name within 3 months from the issue of such direction.</p>
30.	16 (1) (b)	AC	AQ	<p>Check whether the company has received any direction from RD for change of existing name of the Company because its identical or too resembles to a registered trade mark under the Trade Marks Act, 1999 and check if it has complied with the directions.</p> <p>Check whether the company has passed an ordinary resolution for change of name within 6 months from the issue of such direction.</p>
31.	16 (2)	AC	AQ	<p>Check whether the company has intimated of such name change to the ROC within 15 days from date of change of name along with copy of direction issued by the RD for necessary changes in Certificate of Incorporation and MOA.</p>
32.	17(1)	AC	AQ	<p>Check if any member has asked for a copy of its memorandum of association or articles of association or every agreement or resolution referred to in s. 117(1) of the 2013 Act and further check if the company has furnished the same as per request within a period of 7 days of such request</p>
33.	18(1)	AC	DCQ	<p>Check if the company had got itself re-registered under 2013 Act by converting from one class to another.</p> <p>If so, check the date of such conversion from</p>

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Sl.No.	Section of the Act	Class of Company Code	Activity Code	Questions
				the new Certificate of Incorporation.
34.	18	AC	AQ	Check whether the company has altered its MOA and AOA as per the provisions of this chapter for conversion into another class under the same Act.
35.	19(1)	AC	DCQ	<p>Check whether the company has any holding company or subsidiary company.</p> <p>Check if in those companies there are cross holdings of shares.</p> <p>Where there shareholding by a subsidiary company in its holding company, check if such holding is of a period before the other company becoming its holding company.</p>
36.	19(1)	AC	AQ	Check if the holding company allots to or has transferred its shares to any of its subsidiary companies. If any allotment or transfer is executed shall be void.
37.	19(1)	AC	AQ	If a subsidiary company holds shares in its holding company, check whether such holding is as the legal representative of a deceased member (a natural person) of the holding company.; or as a trustee.; or if such shareholding pertains to a period before it became a subsidiary company of the holding company.