

Sl. No.	Companies Act, 2013	Companies Act, 2017	Remark
1.	<p>(6) —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.</p> <p><b>Explanation.—For the purposes of this clause, —significant influence means control of at least twenty per cent. of total share capital, or of business decisions under an agreement;</b></p>	<p>(i) in clause (6), for the Explanation, the following Explanation shall be substituted, namely:—</p> <p>'Explanation.—For the purpose of this clause—</p> <p>(a) The expression "significant influence" means control of at least twenty per cent. of total voting power, or control of or participation in business decisions under an agreement;</p> <p>(b) the expression "joint venture" means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement;</p>	<p>Not 20% of total share capital and only 20% of voting power</p> <p>Joint Venture is now defined</p>
	<p><b>cost accountantll means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959);</b></p>	<p>(ii) for clause (28), the following clause shall be substituted, namely:—</p> <p>'(28) "Cost Accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;</p>	<p>Under the Act Cost Accountant means, Cost Accountant in practice</p>
	<p>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;</p>	<p>(iii) in clause (30), the following proviso shall be inserted, namely:—</p> <p>"Provided that—</p> <p>(a) the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and</p> <p>(b) such other instrument, as may be prescribed by the Central Government in consultation with Reserve Bank of India, issued by a</p>	

		company, shall not be treated as debenture;";	
	<p>2(41) —<b>Financial Year</b> in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up:</p> <p>Provided that on an application made by a company or body corporate, which is a holding company or a <b>subsidiary</b> of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year:</p>	(iv) in clause (41), in the first proviso, after the word "subsidiary", the words " <b>or associate company</b> " shall be inserted;	In addition to the subsidiary now associated companies is also allowed
	<p><b>2(46) holding company, in relation to one or more other companies, means a company of which such companies are subsidiary companies;</b></p>	(v) in clause (46), the following <i>Explanation</i> shall be inserted, namely:— <i>'Explanation.—For the purposes of this clause, the expression "company" includes anybody corporate;'</i> ;	Holding company need be only Indian Company
	<p><b>2(49) interested director means a director who is in any way, whether by himself or through any of his relatives or firm,</b></p>	(vi) clause (49) shall be omitted;	Concept of interested director goes away but related party transactions have

	<p><b>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;</b></p>		<p>become crucial and Sec.184 is not done away with</p>
	<p>2(51) —key managerial personnell, in relation to a company, means—  (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; <b>and</b>  (v) <b>such other officer as may be prescribed</b></p>	<p>(vii) in clause (51),—  (a) in sub-clause (iv), the word <b>"and" shall be omitted;</b>  (b) for sub-clause (v), the following sub-clauses shall be substituted, namely:—  <b>"(v) such other officer, not more than one level below the directors who is in whole-time employment, designated as key managerial personnel by the Board; and</b>  <b>(vi) such other officer as may be prescribed;"</b>;</p>	<p>One level below Directors also covered</p>
	<p>2(57) net worth means the aggregate value of the paid-up share capital and all reserves created out of the profits <b>and securities premium account</b>, 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;</p>	<p>(viii) in clause (57), for the words "and securities premium account", the words, <b>securities premium account and debit or credit balance of profit and loss account,"</b> shall be substituted;</p>	<p>A small error is rectified previously debit side of profit and loss account not covered</p>

<p>2(71) public company means a company which—  (a) is not a private <b>company</b>;  (b) has a minimum paid-up share capital as may be prescribed:  Provided that 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 ;</p>	<p>(ix) in clause (71), in sub-clause (a), after the word "company;", the word "and" shall be inserted;</p>	
<p>2(76) —related party, with reference to a company, means—  (i) a director or his relative;  (ii) a key managerial personnel or his relative;  (iii) a firm, in which a director, manager or his relative is a partner;  (iv) a private company in which a director or manager is a member or director;  (v) a public company in which a director or manager is a director or holds along with his relatives, more than two per cent. of its paid-up share capital;  (vi) 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;</p>	<p>(x) in clause (76), for sub-clause (viii), the following sub-clause shall be substituted, namely:—  "<b>(viii) anybody corporate which is—  (A) a holding, subsidiary or an associate company of such company;  (B) a subsidiary of a holding company to which it is also a subsidiary;  or  (C) an investing company or the venturer of a company;</b>"</p>	<p>Definition widened.</p>

<p>(vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:          Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;  <b>(viii) any company which is—</b>  <b>(A) a holding, subsidiary or an associate company of such company; or</b>  <b>(B) a subsidiary of a holding company to which it is also a subsidiary;</b>  <b>(ix) such other person as may be prescribed;</b></p>		
<p>2(85) small company“ means a company, other than a public company,—          (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than <b>five crore rupees</b>; or          (ii) turnover of which <b>as per its last profit and loss account</b> does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than <b>twenty crore rupees</b>:          Provided that nothing in this clause shall apply to—          (A) a holding company or a subsidiary company;          (B) a company registered</p>	<p>(xi) in clause (85),—          (a) in sub-clause (i), for the words "five crore rupees", the words "<b>ten crore rupees</b>" shall be substituted;          (b) in sub-clause (ii),—          (A) for the words "as per its last profit and loss account", the words "<b>as per profit and loss account for the immediately preceding financial year</b>" shall be substituted;          (B) for the words "twenty crore rupees", the words "<b>one hundred crore rupees</b>" shall be substituted</p>	<p>Limits Increased</p>

	<p>under section 8; or (C) a company or body corporate governed by any special Act;</p>		
	<p>2(87) 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— (i) controls the composition of the Board of Directors; or (ii) exercises or controls more than one-half of the <b>total share capital</b> either at its own or together with one or more of its subsidiary companies: <b>Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.</b> Explanation.—For the purposes of this clause,— (a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company; (b) 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</p>	<p>(xii) in clause (87),— (a) in sub-clause (ii), for the words "total share capital", the words "<b>total voting power</b>" shall be substituted; (b) the proviso shall be <b>omitted</b>; (c) in the <i>Explanation</i>, item (d) shall be <b>omitted</b>;</p>	<p>Concept of Two layer under section 186 omitted</p>

	<p>some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;</p> <p>(c) the expression —companyll includes any body corporate;</p> <p><b>(d) layer in relation to a holding company means its subsidiary or subsidiaries;</b></p>		
	<p><b>2(91) 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</b></p>	<p>(xiii) for clause (91), the following clause shall be substituted, namely:—</p> <p>'(91) "turnover" means the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year;'</p>	<p>The concept of realization of turnover done away with.</p>
<p>3.</p>	<p><b>Section 3:</b> Formation of company.— (1) A company may be formed for any lawful purpose by—</p> <p>(a) seven or more persons, where the company to be formed is to be a public company;</p> <p>(b) two or more persons, where the company to be formed is to be a private company; or</p> <p>(c) one person, where the company to be formed is to be One Person Company that is to say, a private company, by subscribing their names or his name to a memorandum and complying with the requirements of this Act in</p>	<p>After <b>section 3</b> of the principal Act, the following section shall be inserted, namely:—</p> <p>"3A.If at any time the number of members of a company is reduced, in the case of a public company, below seven, in the case of a private company, below two, and the company carries on business for more than six months while the number of members is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with less than seven members or two members, as the case may be, shall be severally liable for the payment of the whole debts of</p>	<p>Section 45 of C.A 1956 restored.</p>

<p>respect of registration: Provided that the memorandum of One Person Company shall indicate the name of the other person, with his prior written consent in the prescribed form, who shall, in the event of the subscriber's death or his incapacity to contract become the member of the company and the written consent of such person shall also be filed with the Registrar at the time of incorporation of the One Person Company along with its memorandum and articles: Provided further that such other person may withdraw his consent in such manner as may be prescribed: Provided also that the member of One Person Company may at any time change the name of such other person by giving notice in such manner as may be prescribed: Provided also that it shall be the duty of the member of One Person Company to intimate the company the change, if any, in the name of the other person nominated by him by indicating in the memorandum or otherwise within such time and in such manner as may be prescribed, and the company shall intimate the Registrar any such</p>	<p>the company contracted during that time, and may be severally sued there for."</p>	
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	<p>change within such time and in such manner as may be prescribed:          Provided also that any such change in the name of the person shall not be deemed to be an alteration of the memorandum.          (2) A company formed under sub-section (1) may be either—          (a) a company limited by shares; or          (b) a company limited by guarantee; or          (c) an unlimited company.</p>		
4	<p><b>Section 4:</b>          Memorandum.—          (1) The memorandum of a company shall state—          (a) the name of the company with the last word —Limitedll in the case of a public limited company, or the last words —Private Limitedll in the case of a private limited company:          Provided that nothing in this clause shall apply to a company registered under section 8;          (b) the State in which the registered office of the company is to be situated;  <b>(c) the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof;</b>          (d) the liability of members of the company, whether limited or unlimited, and</p>	<p>In section 4 of the principal Act,—          (i) in sub-section (1), for clause (c), the following clause shall be substituted, namely:—  <b>"(c) that the company may engage in any lawful act or activity or business, or any act or activity or business to pursue any specific object or objects, as per the law for the time being in force:          Provided that in case a company proposes to pursue any specific object or objects or restrict its objects, the Memorandum shall state the said object or objects for which the company is incorporated and any matter considered necessary in furtherance thereof and in such case the company shall not pursue any act or activity or business, other than specific objects stated in the Memorandum;"</b>          (ii) in sub-section (5), in clause (i), for the words "sixty days from the date of the</p>	<p>Further Clarification given.          In name approval the small lacuna rectified.          Now for new companies flexibility is given to modify the model memorandum.</p>

<p>also state,—</p> <p>(i) in the case of a company limited by shares, that liability of its members is limited to the amount unpaid, if any, on the shares held by them; and(ii) in the case of a company limited by guarantee, the amount up to which each member undertakes to contribute—</p> <p>(A) to the assets of the company in the event of its being wound-up while he is a member or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member, as the case may be; and</p> <p>(B) to the costs, charges and expenses of winding-up and for adjustment of the rights of the contributories among themselves;</p> <p>(e) in the case of a company having a share capital,—</p> <p>(i) the amount of share capital with which the company is to be registered and the division thereof into shares of a fixed amount and the number of shares which the subscribers to the memorandum agree to subscribe which shall not be less than one share; and</p>	<p>application", the words "twenty days from the date of approval or such other period as may be prescribed" shall be substituted;</p> <p>(iii) after sub-section (6), the following sub-sections shall be inserted, namely:—</p> <p>"(6A) A company may adopt the model memorandum applicable to such a company.</p> <p>(6B) In case of any company, which is registered after the commencement of the Companies (Amendment) Act, 2016, in so far as the registered memorandum of such company does not exclude or modify the contents in the model memorandum applicable to such company, those contents shall, so far as applicable, be the contents of the Memorandum of that company in the same manner and to the extent as if that was contents of the duly registered memorandum of the company.".</p>	
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<p>(ii) the number of shares each subscriber to the memorandum intends to take, indicated opposite his name;</p> <p>(f) in the case of One Person Company, the name of the person who, in the event of death of the subscriber, shall become the member of the company.</p> <p>(2) The name stated in the memorandum shall not—</p> <p>(a) be identical with or resemble too nearly to the name of an existing company registered under this Act or any previous company law; or</p> <p>(b) be such that its use by the company—</p> <p>(i) will constitute an offence under any law for the time being in force; or</p> <p>(ii) is undesirable in the opinion of the Central Government.</p> <p>(3) Without prejudice to the provisions of subsection (2), a company shall not be registered with a name which contains—</p> <p>(a) any word or expression which is likely to give the impression that the company is in any way connected with, or having the patronage of, the Central Government, any State Government, or any local authority, corporation or body constituted by the Central Government or any State Government</p>		
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<p>under any law for the time being in force; or</p> <p>(b) such word or expression, as may be prescribed, unless the previous approval of the Central Government has been obtained for the use of any such word or expression.</p> <p>(4) A person may make an application, in such form and manner and accompanied by such fee, as may be prescribed, to the Registrar for the reservation of a name set out in the application as—</p> <p>(a) the name of the proposed company; or</p> <p>(b) the name to which the company proposes to change its name.</p> <p>(5) (i) Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of <b>sixty days from the date of the application.</b></p> <p>(ii) Where after reservation of name under clause (i), it is found that name was applied by furnishing wrong or incorrect information, then,—</p> <p>(a) if the company has not been incorporated, the reserved name shall be cancelled and the person making application under sub-section (4) shall be</p>		
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	<p>liable to a penalty which may extend to one lakh rupees;</p> <p>(b) if the company has been incorporated, the Registrar may, after giving the company an opportunity of being heard—</p> <p>(i) either direct the company to change its name within a period of three months, after passing an ordinary resolution;</p> <p>(ii) take action for striking off the name of the company from the register of companies; or</p> <p>(iii) make a petition for winding up of the company.</p> <p><b>(6) The memorandum of a company shall be in respective forms specified in Tables A, B, C, D and E in Schedule I as may be applicable to such company.</b></p> <p>(7) Any provision in the memorandum or articles, in the case of a company limited by guarantee and not having a share capital, purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member, shall be void.</p>		
5	<p>Incorporation of company.— (1) There shall be filed with the Registrar within whose jurisdiction the registered office of a company is</p>	<p><b>In section 7</b> of the principal Act, in sub-section (1), in item (c), for the words "an affidavit", the words "<b>a declaration</b>" shall be substituted</p>	<p>Affidavit replaced with declaration.</p>

<p>proposed to be situated, the following documents and information for registration, namely:—</p> <p>(a) the memorandum and articles of the company duly signed by all the subscribers to the memorandum in such manner as may be prescribed;</p> <p>(b) a declaration in the prescribed form by an advocate, a chartered accountant, cost accountant or company secretary in practice, who is engaged in the formation of the company, and by a person named in the articles as a director, manager or secretary of the company, that all the requirements of this Act and the rules made thereunder in respect of registration and matters precedent or incidental thereto have been complied with;</p> <p>(c) <b>an affidavit</b> from each of the subscribers to the memorandum and from persons named as the first directors, if any, in the articles that he is not convicted of any offence in connection with the promotion, formation or management of any company, or that he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous</p>		
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	<p>company law during the preceding five years and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;</p>		
6	<p>Registered office of company.—  (1) A company shall, <b>on and from the fifteenth day of its incorporation</b> and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.  (2) The company shall furnish to the Registrar verification of its registered office within a period of thirty days of its incorporation in such manner as may be prescribed.  (3) Every company shall—  (a) paint or affix its name, and the address of its registered office, and keep the same painted or affixed, on the outside of every office or place in which its business is carried on, in a conspicuous position, in legible letters, and if the characters employed therefor are not those of the language or of one of the languages in general use in that locality, also in</p>	<p>In section 12 of the principal Act,—  (i) in sub-section (1), for the words "on and from the fifteenth day of its incorporation", the words "<b>within thirty days of its incorporation</b>" shall be substituted;  (ii) in sub-section (4), for the words "within fifteen days", the words "<b>within thirty days</b>" shall be substituted.</p>	<p>15 days increased to 30 days</p>

<p>the characters of that language or of one of those languages;</p> <p>1[(b) have its name engraved in legible characters on its seal, if any;]</p> <p>(c) get its name, address of its registered office and the Corporate Identity Number along with telephone number, fax number, if any, e-mail and website addresses, if any, printed in all its business letters, billheads, letter papers and in all its notices and other official publications; and</p> <p>(d) have its name printed on hundies, promissory notes, bills of exchange and such other documents as may be prescribed:</p> <p>Provided that where a company has changed its name or names during the last two years, it shall paint or affix or print, as the case may be, along with its name, the former name or names so changed during the last two years as required under clauses (a) and (c):</p> <p>Provided further that the words <u>One Person Company</u> shall be mentioned in brackets below the name of such company, wherever its name is printed, affixed or engraved.</p> <p>(4) Notice of every change of the situation of the registered office, verified</p>		
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<p>in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar <b>within fifteen days</b> of the change, who shall record the same.</p> <p>(5) Except on the authority of a special resolution passed by a company, the registered office of the company shall not be changed,—</p> <p>(a) in the case of an existing company, outside the local limits of any city, town or village where such office is situated at the commencement of this Act or where it may be situated later by virtue of a special resolution passed by the company; and</p> <p>(b) in the case of any other company, outside the local limits of any city, town or village where such office is first situated or where it may be situated later by virtue of a special resolution passed by the company:</p> <p>Provided that no company shall change the place of its registered office from the jurisdiction of one Registrar to the jurisdiction of another Registrar within the same State unless such change is confirmed by the Regional Director on an application made in this behalf by the company in the prescribed manner.</p>		
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	<p>(6) The confirmation referred to in sub-section (5) shall be communicated within a period of thirty days from the date of receipt of application by the Regional Director to the company and the company shall file the confirmation with the Registrar within a period of sixty days of the date of confirmation who shall register the same and certify the registration within a period of thirty days from the date of filing of such confirmation.</p> <p>(7) The certificate referred to in sub-section (6) shall be conclusive evidence that all the requirements of this Act with respect to change of registered office in pursuance of subsection (5) have been complied with and the change shall take effect from the date of the certificate.</p>		
7	<p><b>Authentication of documents, proceedings and contracts.</b>— Save as otherwise provided in this Act,—</p> <p>(a) a document or proceeding requiring authentication by a company; or</p> <p>(b) contracts made by or on behalf of a company, may be signed by any key managerial personnel or <b>an officer of the company</b> duly authorised by the Board in this behalf.</p>	<p>In section 21 of the principal Act, for the words "an officer of the company", the words "<b>an officer or employee of the company</b>" shall be substituted.</p>	<p>Now Employees also authorized to authenticate.</p>

8	<p>Matters to be stated in prospectus.— (1) Every prospectus issued by or on behalf of a public company either with reference to its formation or subsequently, or by or on behalf of any person who is or has been engaged or interested in the formation of a public company, shall be dated and <b>signed and shall—</b></p> <p><b>(a) state the following information, namely:—</b></p> <p><b>(i) names and addresses of the registered office of the company, company secretary, Chief Financial Officer, auditors, legal advisers, bankers, trustees, if any, underwriters and such other persons as may be prescribed;</b></p> <p><b>(ii) dates of the opening and closing of the issue, and declaration about the issue of allotment letters and refunds within the prescribed time;</b></p> <p><b>(iii) a statement by the Board of Directors about the separate bank account where all monies received out of the issue are to be transferred and disclosure of details of all monies including utilised and unutilised monies out of the previous issue in the prescribed manner;</b></p> <p><b>(iv) details about</b></p>	<p>In section 26 of the principal Act, in sub-section (1),—</p> <p>(i) after the words "signed and shall", the following shall be inserted, namely:—</p> <p><b>"state such information and set out such reports on financial information as may be specified by the Securities and Exchange Board in consultation with the Central Government:</b></p> <p><b>Provided that until the Securities and Exchange Board specifies the information and reports on financial information under this sub-section, the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992, in respect of such financial information or reports on financial information shall apply.";</b></p> <p><b>(ii) the clauses (a) and (b) shall be omitted.</b></p>	<p>Now Only SEBi will control the content of prospectus.</p>
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<p>underwriting of the issue;</p> <p>(v) consent of the directors, auditors, bankers to the issue, expert's opinion, if any, and of such other persons, as may be prescribed;</p> <p>(vi) the authority for the issue and the details of the resolution passed therefor;</p> <p>(vii) procedure and time schedule for allotment and issue of securities;</p> <p>(viii) capital structure of the company in the prescribed manner;</p> <p>(ix) main objects of public offer, terms of the present issue and such other particulars as may be prescribed;</p> <p>(x) main objects and present business of the company and its location, schedule of implementation of the project;</p> <p>(xi) particulars relating to—</p> <p>(A) management perception of risk factors specific to the project;</p> <p>(B) gestation period of the project;</p> <p>(C) extent of progress made in the project;</p> <p>(D) deadlines for completion of the project; and</p> <p>(E) any litigation or legal action pending or taken by a Government</p>		
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<p>Department or a statutory body during the last five years immediately preceding the year of the issue of prospectus against the promoter of the company;</p> <p>(xii) minimum subscription, amount payable by way of premium, issue of shares otherwise than on cash;</p> <p>(xiii) details of directors including their appointments and remuneration, and such particulars of the nature and extent of their interests in the company as may be prescribed; and</p> <p>(xiv) disclosures in such manner as may be prescribed about sources of promoter's contribution;</p> <p>(b) set out the following reports for the purposes of the financial information, namely:—</p> <p>(i) reports by the auditors of the company with respect to its profits and losses and assets and liabilities and such other matters as may be prescribed;</p> <p>(ii) reports relating to profits and losses for each of the five financial years immediately preceding the financial year of the issue of prospectus including</p>		
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	<p>such reports of its subsidiaries and in such manner as may be prescribed:</p> <p>37</p> <p>Provided that in case of a company with respect to which a period of five years has not elapsed from the date of incorporation, the prospectus shall set out in such manner as may be prescribed, the reports relating to profits and losses for each of the financial years immediately preceding the financial year of the issue of prospectus including such reports of its subsidiaries;</p> <p>(iii) reports made in the prescribed manner by the auditors upon the profits and losses of the business of the company for each of the five financial years immediately preceding issue and assets and liabilities of its business on the last date to which the accounts of the business were made up, being a date not more than one hundred and eighty days before the issue of the prospectus:</p> <p>Provided that in case of a company with respect to which a period of five years has not elapsed from the date of incorporation, the</p>		
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	<p>prospectus shall set out in the prescribed manner, the reports made by the auditors upon the profits and losses of the business of the company for all financial years from the date of its incorporation, and assets and liabilities of its business on the last date before the issue of prospectus; and (iv) reports about the business or transaction to which the proceeds of the securities are to be applied directly or indirectly;</p>		
<p>9</p>	<p><b>Civil liability for mis-statements in prospectus.</b>—(1) Where a person has subscribed for securities of a company acting on any statement included, or the inclusion or omission of any matter, in the prospectus which is misleading and has sustained any loss or damage as a consequence thereof, the company and every person who—  (a) is a director of the company at the time of the issue of the prospectus;  (b) has authorised himself to be named and is named in the prospectus as a director of the company, or has agreed to become such director, either immediately or after an interval of time;</p>	<p>In section 35 of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely:—  "(c) that, as regards every misleading statement purported to be made by an expert or contained in what purports to be a copy of or an extract from a report or valuation of an expert, it was a correct and fair representation of the statement, or a correct copy of, or a correct and fair extract from, the report or valuation ; and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person had given the consent required by sub-section (5) of section 26 to the issue of the prospectus and</p>	<p>Now Expert and valuaer report also covered under the section specifically.</p>

<p>(c) is a promoter of the company;</p> <p>(d) has authorised the issue of the prospectus; and</p> <p>(e) is an expert referred to in sub-section (5) of section 26,</p> <p>shall, without prejudice to any punishment to which any person may be liable under section 36, be liable to pay compensation to every person who has sustained such loss or damage.</p> <p>(2) No person shall be liable under sub-section (1), if he proves—</p> <p>(a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or</p> <p><b>(b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent.</b></p> <p>(3) Notwithstanding anything contained in this section, where it is proved that a prospectus has been issued with intent to defraud the applicants for the securities of a company or any other person or for any</p>	<p>had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder."</p>	
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	<p>fraudulent purpose, every person referred to in subsection (1) shall be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by any person who subscribed to the securities on the basis of such prospectus.</p>		
<p>10</p>	<p>42. Offer or invitation for subscription of securities on private placement.—(1) Without prejudice to the provisions of section 26, a company may, subject to the provisions of this section, make private placement through issue of a private placement offer letter.</p> <p>(2) Subject to sub-section (1), the offer of securities or invitation to subscribe securities, shall be made to such number of persons not exceeding fifty or such higher number as may be prescribed, [excluding qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of section 62], in a financial year and on such conditions (including the form and manner of private placement) as may be prescribed.</p> <p>Explanation I.—If a company, listed or</p>	<p>For section 42 of the principal Act, the following section shall be substituted, namely:—</p> <p>'42. (1) A company may, subject to the provisions of this section, make a private placement of securities.</p> <p>(2) A private placement shall be made only to a select group of persons who have been identified by the Board (herein referred to as "identified persons"), whose number shall not exceed fifty or such higher number as may be prescribed [excluding the qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option in terms of provisions of clause (b) of subsection (1) of section 62], in a financial year subject to such conditions as may be prescribed.</p> <p>(3) A company making private placement shall issue private placement offer and application in such form and manner as may be prescribed to identified persons, whose names and addresses are recorded by the company in</p>	<p>The vagueness in previous section 42 now clarified. Now it deals with only private placement.</p>

<p>unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter.</p> <p>Explanation II.—For the purposes of this section, the expression—</p> <p>(i) "qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 as amended from time to time.</p> <p>(ii) "private placement" means any offer of securities or invitation to subscribe securities to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer letter and which satisfies the conditions specified in this section.</p> <p>(3) No fresh offer or</p>	<p>such manner as may be prescribed:</p> <p>Provided that the private placement offer and application shall not carry any right of renunciation.</p> <p><i>Explanation I.</i>—"private placement" means any offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in this section.</p> <p><i>Explanation II.</i>—"qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, as amended from time to time, made under the Securities and Exchange Board of India Act, 1992.</p> <p><i>Explanation III.</i>—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by</p>	
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<p>invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company.</p> <p>(4) Any offer or invitation not in compliance with the provisions of this section shall be treated as a public offer and all provisions of this Act, and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall be required to be complied with.</p> <p>(5) All monies payable towards subscription of securities under this section shall be paid through cheque or demand draft or other banking channels but not by cash.</p> <p>(6) A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the date of completion of sixty days</p>	<p>the provisions of Part I of this Chapter.</p> <p>(4) Every identified person willing to subscribe to the private placement issue shall apply in the private placement and application issued to such person along with subscription money paid either by cheque or demand draft or other banking channel and not by cash:  Provided that a company shall not utilise monies raised through private placement unless allotment is made and the return of allotment is filed with the Registrar in accordance with sub-section (8).</p> <p>(5) No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company:  Provided that, subject to the maximum number of identified persons under subsection (2), a company may, at any time, make more than one issue of securities to such class of identified persons as may be prescribed.</p> <p>(6) A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it</p>	<p>Money cannot be utilized unless the return is filled with ROC</p>
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<p>and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per cent. per annum from the expiry of the sixtieth day:</p> <p>Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—</p> <p>(a) for adjustment against allotment of securities; or (b) for the repayment of monies where the company is unable to allot securities.</p> <p>(7) All offers covered under this section shall be made only to such persons whose names are recorded by the company prior to the invitation to subscribe, and that such persons shall receive the offer by name, and that a complete record of such offers shall be kept by the company in such manner as may be prescribed and complete information about such offer shall be filed with the Registrar within a period of thirty days of circulation of relevant private placement offer letter.</p> <p>(8) No company offering securities under this section shall release any</p>	<p>shall repay the application money to the subscribers within fifteen days from the expiry of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per cent. per annum from the expiry of the sixtieth day:</p> <p>Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—</p> <p>(a) for adjustment against allotment of securities; or (b) for the repayment of monies where the company is unable to allot securities.</p> <p>(7) No company issuing securities under this section shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an issue.</p> <p>(8) A company making any allotment of securities under this section, shall file with the Registrar a return of allotment within fifteen days from the date of the allotment in such manner as may be prescribed, including a complete list of all allottees, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.</p> <p>(9) If a company defaults in</p>	
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	<p>public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an offer.</p> <p>(9) Whenever a company makes any allotment of securities under this section, it shall file with the Registrar a return of allotment in such manner as may be prescribed, including the complete list of all security-holders, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.</p> <p>(10) If a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount involved in the offer or invitation or two crore rupees, whichever is higher, and the company shall also refund all monies to subscribers within a period of thirty days of the order imposing the penalty.</p>	<p>filing the return of allotment within the period prescribed under sub-section (8), the company, its promoters and directors shall be liable to a penalty for each default of one thousand rupees for each day during which such default continues but not exceeding twenty-five lakh rupees.</p> <p>(10) Subject to sub-section (11), if a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount raised through the private placement or two crore rupees, whichever is lower, and the company shall also refund all monies with interest as specified in sub-section (6) to subscribers within a period of thirty days of the order imposing the penalty.</p> <p>(11) Notwithstanding anything contained in sub-section (9) and sub-section (10), any private placement issue not made in compliance of the provisions of the subsection (2) shall be deemed to be a public offer and all the provisions of this Act and the Securities Contracts (Regulation) Act, 1956 and Securities and Exchange Board of India Act, 1992 shall be applicable</p>	
11	<p><b>Section 47: Voting rights.</b>—(1) Subject to the provisions of section 43 and sub-section (2) of section 50,—</p> <p>(a) every member of a</p>	<p>In section 47, in sub-section (1), for the words, figures and brackets "provisions of section 43 and sub-section (2) of section 50", the words, figures and brackets "provisions of</p>	<p>Earlier Section 188 not covered now specifically covered.</p>

<p>company limited by shares and holding equity share capital therein, shall have a right to vote on every resolution placed before the company; and</p> <p>(b) his voting right on a poll shall be in proportion to his share in the paid-up equity share capital of the company.</p> <p>(2) Every member of a company limited by shares and holding any preference share capital therein shall, in respect of such capital, have a right to vote only on resolutions placed before the company which directly affect the rights attached to his preference shares and, any resolution for the winding up of the company or for the repayment or reduction of its equity or preference share capital and his voting right on a poll shall be in proportion to his share in the paid-up preference share capital of the company:</p> <p>Provided that the proportion of the voting rights of equity shareholders to the voting rights of the preference shareholders shall be in the same proportion as the paid-up capital in respect of the equity shares bears to the paid-up capital in respect of the preference shares:</p> <p>Provided further that</p>	<p>section 43, sub-section (2) of section 50 and sub-section (1) of section 188" shall be substituted</p>	
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	<p>where the dividend in respect of a class of preference shares has not been paid for a period of two years or more, such class of preference shareholders shall have a right to vote on all the resolutions placed before the company</p>		
12	<p><b>Section 53: Prohibition on issue of shares at discount.</b>—(1) Except as provided in section 54, a company shall not issue shares at a discount. (2) Any share issued by a company at a <b>discounted price</b> shall be void. (3) Where a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.</p>	<p>In section 53 of the principal Act,— (i) in sub-section (2), for the words "discounted price", the word "<b>discount</b>" shall be substituted; (ii) after sub-section (2), the following sub-section shall be inserted, namely:— <b>"(2A) Notwithstanding anything contained in sub-sections (1) and (2), a company may issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by the Reserve Bank of India under the Reserve Bank of India Act, 1934 or the Banking (Regulation) Act, 1949."</b></p>	<p>Clarity has come since discount to the face value of the shares cannot be issued now.  Exception given for debt convection under RBI or Banking Regulations.</p>
13	<p>Issue of sweat equity shares.—(1) Notwithstanding anything contained in section 53, a company may issue sweat equity shares of a class of shares already issued, if the following conditions are fulfilled, namely:— (a) the issue is authorised</p>	<p>In section 54, in sub-section (1), <b>clause (c) shall be omitted.</b></p>	<p>Now Sweat equity can be issued within one Year of Commencement of Business</p>

	<p>by a special resolution passed by the company;</p> <p>(b) the resolution specifies the number of shares, the current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued;</p> <p><b>(c) not less than one year has, at the date of such issue, elapsed since the date on which the company had commenced business; and</b></p> <p>(d) where the equity shares of the company are listed on a recognised stock exchange, the sweat equity shares are issued in accordance with the regulations made by the Securities and Exchange Board in this behalf and if they are not so listed, the sweat equity shares are issued in accordance with such rules as may be prescribed.</p> <p>(2) The rights, limitations, restrictions and provisions as are for the time being applicable to equity shares shall be applicable to the sweat equity shares issued under this section and the holders of such shares shall rank pari passu with other equity shareholders.</p>		
14	<p><b>Further issue of share capital.</b>—(1) Where at any time, a company having a share capital</p>	<p>In section 62 of the principal Act,—</p> <p>(i) in sub-section (1), in clause (c), for the words "of a</p>	



<p>proposes to increase its subscribed capital by the issue of further shares, such shares shall be offered—</p> <p>(a) to persons who, at the date of the offer, are holders of equity shares of the company in proportion, as nearly as circumstances admit, to the paid-up share capital on those shares by sending a letter of offer subject to the following conditions, namely:—</p> <p>(i) the offer shall be made by notice specifying the number of shares offered and limiting a time not being less than fifteen days and not exceeding thirty days from the date of the offer within which the offer, if not accepted, shall be deemed to have been declined;</p> <p>(ii) unless the articles of the company otherwise provide, the offer aforesaid shall be deemed to include a right exercisable by the person concerned to renounce the shares offered to him or any of them in favour of any other person; and the notice referred to in clause (i) shall contain a statement of this right;</p> <p>(iii) after the expiry of the time specified in the notice aforesaid, or on receipt of earlier intimation from the person to whom such notice is given that he</p>	<p>registered valuer subject to such conditions as may be prescribed", the words and figures "of a registered valuer, subject to the compliance with the applicable provisions of Chapter III and any other conditions as may be prescribed" shall be substituted;</p> <p>(ii) for sub-section (2), the following sub-section shall be substituted, namely:—</p> <p>"(2) The notice referred to in sub-clause (i) of clause (a) of sub-section (1) shall be dispatched through registered post or speed post or through electronic mode or courier or any other mode having proof of delivery to all the existing shareholders at least three days before the opening of the issue."</p>	<p>Rules may be notified.</p> <p>Now Courier is also permitted</p>
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<p>declines to accept the shares offered, the Board of Directors may dispose of them in such manner which is not disadvantageous to the shareholders and the company;</p> <p>(b) to employees under a scheme of employees' stock option, subject to special resolution passed by company and subject to such conditions as may be prescribed; or</p> <p>(c) to any persons, if it is authorised by a special resolution, whether or not those persons include the persons referred to in clause (a) or clause (b), either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report <b>of a registered valuer subject to such conditions as may be prescribed.</b></p> <p><b>(2) The notice referred to in sub-clause (i) of clause (a) of sub-section (1) shall be despatched through registered post or speed post or through electronic mode to all the existing shareholders at least three days before the opening of the issue.</b></p> <p>(3) Nothing in this section shall apply to the increase of the subscribed capital of a company caused by the exercise of an option as a term attached to the</p>		
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<p>debentures issued or loan raised by the company to convert such debentures or loans into shares in the company:</p> <p>Provided that the terms of issue of such debentures or loan containing such an option have been approved before the issue of such debentures or the raising of loan by a special resolution passed by the company in general meeting.</p> <p>(4) Notwithstanding anything contained in subsection (3), where any debentures have been issued, or loan has been obtained from any Government by a company, and if that Government considers it necessary in the public interest so to do, it may, by order, direct that such debentures or loans or any part thereof shall be converted into shares in the company on such terms and conditions as appear to the Government to be reasonable in the circumstances of the case even if terms of the issue of such debentures or the raising of such loans do not include a term for providing for an option for such conversion:</p> <p>Provided that where the terms and conditions of such conversion are not acceptable to the company, it may, within</p>		
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	<p>sixty days from the date of communication of such order, appeal to the Tribunal which shall after hearing the company and the Government pass such order as it deems fit.</p> <p>(5) In determining the terms and conditions of conversion under sub-section (4), the Government shall have due regard to the financial position of the company, the terms of issue of debentures or loans, as the case may be, the rate of interest payable on such debentures or loans and such other matters as it may consider necessary.</p>		
15	<p>Prohibition on acceptance of deposits from public.—</p> <p>(1) On and after the commencement of this Act, no company shall invite, accept or renew deposits under this Act from the public except in a manner provided under this Chapter:</p> <p>Provided that nothing in this sub-section shall apply to a banking company and nonbanking financial company as defined in the Reserve Bank of India Act, 1934 (2 of 1934) and to such other company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.</p> <p>(2) A company may, subject to the passing of a</p>	<p>In section 73 of the principal Act, in sub-section (2),—</p> <p>(i) for clause (c), the following clause shall be substituted, namely:—</p> <p>"(c) depositing, on or before the 30th day of April each year, such sum which shall not be less than twenty per cent. of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account";</p> <p>(ii) clause (d) shall be omitted;</p> <p>(iii) in clause (e), for the words "such deposits;", the following shall be substituted, namely:—</p> <p>"such deposits and where a default had occurred, the company made good the default and a period of five</p>	<p>Due date given and 20% of the maturing deposit during the year.</p> <p>Deposit Insurance omitted.</p> <p>Now a defaulted company can deposit after 5 years.</p>

<p>resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security, if any, or for the repayment of such deposits with interest, as may be agreed upon between the company and its members, subject to the fulfilment of the following conditions, namely:—</p> <p>(a) issuance of a circular to its members including therein a statement showing the financial position of the company, the credit rating obtained, the total number of depositors and the amount due towards deposits in respect of any previous deposits accepted by the company and such other particulars in such form and in such manner as may be prescribed;</p> <p>(b) filing a copy of the circular along with such statement with the Registrar within thirty days before the date of issue of the circular;</p> <p><b>(c) depositing such sum which shall not be less than fifteen per cent. of the amount of its deposits maturing during a financial year and the financial year</b></p>	<p>years had lapsed since the date of making good the default;".</p>	
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	<p>next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account;</p> <p>(d) providing such deposit insurance in such manner and to such extent as may be prescribed;</p> <p>(e) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on <b>such deposits</b>; and</p> <p>(f) providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company:</p> <p>Provided that in case where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as <u>unsecured deposits</u> and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.</p>		
16	<p><b>Repayment of deposits, etc., accepted before commencement of this Act.—</b>(1) Where in respect of any deposit</p>	<p>In section 74, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—</p> <p><b>"(b) repay within three years</b></p>	

	<p>accepted by a company before the commencement of this Act, the amount of such deposit or part thereof or any interest due thereon remains unpaid on such commencement or becomes due at any time thereafter, the company shall—</p> <p>(a) file, within a period of three months from such commencement or from the date on which such payments, are due, with the Registrar a statement of all the deposits accepted by the company and sums remaining unpaid on such amount with the interest payable thereon along with the arrangements made for such repayment, notwithstanding anything contained in any other law for the time being in force or under the terms and conditions subject to which the deposit was accepted or any scheme framed under any law; and</p> <p><b>(b) repay within one year from such commencement or from the date on which such payments are due, whichever is earlier.</b></p>	<p>from such commencement or on or before expiry of the period for which the deposits were accepted, whichever is earlier:</p> <p>Provided that renewal of any such deposits shall be done in accordance with the provisions of Chapter V and the rules made thereunder."</p>	<p>Old deposit can be retained for the period of three years</p>
17	<p>76A. Punishment for contravention of section 73 or section 76.—Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any</p>	<p>In section 76A of the principal Act, in clause (a), for the words "one crore rupees", the words "one crore rupees or twice the amount of deposit accepted by the company, whichever is lower" shall be</p>	<p>A welcome change in the penalty clause.</p>

<p>deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made thereunder or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made thereunder or such further time as may be allowed by the Tribunal under section 73,—</p> <p>(a) the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than <b>one crore rupees</b> but which may extend to ten crore rupees; and</p> <p>(b) every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both:</p> <p>Provided that if it is proved that the officer of the company who is in default, has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be</p>	<p>substituted</p>	
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	liable for action under section 447.]		
18	<p>Duty to register charges, etc.—(1) It shall be the duty of every company creating a charge within or outside India, on its property or assets or any of its undertakings, whether tangible or otherwise, and situated in or outside India, to register the particulars of the charge signed by the company and the chargeholder together with the instruments, if any, creating such charge in such form, on payment of such fees and in such manner as may be prescribed, with the Registrar within thirty days of its creation:</p> <p>Provided that the Registrar may, on an application by the company, allow such registration to be made within a period of three hundred days of such creation on payment of such additional fees as may be prescribed:</p> <p>Provided further that if registration is not made within a period of three hundred days of such creation, the company shall seek extension of time in accordance with section 87:</p> <p><b>Provided also that any subsequent registration of a charge shall not prejudice any right</b></p>	<p>In section 77 of the principal Act, in sub-section (1), after the third proviso, the following proviso shall be inserted, namely:—</p> <p><b>"Provided also that this section shall not apply to such charges as may be prescribed in consultation with the Reserve Bank of India."</b></p>	

	<p><b>acquired in respect of any property before the charge is actually registered.</b></p> <p>(2) Where a charge is registered with the Registrar under sub-section (1), he shall issue a certificate of registration of such charge in such form and in such manner as may be prescribed to the company and, as the case may be, to the person in whose favour the charge is created.</p> <p>(3) Notwithstanding anything contained in any other law for the time being in force, no charge created by a company shall be taken into account by the liquidator or any other creditor unless it is duly registered under sub-section (1) and a certificate of registration of such charge is given by the Registrar under sub-section (2).</p> <p>(4) Nothing in sub-section (3) shall prejudice any contract or obligation for the repayment of the money secured by a charge.</p>		
19	<p><b>Application for registration of charge.</b>— Where a company fails to <b>register the charge within the period specified in section 77</b>, without prejudice to its liability in respect of any offence under this Chapter, the person in</p>	<p>In section 78 of the principal Act, for the words "register the charge within the period specified in section 77", the words "<b>register the charge within the period of thirty days referred to in sub-section (1) of section 77</b>" shall be substituted.</p>	Clarity given.

	<p>whose favour the charge is created may apply to the Registrar for registration of the charge along with the instrument created for the charge, within such time and in such form and manner as may be prescribed and the Registrar may, on such application, within a period of fourteen days after giving notice to the company, unless the company itself registers the charge or shows sufficient cause why such charge should not be registered, allow such registration on payment of such fees, as may be prescribed:</p> <p>Provided that where registration is effected on application of the person in whose favour the charge is created, that person shall be entitled to recover from the company the amount of any fees or additional fees paid by him to the Registrar for the purpose of registration of charge</p>		
20	<p>Company to report satisfaction of charge.— (1) A company shall give intimation to the Registrar in the prescribed form, of the payment or satisfaction in full of any charge registered under this Chapter within a period of thirty days from the date of such payment or satisfaction <b>and the</b></p>	<p>In section 82 of the principal Act, in sub-section (1),— (i) the words "and the provisions of sub-section (1) of section 77 shall, as far as may be, apply to an intimation given under this section" shall be <b>omitted</b>;</p> <p>(ii) the following proviso shall be inserted, namely:— <b>"Provided that the Registrar may, on an application by the</b></p>	<p>Satisfaction with in 300 days to be approved by ROC.</p>

<p><b>provisions of sub-section (1) of section 77 shall, as far as may be, apply to an intimation given under this section.</b></p> <p>(2) The Registrar shall, on receipt of intimation under sub-section (1), cause a notice to be sent to the holder of the charge calling upon him to show cause within such time not exceeding fourteen days, as may be specified in such notice, as to why payment or satisfaction in full should not be recorded as intimated to the Registrar, and if no cause is shown, by such holder of the charge, the Registrar shall order that a memorandum of satisfaction shall be entered in the register of charges kept by him under section 81 and shall inform the company that he has done so:</p> <p>Provided that the notice referred to in this sub-section shall not be required to be sent, in case the intimation to the Registrar in this regard is in the specified form and signed by the holder of charge.</p> <p>(3) If any cause is shown, the Registrar shall record a note to that effect in the register of charges and shall inform the company.</p> <p>(4) Nothing in this section shall be deemed to affect the powers of the</p>	<p>company or the charge holder, allow such intimation of payment or satisfaction to be made within a period of three hundred days of such payment or satisfaction on payment of such additional fees as may be prescribed."</p>	
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	Registrar to make an entry in the register of charges under section 83 or otherwise than on receipt of an intimation from the company		
21	<p>Declaration in respect of beneficial interest in any share.—(1) Where the name of a person is entered in the register of members of a company as the holder of shares in that company but who does not hold the beneficial interest in such shares, such person shall make a declaration within such time and in such form as may be prescribed to the company specifying the name and other particulars of the person who holds the beneficial interest in such shares.</p> <p>(2) Every person who holds or acquires a beneficial interest in share of a company shall make a declaration to the company specifying the nature of his interest, particulars of the person in whose name the shares stand registered in the books of the company and such other particulars as may be prescribed.</p> <p>(3) Where any change occurs in the beneficial interest in such shares, the person referred to in sub-section (1) and the beneficial owner specified in sub-section (2) shall, within a period of thirty</p>	<p>In section 89 of the principal Act, after sub-section (9), the following sub-section shall be inserted, namely:—</p> <p>"(10) For the purposes of this section and section 90, beneficial interest in a share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to—</p> <p>(i) exercise or cause to be exercised any or all of the rights attached to such share; or (ii) receive or participate in any dividend or other distribution in respect of such share."</p>	<p>Now, the beneficial interest includes All the rights attached to the shares.</p>

<p>days from the date of such change, make a declaration to the company in such form and containing such particulars as may be prescribed.</p> <p>(4) The Central Government may make rules to provide for the manner of holding and disclosing beneficial interest and beneficial ownership under this section.</p> <p>(5) If any person fails, to make a declaration as required under sub-section (1) or sub-section (2) or sub-section (3), without any reasonable cause, he shall be punishable with fine which may extend to fifty thousand rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues</p> <p>(6) Where any declaration under this section is made to a company, the company shall make a note of such declaration in the register concerned and shall file, within thirty days from the date of receipt of declaration by it, a return in the prescribed form with the Registrar in respect of such declaration with such fees or additional fees as may be prescribed, within the</p>		
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	<p>time specified under section 403.</p> <p>(7) If a company, required to file a return under sub-section (6), fails to do so before the expiry of the time specified under the first proviso to sub-section (1) of section 403, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.</p> <p>(8) No right in relation to any share in respect of which a declaration is required to be made under this section but not made by the beneficial owner, shall be enforceable by him or by any person claiming through him.</p> <p><b>(9) Nothing in this section shall be deemed to prejudice the obligation of a company to pay dividend to its members under this Act and the said obligation shall, on such payment, stand discharged.</b></p>		
22	<p><b>Investigation of beneficial ownership of shares in certain</b></p>	<p>For section 90 of the principal Act, the following section shall be substituted,</p>	

	<p><b>cases.—Where it appears to the Central Government that there are reasons so to do, it may appoint one or more competent persons to investigate and report as to beneficial ownership with regard to any share or class of shares and the provisions of section 216 shall, as far as may be, apply to such investigation as if it were an investigation ordered under that section.</b></p>	<p>namely:— '90. (1) Every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of not less than twenty-five per cent. or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as defined in clause (27) of section 2, over the company (herein referred to as "significant beneficial owner"), shall make a declaration to the company, specifying the nature of his interest and other particulars, in such manner and within such period of acquisition of the beneficial interest or rights and any change thereof, as may be prescribed: Provided that the Central Government may prescribe a class or classes of persons who shall not be required to make declaration under this sub-section. (2) Every company shall maintain a register of the interest declared by individuals under sub-section (1) and changes therein which shall include the name of individual, his date of birth, address, details of ownership in the company and such other details as may be prescribed. 3) The register maintained under sub-section (2) shall be open to inspection by any</p>	<p>Significant Beneficial owner concept introduced. 25% holding. New procedures to be notified.</p>
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		<p>member of the company on payment of such fees as may be prescribed.</p> <p>(4) Every company shall file a return of significant beneficial owners of the company and changes therein with the Registrar containing names, addresses and other details as may be prescribed within such time, in such form and manner as may be prescribed.</p> <p>(5) A company shall give notice, in the prescribed manner, to any person (whether or not a member of the company) whom the company knows or has reasonable cause to believe—</p> <ul style="list-style-type: none"><li>(a) to be a significant beneficial owner of the company;</li><li>(b) to be having knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge; or</li><li>(c) to have been a significant beneficial owner of the company at any time during the three years immediately preceding the date on which the notice is issued, and who is not registered as a significant beneficial owner with the company as required under this section.</li></ul> <p>(6) The information required by the notice under subsection (5) shall be given by the concerned person within a period not exceeding thirty days of the date of the notice.</p> <p>(7) The company shall,—</p> <ul style="list-style-type: none"><li>(a) where that person fails to give the company the</li></ul>	
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		<p>information required by the notice within the time specified therein; or</p> <p>(b) where the information given is not satisfactory, apply to the Tribunal within a period of fifteen days of the expiry of the period specified in the notice, for an order directing that the shares in question be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares and such other matters as may be prescribed.</p> <p>(8) On any application made under sub-section (7), the Tribunal may, after giving an opportunity of being heard to the parties concerned, make such order restricting the rights attached with the shares within a period of sixty days of receipt of application or such other period as may be prescribed.</p> <p>(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8).</p> <p>(10) If any person fails to make a declaration as required under sub-section (1), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the</p>	
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		<p>failure continues.  (11) If a company, required to maintain register under sub-section (2) and file the information under sub-section (4), fails to do so or denies inspection as provided therein, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.  (12) If any person wilfully furnishes any false or incorrect information or suppresses any material information of which he is aware in the declaration made under this section, he shall be liable to action under section 447.'.</p>	
23	<p>Annual return.—(1) Every company shall prepare a return (hereinafter referred to as the annual return) in the prescribed form containing the particulars as they stood on the close of the financial year regarding—  (a) its registered office, principal business activities, particulars of its holding, subsidiary and associate companies;  (b) its shares, debentures and other securities and shareholding pattern;  <b>(c) its indebtedness;</b></p>	<p>In section 92 of the principal Act,—  (i) in sub-section (1),—  (a) clause (c) shall be <b>omitted</b>;    (b) in clause (j), the words "<b>indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them</b>" shall be <b>omitted</b>;  (c) after the proviso, the following proviso shall be inserted, namely:—  "<b>Provided further that the</b></p>	<p>Indebtedness need not be provided in annual return.    Fill details need not be given.</p>

<p>(d) its members and debenture-holders along with changes therein since the close of the previous financial year;</p> <p>(e) its promoters, directors, key managerial personnel along with changes therein since the close of the previous financial year;</p> <p>(f) meetings of members or a class thereof, Board and its various committees along with attendance details;</p> <p>(g) remuneration of directors and key managerial personnel;</p> <p>(h) penalty or punishment imposed on the company, its directors or officers and details of compounding of offences and appeals made against such penalty or punishment;</p> <p>(i) matters relating to certification of compliances, disclosures as may be prescribed;</p> <p>(j) details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors <b>indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them</b>; and</p> <p>(k) such other matters as may be prescribed, and signed by a director and the company</p>	<p><b>Central Government may prescribe abridged form of annual return for One Person Company and small company.";</b></p> <p>(ii) for sub-section (3), the following sub-section shall be substituted, namely:—</p> <p><b>"(3) Every company shall place a copy of the annual return on the website of the company, if any, and the web-link of such annual return shall be disclosed in the Board's report."</b></p>	<p>Abridged form of Annual Return for OPC and small Company.</p> <p>No need to attach MGT-9 to Board report but place it on the website and disclose in the Board Report.</p>
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<p>secretary, or where there is no company secretary, by a company secretary in practice:</p> <p><b>Provided that in relation to One Person Company and small company, the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.</b></p> <p>(2) The annual return, filed by a listed company or, by a company having such paid-up capital and turnover as may be prescribed, shall be certified by a company secretary in practice in the prescribed form, stating that the annual return discloses the facts correctly and adequately and that the company has complied with all the provisions of this Act.</p> <p><b>(3) An extract of the annual return in such form as may be prescribed shall form part of the Board's report.</b></p> <p>(4) Every company shall file with the Registrar a copy of the annual return, within sixty days from the date on which the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held</p>		
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	<p>together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed, within the time as specified, under section 403.</p> <p>(5) If a company fails to file its annual return under sub-section (4), before the expiry of the period specified under section 403 with additional fees, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakhs rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.</p> <p>(6) If a company secretary in practice certifies the annual return otherwise than in conformity with the requirements of this section or the rules made thereunder, he shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.</p>		
24	<b>Return to be filed with Registrar in case promoters' stake</b>	Section 93 of the principal Act shall be <b>omitted</b> .	Welcome Omission.

	<p><b>changes.—Every listed company shall file a return in the prescribed form with the Registrar with respect to change in the number of shares held by promoters and top ten shareholders of such company, within fifteen days of such change</b></p>		
25	<p>Place of keeping and inspection of registers, returns, etc.—  (1) The registers required to be kept and maintained by a company under section 88 and copies of the annual return filed under section 92 shall be kept at the registered office of the company:  Provided that such registers or copies of return may also be kept at any other place in India in which more than one-tenth of the total number of members entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company <b>and the Registrar has been given a copy of the proposed special resolution in advance:</b>  Provided further that the period for which the registers, returns and records are required to be kept shall be such as may be prescribed.  (2) The registers and their indices, except when they</p>	<p>In section 94 of the principal Act,—  (i) in sub-section (1), in the first proviso, the words "and the Registrar has been given a copy of the proposed special resolution in advance" shall be <b>omitted</b>;  (ii) in sub-section (3), the following proviso shall be inserted, namely:—  <b>"Provided that particulars of the register or index or return as may be prescribed shall not be available for inspection under sub-section (2) or for taking extracts or copies under this sub-section."</b></p>	<p>New rule may prescribe some registers may not available for inspection.</p>

	<p>are closed under the provisions of this Act, and the copies of all the returns shall be open for inspection by any member, debenture-holder, other security holder or beneficial owner, during business hours without payment of any fees and by any other person on payment of such fees as may be prescribed.</p> <p><b>(3) Any such member, debenture-holder, other security holder or beneficial owner or any other person may—</b></p> <p><b>(a) take extracts from any register, or index or return without payment of any fee; or</b></p>		
26	<p>Annual general meeting.—</p> <p>(1) Every company other than a One Person Company shall in each year hold in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next:</p> <p><b>Provided that</b> in case of the first annual general meeting, it shall be held within a period of nine months from the date of closing of the first financial</p>	<p>In section 96 of the principal Act, in sub-section (2), in the proviso, for the words "Provided that", the following shall be substituted, namely:—</p> <p><b>"Provided that annual general meeting of an unlisted company may be held at any place in India if consent is given in writing or by electronic mode by all the members in advance: Provided further that".</b></p>	<p>AGM of unlisted company can be held any where in India provided 100% shareholders agrees.</p>



	<p>year of the company and in any other case, within a period of six months, from the date of closing of the financial year:</p> <p>Provided further that if a company holds its first annual general meeting as aforesaid, it shall not be necessary for the company to hold any annual general meeting in the year of its incorporation:</p> <p>Provided also that the Registrar may, for any special reason, extend the time within which any annual general meeting, other than the first annual general meeting, shall be held, by a period not exceeding three months.</p> <p>(2) Every annual general meeting shall be called during business hours, that is, between 9 a.m. and 6 p.m. on any day that is not a National Holiday and shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situate:</p>		
27	<p>Calling of extraordinary general meeting.—(1) <b>The Board may, whenever it deems fit, call an extraordinary general meeting of the company.</b></p> <p>(2) The Board shall, at the requisition made by,—</p> <p>(a) in the case of a company having a share</p>	<p>In section 100 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—</p> <p><b>"Provided that an extraordinary general meeting of the company, other than of the wholly owned subsidiary of a company incorporated outside India, shall be held at</b></p>	<p>Foreign Subsidiary can conduct their EGM any where in the world.</p>

<p>capital, such number of members who hold, on the date of the receipt of the requisition, not less than one-tenth of such of the paid-up share capital of the company as on that date carries the right of voting;</p> <p>(b) in the case of a company not having a share capital, such number of members who have, on the date of receipt of the requisition, not less than one-tenth of the total voting power of all the members having on the said date a right to vote,</p> <p>call an extraordinary general meeting of the company within the period specified in sub-section (4).</p> <p>(3) The requisition made under sub-section (2) shall set out the matters for the consideration of which the meeting is to be called and shall be signed by the requisitionists and sent to the registered office of the company.</p> <p>(4) If the Board does not, within twenty-one days from the date of receipt of a valid requisition in regard to any matter, proceed to call a meeting for the consideration of that matter on a day not later than forty-five days from the date of receipt of such requisition, the meeting may be called</p>	<p>a place within India.".</p>	
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	<p>and held by the requisitionists themselves within a period of three months from the date of the requisition.</p> <p>(5) A meeting under sub-section (4) by the requisitionists shall be called and held in the same manner in which the meeting is called and held by the Board.</p>		
28	<p>Notice of meeting.—(1) A general meeting of a company may be called by giving not less than clear twenty-one days' notice either in writing or through electronic mode in such manner as may be prescribed:</p> <p><b>Provided that a general meeting may be called after giving a shorter notice if consent is given in writing or by electronic mode by not less than ninety-five per cent. of the members entitled to vote at such meeting.</b></p> <p>(2) Every notice of a meeting shall specify the place, date, day and the hour of the meeting and shall contain a statement of the business to be transacted at such meeting.</p> <p>(3) The notice of every meeting of the company shall be given to—</p> <p>(a) every member of the company, legal representative of any</p>	<p>In section 101 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted namely:—</p> <p><b>"Provided that a general meeting may be called after giving shorter notice than that specified in this sub-section if consent, in writing or by electronic mode, is accorded thereto—</b></p> <p><b>(i) in the case of an annual general meeting, by not less than ninety-five per cent. of the members entitled to vote thereat; and</b></p> <p><b>(ii) in the case of any other general meeting, by members of the company—</b></p> <p><b>(a) holding, if the company has a share capital, not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or</b></p> <p><b>(b) having, if the company has no share capital, not less than ninety-five per cent. of the total voting power exercisable at that meeting:</b></p> <p><b>Provided further that where any member of a company is entitled to vote only on some</b></p>	<p>For AGM 95% of the Members</p> <p>For EGM 95% of Voting rights</p>

	<p>deceased member or the assignee of an insolvent member;</p>	<p>resolution or resolutions to be moved at a meeting and not on the others, those members shall be taken into account for the purposes of this sub-section in respect of the former resolution or resolutions and not in respect of the latter.".</p>	
<p>29</p>	<p>Postal ballot.—(1) <b>Notwithstanding anything contained in this Act, a company—</b>  <b>(a) shall, in respect of such items of business as the Central Government may, by notification, declare to be transacted only by means of postal ballot; and</b>  <b>(b) may, in respect of any item of business, other than ordinary business and any business in respect of which directors or auditors have a right to be heard at any meeting, transact by means of postal ballot, in such manner as may be prescribed, instead of transacting such business at a general meeting.</b>  (2) If a resolution is assented to by the requisite majority of the shareholders by means of postal ballot, it shall be deemed to have been duly passed at a general meeting convened in that behalf.</p>	<p>In section 110 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—  "Provided that any item of business required to be transacted by means of postal ballot under clause (a), may be transacted at a general meeting by a company which is required to provide the facility to members to vote by electronic means under section 108, in the manner provided in that section.".</p>	<p>E-voting available postal ballot not required.</p>

<p>30</p>	<p>Resolutions and agreements to be filed.—  (1) A copy of every resolution or any agreement, in respect of matters specified in sub-section (3) together with the explanatory statement under section 102, if any, annexed to the notice calling the meeting in which the resolution is proposed, shall be filed with the Registrar within thirty days of the passing or making thereof in such manner and with such fees as may be prescribed within the time specified under section 403:  Provided that the copy of every resolution which has the effect of altering the articles and the copy of every agreement referred to in sub-section (3) shall be embodied in or annexed to every copy of the articles issued after passing of the resolution or making of the agreement.  (2) If a company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified under section 403 with additional fees, the company shall be punishable with fine which shall <b>not be less than five lakh rupees</b> but which may extend to twenty-five lakh rupees and every officer of the</p>	<p>In section 117 of the principal Act,—  (i) in sub-section (2),—  (a) for the words "not be less than five lakh rupees", the words "<b>not be less than one lakh rupees</b>" shall be substituted;  (b) for the words "one lakh rupees", the words "<b>fifty thousand rupees</b>" shall be substituted;  (ii) in sub-section (3),—  (a) clause (e) shall be <b>omitted</b>;    (b) in clause (g), in the proviso, the word "and" shall be omitted and the following proviso shall be inserted, namely:—  "<b>Provided further that nothing contained in this clause shall apply to a banking company in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business; and.</b>"</p>	<p>Form MGT-14, minimum penalty reduced to 1 lakh from 5 lakh.    For Directors and offices the penalty reduced to 50,000 from 1,00,000/-    Sec. 180 borrowing power no need to file the form MGT-14    For Banking Companies no need to file resolution with ROC U/s 179</p>
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<p>company who is in default, including liquidator of the company, if any, shall be punishable with fine which shall not be less than <b>one lakh rupees</b> but which may extend to five lakh rupees.</p> <p>(3) The provisions of this section shall apply to—</p> <p>(a) special resolutions;</p> <p>(b) resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed as special resolutions;</p> <p>(c) any resolution of the Board of Directors of a company or agreement executed by a company, relating to the appointment, re-appointment or renewal of the appointment, or variation of the terms of appointment, of a managing director;</p> <p>(d) resolutions or agreements which have been agreed to by any class of members but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by a specified majority or otherwise in some particular manner; and all resolutions or agreements which effectively bind such class of members though not</p>		
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	<p>agreed to by all those members;</p> <p>(e) <b>resolutions passed by a company according consent to the exercise by its Board of Directors of any of the powers under clause (a) and clause (c) of sub-section (1) of section 180;</b></p> <p>(f) resolutions requiring a company to be wound up voluntarily passed in pursuance of section 304;</p> <p>(g) resolutions passed in pursuance of sub-section (3) of section 179:</p> <p>Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions; <b>and]</b></p> <p>(h) any other resolution or agreement as may be prescribed and placed in the public domain.</p>		
31	<p>Declaration of dividend.—</p> <p>(1) No dividend shall be declared or paid by a company for any financial year except—</p> <p>(a) out of the profits of the company for that year arrived at after providing for depreciation in accordance with the provisions of sub-section (2), or out of the profits of the company for any previous financial year or years arrived at after providing for depreciation in accordance with the provisions of that sub-section and remaining undistributed, or out of</p>	<p>In section 123 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—</p> <p><b>"(3) The Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the interim</b></p>	<p>Clarity given that interim dividend can be given till the conducting AGM of the Company.</p>

<p>both; or</p> <p>(b) out of money provided by the Central Government or a State Government for the payment of dividend by the company in pursuance of a guarantee given by that Government:</p> <p>Provided that a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company:</p> <p>Provided further that where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years and transferred by the company to the reserves, such declaration of dividend shall not be made except in accordance with such rules as may be prescribed in this behalf:</p> <p>Provided also that no dividend shall be declared or paid by a company from its reserves other than free reserves:</p> <p>1[Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided</p>	<p>dividend:</p> <p>Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during immediately preceding three financial years."</p>	
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	<p>in previous year or years are set off against profit of the company for the current year.]</p> <p>(2) For the purposes of clause (a) of sub-section (1), depreciation shall be provided in accordance with the provisions of Schedule II.</p> <p><b>(3) The Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared: Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.</b></p>		
32	<p><b>Financial statement.—</b></p> <p>(1) The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or</p>	<p>In section 129 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—</p> <p><b>"(3) Where a company has one or more subsidiaries or associate companies, it shall, in addition to financial statements provided under sub-section (2), prepare a</b></p>	<p>Now Consolidation of Associate Company is also required.</p>

<p>forms as may be provided for different class or classes of companies in Schedule III:</p> <p>Provided that the items contained in such financial statements shall be in accordance with the accounting standards:</p> <p>Provided further that nothing contained in this sub-section shall apply to any insurance or banking company or any company engaged in the generation or supply of electricity, or to any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company:</p> <p>Provided also that the financial statements shall not be treated as not disclosing a true and fair view of the state of affairs of the company, merely by reason of the fact that they do not disclose—</p> <p>(a) in the case of an insurance company, any matters which are not required to be disclosed by the Insurance Act, 1938 (4 of 1938), or the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);</p> <p>(b) in the case of a banking company, any matters which are not required to be disclosed by the Banking Regulation Act, 1949 (10 of 1949);</p> <p>(c) in the case of a</p>	<p>consolidated financial statement of the company and of all the subsidiaries and associate companies in the same form and manner as that of its own and in accordance with applicable accounting standards, which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2):</p> <p>Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries in such form as may be prescribed:</p> <p>Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed."</p>	
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	<p>company engaged in the generation or supply of electricity, any matters which are not required to be disclosed by the Electricity Act, 2003 (36 of 2003);</p> <p>(d) in the case of a company governed by any other law for the time being in force, any matters which are not required to be disclosed by that law.</p> <p>(2) At every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year.</p> <p><b>(3) Where a company has one or more subsidiaries, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries in the same form and manner as that of its own which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2):</b></p> <p><b>Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial</b></p>		
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	<p>statement of its subsidiary or subsidiaries in such form as may be prescribed:  <b>Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed.</b>  <b>Explanation.—For the purposes of this sub-section, the word —subsidiaryll shall include associate company and joint venture.</b>  (4) The provisions of this Act applicable to the preparation, adoption and audit of the financial statements of a holding company shall, mutatis mutandis, apply to the consolidated financial statements referred to in sub-section (3).</p>		
33	<p>Re-opening of accounts on court's or Tribunal's orders.— (1) A company shall not re-open its books of account and not recast its financial statements, unless an application in this regard is made by the Central Government, the Income-tax authorities, the Securities and Exchange Board, any other statutory regulatory body or authority or any person concerned and an order is made by a court of competent jurisdiction or</p>	<p>In section 130 of the principal Act,—  (i) in sub-section (1), in the proviso,—  (a) after the words "regulatory body or authorities concerned", the words "<b>or any other person concerned</b>" shall be inserted;  (b) after the words "the body or authority concerned", the words "<b>or the other person concerned</b>" shall be inserted;  (ii) after sub-section (2), the following sub-section shall be inserted, namely:—</p>	<p>Now any other person concern can also approach NCLT.</p>

	<p>the Tribunal to the effect that—</p> <p>(i) the relevant earlier accounts were prepared in a fraudulent manner; or</p> <p>(ii) the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements:</p> <p>Provided that the court or the Tribunal, as the case may be, shall give notice to the Central Government, the Income-tax authorities, the Securities and Exchange Board or any other statutory <b>regulatory body or authority concerned</b> and shall take into consideration the representations, if any, made by that Government or the authorities, Securities and Exchange Board or <b>the body or authority concerned</b> before passing any order under this section.</p> <p><b>(2) Without prejudice to the provisions contained in this Act the accounts so revised or re-cast under sub-section (1) shall be final.</b></p>	<p>"(3) No order shall be made under sub-section (1) in respect of re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year: Provided that where a direction has been issued by the Central Government under the proviso to sub-section (5) of section 128 for keeping of books of account for a period longer than eight years, the books of account may be ordered to be re-opened within such longer period.".</p>	<p>Now the Financials can be re-opened upto 8 financial years only.</p>
34	<p>Constitution of Natural Financial Reporting Authority.— (1) The Central Government may, by notification, constitute a National Financial Reporting Authority to provide for matters relating to accounting and</p>	<p>In section 132 of the principal Act, in sub-section (4), in clause (c), in sub-clause (A), in item (II), for the words "ten lakh rupees", the words "<b>five lakh rupees</b>" shall be substituted.</p>	<p>Penalty reduced to Five Lakhs.</p>

<p>auditing standards under this Act.</p> <p>(2) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—</p> <p>(a) 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, as the case may be;</p> <p>(b) monitor and enforce the compliance with accounting standards and auditing standards in such manner as may be prescribed;</p> <p>(c) 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</p> <p>(d) perform such other functions relating to clauses (a), (b) and (c) as may be prescribed.</p> <p>(3) The National Financial Reporting Authority shall consist of a chairperson, who shall be a person of eminence and having expertise in accountancy,</p>		
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<p>auditing, finance or law to be appointed by the Central Government and such other members not exceeding fifteen consisting of part-time and full-time members as may be prescribed:</p> <p>Provided that the terms and conditions and the manner of appointment of the chairperson and members shall be such as may be prescribed:</p> <p>Provided further that the chairperson and members shall make a declaration to the Central Government in the prescribed form regarding no conflict of interest or lack of independence in respect of his or their appointment:</p> <p>Provided also that the chairperson and members, who are in full-time employment with National Financial Reporting Authority 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.</p> <p>(4) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—</p> <p>(a) have the power to investigate, either suo motu or on a reference</p>		
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<p>made to it by the Central Government, for such class of bodies corporate or persons, in such manner as may be prescribed into the matters of professional or other misconduct committed by any member or firm of chartered accountants, registered under the Chartered Accountants Act, 1949 ( 38 of 1949): Provided that no other institute or body shall initiate or continue any proceedings in such matters of misconduct where the National Financial Reporting Authority has initiated an investigation under this section;</p> <p>(b) have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 ( 5 of 1908), while trying a suit, in respect of the following matters, namely:—</p> <p>(i) discovery and production of books of account and other documents, at such place and at such time as may be specified by the National Financial Reporting Authority;</p> <p>(ii) summoning and enforcing the attendance of persons and examining them on oath;</p> <p>(iii) inspection of any books, registers and other documents of any person</p>		
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	<p>referred to in clause (b) at any place;  (iv) issuing commissions for examination of witnesses or documents;  (c) where professional or other misconduct is proved, have the power to make order for—  (A) imposing penalty of—  (I) not less than one lakh rupees, but which may extend to five times of the fees received, in case of individuals; and  (II) not less than <b>ten lakh rupees</b>, but which may extend to ten times of the fees received, in case of firms;</p>		
35	<p>Financial statement, Board's report, etc.— <b>(1) The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board at least by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of a One Person Company, only by one</b></p>	<p>In section 134 of the principal Act,—  (a) for sub-section (1), the following sub-section shall be substituted, namely:—  <b>"(1) The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of One Person Company, only by one director, for submission to the auditor for his report thereon."</b>  (b) in sub-section (3),—</p>	<p>CEO even not a Director need to sign the report.</p>

<p><b>director, for submission to the auditor for his report thereon.</b></p> <p>(2) The auditors' report shall be attached to every financial statement.</p> <p>(3) There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include—</p> <p><b>(a) the extract of the annual return as provided under sub-section (3) of section 92;</b></p> <p>(b) number of meetings of the Board;</p> <p>(c) Directors' Responsibility Statement; 1[(ca) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;]</p> <p>(d) a statement on declaration given by independent directors under sub-section (6) of section 149;</p> <p>(e) in case of a company covered under sub-section (1) of section 178, company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178;</p> <p>(f) explanations or</p>	<p>(i) for clause (a), the following clause shall be substituted, namely:—</p> <p>"(a) the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;"</p> <p>(ii) in clause (p), for the words "annual evaluation has been made by the Board of its own performance and that of its committees and individual directors", the words "annual evaluation of the performance of the Board, its Committees and of individual directors has been made" shall be substituted;</p> <p>(iii) after clause (q), the following provisos shall be inserted, namely:—</p> <p>"Provided that where disclosures referred to in this sub-section have been included in the financial statements, such disclosures shall be referred to instead of being repeated in the Board's report:</p> <p>Provided further that where the policy referred to in clause (e) or clause (o) is made available on company's website, if any, it shall be sufficient compliance of the requirements under such clauses if the salient features of the policy and any change therein are specified in brief in the Board's report and the web-address is indicated therein at which the complete policy is available.";</p>	<p>Web address has to be given in Board Report. Where Annual Return can be verified.</p> <p>Evaluation can be made by out side agency.</p> <p>If detail notes given in the financial statement the same need not be repeated in the Board report only reference can be given.</p>
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<p>comments by the Board on every qualification, reservation or adverse remark or disclaimer made—</p> <p>(i) by the auditor in his report; and</p> <p>(ii) by the company secretary in practice in his secretarial audit report;</p> <p>(g) particulars of loans, guarantees or investments under section 186;</p> <p>(h) particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the prescribed form;</p> <p>(i) the state of the company's affairs;</p> <p>(j) the amounts, if any, which it proposes to carry to any reserves;</p> <p>(k) the amount, if any, which it recommends should be paid by way of dividend;</p> <p>(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;</p> <p>(m) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed;</p> <p>(n) a statement indicating development and</p>	<p>(c) after sub-section (3), the following sub-section shall be inserted, namely:—</p> <p>"(3A) The Central Government may prescribe an abridged Board's report, for the purpose of compliance with this section by a One Person Company or small company.".</p>	<p>Abridged Board Report for OPC and Small Company can prescribed by CG.</p>
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	<p>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;</p> <p>(o) the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;</p> <p>(p) in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a statement indicating the manner in which formal <b>annual evaluation has been made by the Board of its own performance and that of its committees and individual directors;</b></p> <p>(q) <b>such other matters as may be prescribed.</b></p>		
36	<p>Corporate Social Responsibility.— (1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during <b>any financial year</b> shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be</p>	<p>In section 135 of the principal Act,—</p> <p>(i) in sub-section (1),—</p> <p>(a) for the words "any financial year", the words "<b>the immediately preceding financial year</b>" shall be substituted;</p> <p>(b) the following proviso shall be inserted, namely:—</p> <p><b>"Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social</b></p>	<p>Now clarity is given.</p> <p>Independent Director need not be part of CSR Committee when the company need not have the independent</p>

<p>an independent director.</p> <p>(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.</p> <p>(3) The Corporate Social Responsibility Committee shall,—</p> <p>(a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company <b>as specified in Schedule VII</b>;</p> <p>(b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and</p> <p>(c) monitor the Corporate Social Responsibility Policy of the company from time to time.</p> <p>(4) The Board of every company referred to in sub-section (1) shall,—</p> <p>(a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility 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 such manner as may be prescribed; and</p> <p>(b) ensure that the</p>	<p><b>Responsibility Committee two or more directors.";</b></p> <p>(ii) in sub-section (3), in clause (a), for the words and figures "as specified in Schedule VII", the words and figures "<b>in areas or subject, specified in Schedule VII</b>" shall be substituted;</p> <p>(iii) in sub-section (5), for the <i>Explanation</i>, the following <i>Explanation</i> shall be substituted, namely:—</p> <p><b>'Explanation.—For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.'</b></p>	<p>director.</p> <p>Now specific disclosure to be made for Areas or subject.</p> <p>New rules may be prescribed for disallowance.</p>
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	<p>activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.</p> <p>(5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:</p> <p>Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:</p> <p>Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount.</p> <p><b>Explanation.—For the purposes of this section —average net profit shall be calculated in accordance with the provisions of section 198.</b></p>	
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<p>37</p>	<p>Right of member to copies of audited financial statement.— (1) <b>Without prejudice to the provisions of section 101</b>, a copy of the financial statements, including consolidated financial statements, if any, auditor's report and 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, shall be sent to every member of the company, to every trustee for the debenture-holder of any debentures issued by the company, and to all persons other than such member or trustee, being the person so entitled, not less than twenty-one days before the date of the meeting:</p> <p><b>Provided that</b> in the case of a listed company, the provisions of this sub-section shall be deemed to be complied with, if the copies of the documents are made available for inspection at its registered office during working hours for a period of twenty-one days before the date of the meeting and a statement containing the salient features of such documents in the prescribed form or copies of the documents, as the</p>	<p>In section 136 of the principal Act,—</p> <p>(i) in sub-section (1),—</p> <p>(a) the words and figures "Without prejudice to the provisions of section 101," shall be <b>omitted</b>;</p> <p>(b) in the first proviso, for the words "Provided that", the following shall be substituted, namely:—</p> <p><b>"Provided that if the copies of the documents are sent less than twenty-one days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by ninety-five per cent. of the members entitled to vote at the meeting: Provided further that";</b></p> <p>(c) in the second proviso, for the words "Provided further", the words, <b>"Provided also"</b> be substituted;</p> <p>(d) for the fourth proviso, the following provisos shall be substituted, namely:—</p> <p><b>'Provided also that every listed company having a subsidiary or subsidiaries shall place separate audited accounts in respect of each of subsidiary on its website, if any: Provided also that a listed company which has a subsidiary incorporated outside India (herein referred to as "foreign subsidiary")—</b></p> <p><b>(a) where such foreign subsidiary is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, the</b></p>	<p>95% of members can agree for less than 21 days notice.</p> <p>Only listed Company only shall comply now.</p>
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<p>company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than twenty-one days before the date of the meeting unless the shareholders ask for full financial statements:</p> <p><b>Provided further</b> that the Central Government may prescribe the manner of circulation of financial statements of companies having such net worth and turnover as may be prescribed:</p> <p>Provided also that 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:</p> <p><b>Provided also that every company having a subsidiary or subsidiaries shall,—</b></p> <p><b>(a) place separate audited accounts in respect of each of its subsidiary on its website, if any;</b></p> <p><b>(b) provide a copy of separate audited financial statements in respect of each of its subsidiary, to any shareholder of the</b></p>	<p>requirement of this proviso shall be met if consolidated financial statement of such foreign subsidiary is placed on the website of the listed company;</p> <p><i>(b)</i> where such foreign subsidiary is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the holding Indian listed company may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website.";</p> <p><i>(ii)</i> in sub-section (2), the following proviso shall be inserted, namely:—</p> <p>"Provided that every company having a subsidiary or subsidiaries shall provide a copy of separate audited or unaudited financial statements, as the case may be, as prepared in respect of each of its subsidiary to any member of the company who asks for it.".</p>	
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	<p><b>company who asks for it.</b></p> <p>(2) A company shall allow every member or trustee of the holder of any debentures issued by the company to inspect the documents stated under sub-section (1) at its registered office during business hours.</p> <p>(3) If any default is made in complying with the provisions of this section, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees.</p>		
38	<p>Copy of financial statement to be filed with Registrar.— (1) A copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed within the time specified under section 403:</p> <p>Provided that where the financial statements under</p>	<p>In section 137 of the principal Act, in sub-section (1), after the fourth proviso, the following proviso shall be inserted, namely:—</p> <p>'Provided also that in the case of a subsidiary which has been incorporated outside India (herein referred to as "foreign subsidiary"), which is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the requirements of the fourth proviso shall be met if the holding Indian listed company files such unaudited financial statement along with a declaration to this effect and where such financial statement is in a language</p>	<p>For Foreign Subsidiary Audit if any required if law of that country not applicable</p>

<p>sub-section (1) are not adopted at annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents under sub-section (1) shall be filed with the Registrar within thirty days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose: Provided further that financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within thirty days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed within the time specified under section 403: Provided also that 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 one hundred eighty days from the closure of the financial year: <b>Provided also that a company shall, along</b></p>	<p>other than English, along with a translated copy of the financial statement in English.'.</p>	
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	<p>with its financial statements to be filed with the Registrar, 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.</p>		
39	<p>Appointment of auditors.— (1) Subject to the provisions of this Chapter, 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 till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting and the manner and procedure of selection of auditors by the members of the company at such meeting shall be such as may be prescribed:</p> <p><b>Provided that the company shall place the matter relating to such appointment for ratification by members at every annual general meeting:</b></p> <p><b>Provided further that before such appointment is made, the written consent of the auditor to such appointment, and a certificate from him or it</b></p>	<p>In section 139 of the principal Act, in sub-section (1), the first proviso shall <b>be omitted</b>.</p>	<p>Annual ratification of Auditor not required</p>

	<p>that the appointment, if made, shall be in accordance with the conditions as may be prescribed, shall be obtained from the auditor:</p> <p>Provided also that the certificate shall also indicate whether the auditor satisfies the criteria provided in section 141:</p> <p>Provided also that the company shall inform the auditor concerned of his or its appointment, and also file a notice of such appointment with the Registrar within fifteen days of the meeting in which the auditor is appointed.</p>		
40	<p>Removal, resignation of auditor and giving of special notice.— (1) 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 in that behalf in the prescribed manner:</p> <p>Provided that before taking any action under this sub-section, the auditor concerned shall be given a reasonable opportunity of being heard.</p> <p>(2) The auditor who has resigned from the</p>	<p>In section 140 of the principal Act, in sub-section (3), for the words "fifty thousand rupees", the words "fifty thousand rupees or the remuneration of the auditor, whichever is less," shall be substituted.</p>	<p>Penalty Reduced to the Auditor for filing the Resignation.</p>

	<p>company shall file within a period of thirty days from the date of resignation, a statement in the prescribed form with the company and the Registrar, and in case of companies referred to in sub-section (5) of section 139, the auditor shall also file such statement with the Comptroller and Auditor-General of India, indicating the reasons and other facts as may be relevant with regard to his resignation.</p> <p>(3) If the auditor does not comply with sub-section (2), he or it shall be punishable with fine which shall not be less than <b>fifty thousand rupees</b> but which may extend to five lakh rupees.</p> <p>(4) (i) Special notice shall be required for a resolution at an annual general meeting 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 sub-section (2) of section 139</p>		
41	<p>Eligibility, qualifications and disqualifications of auditors.— (1) A person shall be eligible for</p>	<p>In section 141 of the principal Act, in sub-section (3),— (i) in clause (d), the following <i>Explanation</i> shall be inserted,</p>	

<p>appointment as an auditor of a company only if he is a chartered accountant: Provided that a firm whereof majority of partners practising in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of a company.</p> <p>(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.</p> <p>(3) The following persons shall not be eligible for appointment as an auditor of a company, namely:—</p> <p>(a) a body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009);</p> <p>(b) an officer or employee of the company;</p> <p>(c) a person who is a partner, or who is in the employment, of an officer or employee of the company;</p> <p><b>(d) a person who, or his relative or partner—</b></p> <p><b>(i) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary</b></p>	<p>namely:—</p> <p><i>'Explanation.—For the purposes of this clause, the term "relative" means the spouse of a person; and includes a parent, sibling or child of such person or of the spouse, financially dependent on such person, or who consults such person in taking decisions in relation to his investments;'</i></p> <p><i>(ii) for clause (i), the following clause shall be substituted, namely:—</i></p> <p><i>'(i) a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company.</i></p> <p><i>Explanation.—For the purposes of this clause, the term "directly or indirectly" shall have the meaning assigned to it in the Explanation to section 144.'</i></p>	<p>Now relative to an auditor is defined</p> <p>More clarity is provided</p>
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	<p>of such holding company: Provided that the relative may hold security or interest in the company of face value not exceeding one thousand rupees or such sum as may be prescribed;</p> <p>(ii) is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of such amount as may be prescribed; 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, or its holding or associate company or a subsidiary of such holding company, for such amount as may be prescribed;</p> <p>(e) 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;</p> <p>(f) a person whose relative is a director or is in the employment of the</p>		
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	<p>company as a director or key managerial personnel;</p> <p>(g) a person who is in full time employment elsewhere or 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;</p> <p>(h) 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;</p> <p><b>(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 section 144.</b></p> <p>(4) Where a person appointed as an auditor of a company incurs any of the disqualifications mentioned in sub-section (3) 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.</p>		
42	<p>Powers and duties of auditors and auditing standards.— (1) Every auditor of a company shall</p>	<p>In section 143 of the principal Act, —</p> <p>(i) in sub-section (1), in the proviso, for the words "its</p>	



<p>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:—</p> <p>(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;</p> <p>(b) whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company;</p> <p>(c) 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;</p> <p>(d) whether loans and</p>	<p>subsidiaries", at both the places, the words "<b>its subsidiaries and associate companies</b>" shall be substituted;</p> <p>(ii) in sub-section (3), in clause (i), for the words "internal financial controls system", the words "<b>internal financial controls with reference to financial statements</b>" shall be substituted;</p> <p>(iii) in sub-section (14), in clause (a), for the words "cost accountant in practice", the words "<b>cost accountant</b>" shall be substituted.</p>	<p>Auditor can have accesses to associate Company books.</p> <p>Clarity is given</p>
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<p>advances made by the company have been shown as deposits;</p> <p>(e) whether personal expenses have been charged to revenue account;</p> <p>(f) 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:</p> <p>Provided that the auditor of a company which is a holding company shall also have the right of access to the records of all its <b>subsidiaries</b> in so far as it relates to the consolidation of its financial statements with that of its <b>subsidiaries</b>.</p> <p>(2) The auditor shall make a report to the members of the company on the accounts examined by him and on every financial statements which are required by or under this Act to be laid before the company in general meeting and the report shall after taking into account the provisions of this Act, the accounting and auditing standards</p>		
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<p>and matters which are required to be included in the audit report under the provisions of this Act or any rules made thereunder or under any order made under subsection (11) and to the best of his information and knowledge, the said accounts, financial statements give a true and fair view of the state of the company's affairs as at the end of its financial year and profit or loss and cash flow for the year and such other matters as may be prescribed.</p> <p>(3) The auditor's report shall also state—</p> <p>(a) 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;</p> <p>(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;</p> <p>94</p> <p>(c) whether the report on the accounts of any</p>		
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<p>branch office of the company audited under sub-section (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;</p> <p>(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;</p> <p>(e) whether, in his opinion, the financial statements comply with the accounting standards;</p> <p>(f) the observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company;</p> <p>(g) whether any director is disqualified from being appointed as a director under sub-section (2) of section 164;</p> <p>(h) any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith;</p> <p>(i) whether the company has adequate <b>internal financial controls system</b> in place and the operating effectiveness of such controls;</p> <p>(j) such other matters as may be prescribed.</p>		
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	<p>(4) Where any of the matters required to be included in the audit report under this section is answered in the negative or with a qualification, the report shall state the reasons therefor.</p> <p>(5) In the case of a Government company, the Comptroller and Auditor-General of India shall appoint the auditor under sub-section (5) or sub-section (7) of section 139 and direct such auditor the manner in which the accounts of the Government company are required to be audited and thereupon the auditor so appointed shall submit a copy of the audit report to the Comptroller and Auditor-General of India which, among other things, include the directions, if any, issued by the Comptroller and Auditor-General of India, the action taken thereon and its impact on the accounts and financial statement of the company.</p> <p>(6) The Comptroller and Auditor-General of India shall within sixty days from the date of receipt of the audit report under sub-section (5) have a right to,—</p> <p>(a) conduct a supplementary audit of the financial statement of the company by such person or persons as he may</p>		
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<p>authorise in this behalf; and for the purposes of such audit, require information or additional information to be furnished to any person or persons, so authorised, on such matters, by such person or persons, and in such form, as the Comptroller and Auditor-General of India may direct; and</p> <p>(b) comment upon or supplement such audit report:</p> <p>Provided that any comments given by the Comptroller and Auditor-General of India upon, or supplement to, the audit report shall be sent by the company to every person entitled to copies of audited financial statements under sub section (1) of section 136 and also be placed before the annual general meeting of the company at the same time and in the same manner as the audit report.</p> <p>(7) Without prejudice to the provisions of this Chapter, the Comptroller and Auditor-General of India may, in case of any company covered under sub-section (5) or sub-section (7) of section 139, if he considers necessary, by an order, cause test audit to be conducted of the accounts of such company and the provisions of section 19A</p>		
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	<p>of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 (56 of 1971), shall apply to the report of such test audit.</p> <p>(8) Where a company has a branch office, the accounts of that office shall be audited either by the auditor appointed for the company (herein referred to as the company's auditor) under this Act or by any other person qualified for appointment as an auditor of the company under this Act and appointed as such under section 139, or where the branch office is situated in a country outside India, the accounts of the branch office shall be audited either by the company's auditor or by an accountant or by any other person duly qualified to act as an auditor of the accounts of the branch office in accordance with the laws of that country and 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 such as may be prescribed:</p> <p>Provided that the branch auditor shall prepare a report on the accounts of the branch examined by him and send it to the auditor of the company</p>		
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	<p>who shall deal with it in his report in such manner as he considers necessary.</p> <p>(9) Every auditor shall comply with the auditing standards.</p> <p>(10) The Central Government may prescribe the standards of auditing or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under section 3 of the Chartered Accountants Act, 1949 (38 of 1949), in consultation with and after examination of the recommendations made by the National Financial Reporting Authority:</p> <p>Provided that until any auditing standards are notified, any standard or standards of auditing specified by the Institute of Chartered Accountants of India shall be deemed to be the auditing standards.</p> <p>(11) The Central Government may, in consultation with the National Financial Reporting Authority, 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.</p> <p>1[(12) Notwithstanding anything contained in this</p>		
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<p>section, if an auditor of a company, in the course of the performance of his duties as auditor, 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, he shall immediately report the matter to the Central Government within such time and in such manner as may be prescribed.]</p> <p>(13) No duty to which an auditor of a company may be subject to shall be regarded as having been contravened by reason of his reporting the matter referred to in sub-section (12) if it is done in good faith.</p> <p>(14) The provisions of this section shall mutatis mutandis apply to—</p> <p>(a) the <b>cost accountant in practice</b> conducting cost audit under section 148; or</p> <p>(b) the company secretary in practice conducting secretarial audit under section 204.</p> <p>(15) If any auditor, cost accountant or company secretary in practice do not comply with the provisions of sub-section (12), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh</p>		
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43	<p>for contravention.— (1) If any of the provisions of sections 139 to 146 (both inclusive) is contravened, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both.</p> <p>(2) If an auditor of a company contravenes any of the provisions of section 139, section 143, section 144 or section 145, the auditor shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to <b>five lakh rupees</b>:</p> <p>Provided that if an auditor has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or creditors or tax authorities, he shall be punishable with imprisonment for a term which may extend to one year <b>and with fine which shall not be less than one lakh rupees but</b></p>	<p>In section 147 of the principal Act,—</p> <p>(i) in sub-section (2),—</p> <p>(a) after the words "five lakh rupees", the words "<b>or four times the remuneration of the auditor, whichever is less</b>" shall be inserted;</p> <p>(b) in the proviso, for the words "and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees", the words "<b>and with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees or eight times the remuneration of the auditor, whichever is less</b>" shall be substituted;</p> <p>(ii) in sub-section (3), in clause (i), for the words "or to any other persons", the words "<b>or to members or creditors of the company</b>" shall be substituted;</p> <p>(iii) in sub-section (5), the following proviso shall be inserted, namely:—</p> <p><b>"Provided that in case of criminal liability of an audit firm, in respect of liability other than fine, the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable."</b></p>	<p>Penalty Provision reduced</p> <p>Penalty Provision reduced</p> <p>Liability clauses improved</p>

<p><b>which may extend to twenty-five lakh rupees.</b></p> <p>(3) Where an auditor has been convicted under sub-section (2), he shall be liable to—</p> <p>(i) refund the remuneration received by him to the company; and</p> <p>(ii) pay for damages to the company, statutory bodies or authorities <b>or to any other persons</b> for loss arising out of incorrect or misleading statements of particulars made in his audit report.</p> <p>(4) The Central Government shall, by notification, specify any statutory body or authority or an officer for ensuring prompt payment of damages to the company or the persons under clause (ii) of sub-section (3) and such body, authority or officer shall after payment of damages to such company or persons file a report with the Central Government in respect of making such damages in such manner as may be specified in the said notification.</p> <p><b>(5) Where, in case of audit of a company being 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</b></p>		
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	<p><b>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.</b></p>		
44	<p>Central Government to specify audit of items of cost in respect of certain companies.— (1) Notwithstanding anything contained in this Chapter, the Central Government may, by order, in respect of such class of companies engaged in the production of such goods or providing such services as may be prescribed, direct that particulars relating to the utilisation of material or labour or to other items of cost as may be prescribed shall also be included in the books of account kept by that class of companies:          Provided that the Central Government shall, before issuing such order in respect of any class of companies regulated under a special Act, consult the regulatory body constituted or established under such special Act.          (2) If the Central Government is of the opinion, that it is</p>	<p>In section 148 of the principal Act,—          (i) in sub-section (3),—          (a) for the words "Cost Accountant in practice", the words "<b>cost accountant</b>" shall be substituted;          (b) in the <i>Explanation</i>, for the words "Institute of Cost and Works Accountants of India", the words "Institute of Cost Accountants of India" shall be substituted;          (ii) in sub-section (5), in the proviso, for the words "cost accountant in practice", the words "<b>cost accountant</b>" shall be substituted.</p>	

	<p>necessary to do so, it may, by order, direct that the audit of cost records of class of companies, which are covered under subsection (1) and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.</p> <p>(3) The audit under subsection (2) shall be conducted by a <b>Cost Accountant in practice</b> who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed:</p> <p>Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records:</p> <p>Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.</p> <p>Explanation.—For the purposes of this subsection, the expression —cost auditing standardsll mean such standards as are issued by the <b>Institute of Cost and Works Accountants of India</b>, constituted under the Cost and Works Accountants Act, 1959 (23 of 1959), with the approval of the</p>		
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	<p>Central Government.</p> <p>(4) An audit conducted under this section shall be in addition to the audit conducted under section 143.</p> <p>(5) The qualifications, disqualifications, rights, duties and obligations applicable to auditors under this Chapter shall, so far as may be applicable, apply to a cost auditor appointed under this section 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:</p> <p>Provided that the report on the audit of cost records shall be submitted by the <b>cost accountant in practice</b> to the Board of Directors of the company.</p>		
45	<p>Company to have Board of Directors.— (1) Every company shall have a Board of Directors consisting of individuals as directors and shall have—</p> <p>(a) a minimum number of three directors in the case of a public company, two directors in the case of a private company, and one director in the case of a One Person Company; and</p> <p>(b) a maximum of fifteen directors:</p> <p>Provided that a company may appoint more than</p>	<p>In section 149 of the principal Act,—</p> <p>(i) for sub-section (3), the following sub-section shall be substituted, namely:—</p> <p><b>"(3) Every company shall have at least one director who stays in India for a total period of not less than one hundred and eighty-two days during the financial year:</b></p> <p><b>Provided that in case of a newly incorporated company the requirement under this sub-section shall apply proportionately at the end of the financial year in which it is incorporated."</b>;</p>	<p>Clarification given for New Company.</p>

<p>fifteen directors after passing a special resolution:          Provided further that such class or classes of companies as may be prescribed, shall have at least one woman director.</p> <p>(2) Every company existing on or before the date of commencement of this Act shall within one year from such commencement comply with the requirements of the provisions of sub-section (1).</p> <p><b>(3) Every company shall have at least one director who has stayed in India for a total period of not less than one hundred and eighty-two days in the previous calendar year.</b></p> <p>(4) Every listed public company shall have at least one-third of the total number of directors as independent directors and the Central Government may prescribe the minimum number of independent directors in case of any class or classes of public companies.</p> <p>Explanation.—For the purposes of this sub-section, any fraction contained in such one-third number shall be rounded off as one.</p> <p>(5) Every company existing on or before the date of commencement of</p>	<p>(ii) in sub-section (6),—</p> <p>(a) in clause (c), for the words "pecuniary relationship", the words "<b>pecuniary relationship, other than remuneration as such director or having transaction not exceeding ten per cent. of his total income or such amount as may be prescribed,</b>" shall be substituted;</p> <p>(b) for clause (d), the following clause shall be substituted, namely:—</p> <p><b>"(d) none of whose relatives—</b></p> <p><b>(i) is holding any security of interest in the company, its holding, subsidiary or associate company during the two immediately preceding financial years or during the current financial year:</b>  <b>Provided that the relative may hold security or interest in the company of face value not exceeding fifty lakh rupees or two per cent. of the paid-up capital of the company, its holding, subsidiary or associate company or such higher sum as may be prescribed;</b></p> <p><b>(ii) is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors, in excess of such amount as may be prescribed during the two immediately preceding financial years or during the current financial year;</b></p> <p><b>(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, its</b></p>	<p>Remuneration will not be counted as pecuniary relationship to any independent Director.</p> <p>Independent directors definition more clarity brought down.</p>
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<p>this Act shall, within one year from such commencement or from the date of notification of the rules in this regard as may be applicable, comply with the requirements of the provisions of sub-section (4).</p> <p>(6) An independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director,—</p> <p>(a) who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;</p> <p>(b) (i) who is or was not a promoter of the company or its holding, subsidiary or associate company;</p> <p>(ii) who is not related to promoters or directors in the company, its holding, subsidiary or associate company;</p> <p>(c) who has or had no <b>pecuniary relationship</b> with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;</p> <p><b>(d) none of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate</b></p>	<p>holding, subsidiary or associate company or their promoters, or directors of such holding company, for such amount as may be prescribed during the two immediately preceding financial years or during the current financial year; or (iv) has any other pecuniary transaction or relationship with the company, or its subsidiary, or its holding or associate company amounting to two per cent. or more of its gross turnover or total income singly or in combination with the transactions referred to in sub-clause (i), (ii) or (iii);";</p> <p>(c) in clause (e), in sub-clause (i), the following proviso shall be inserted, namely:—</p> <p>"Provided that in case of a relative who is an employee, the restriction under this clause shall not apply for his employment during preceding three financial years."</p>	
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	<p>company, or their promoters, or directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;</p> <p>(e) who, neither himself nor any of his relatives—</p> <p>(i) holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;</p> <p>(ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of—</p>		
46	<p>Appointment of directors.— (1) Where no provision is made in the articles of a company for the appointment of the first director, the subscribers to the memorandum who are individuals shall be deemed to be the first</p>	<p>In section 152 of the principal Act,—</p> <p>(a) in sub-section (3), after the word and figures "section 154", the words and figures "<b>or any other number as may be prescribed under section 153</b>" shall be inserted;</p> <p>(b) in sub-section (4), after the</p>	<p>Din may be replaced with Aadhar ?</p>

<p>directors of the company until the directors are duly appointed and in case of a One Person Company an individual being member shall be deemed to be its first director until the director or directors are duly appointed by the member in accordance with the provisions of this section.</p> <p>(2) Save as otherwise expressly provided in this Act, every director shall be appointed by the company in general meeting.</p> <p>(3) No person shall be appointed as a director of a company unless he has been allotted the Director Identification Number under <b>section 154</b>.</p> <p>(4) Every person proposed to be appointed as a director by the company in general meeting or otherwise, shall furnish his Director Identification <b>Number</b> and a declaration that he is not disqualified to become a director under this Act.</p> <p>(5) A person appointed as a director shall not act as a director unless he gives his consent to hold the office as director and such consent has been filed with the Registrar within thirty days of his appointment in such manner as may be prescribed:</p> <p>Provided that in the case of appointment of an</p>	<p>word "Number", the words and figures "or such other number as may be prescribed under section 153" shall be inserted.</p>	
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	independent director in the general meeting, an explanatory statement for such appointment, annexed to the notice for the general meeting, shall include a statement that in the opinion of the Board, he fulfils the conditions specified in this Act for such an appointment.		
47	Application for allotment of Director Identification Number.— <b>Every individual intending to be appointed as director of a company shall make an application for allotment of Director Identification Number to the Central Government in such form and manner and along with such fees as may be prescribed</b>	In section 153 of the principal Act, the following proviso shall be inserted, namely:— "Provided that the Central Government may prescribe any identification number which shall be treated as Director Identification Number for the purposes of this Act and in case any individual holds or acquires such identification number, the requirement of this section shall not apply or apply in such manner as may be prescribed."	
48	Right of persons other than retiring directors to stand for directorship.— (1) <b>A person who is not a retiring director in terms of section 152 shall, subject to the provisions of this Act, be eligible for appointment to the office of a director at any general meeting, if he, or some member intending to propose him as a director, has, not less than fourteen days before the meeting, left at the registered office of the company, a</b>	In section 160 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:— "Provided that requirements of deposit of amount shall not apply in case of appointment of an independent director or a director recommended by the Nomination and Remuneration Committee, if any, constituted under sub-section (1) of section 178."	Deposit for appointing a Director not required in case of Nomination committee recommending appointment.

	<p>notice in writing under his hand signifying his candidature as a director or, as the case may be, the intention of such member to propose him as a candidate for that office, along with the deposit of one lakh rupees or such higher amount as may be prescribed which shall be refunded to such person or, as the case may be, to the member, if the person proposed gets elected as a director or gets more than twenty-five per cent. of total valid votes cast either on show of hands or on poll on such resolution.</p> <p>(2) The company shall inform its members of the candidature of a person for the office of director under sub-section (1) in such manner as may be prescribed.</p>		
49	<p>Appointment of additional director, alternate director and nominee director.—</p> <p>(1) The articles of a company may confer on its Board of Directors the power to appoint any person, other than a person who fails to get appointed as a director in a general meeting, as an additional director at any time who shall hold office up to the date of the next annual general meeting or the last date on which the</p>	<p>In section 161 of the principal Act,—</p> <p>(i) in sub-section (2), after the words "alternate directorship for any other director in the company", the words "or holding directorship in the same company" shall be inserted;</p> <p>(ii) in sub-section (4),—</p> <p>(a) the words "In the case of a public company," shall be omitted;</p> <p>(b) after the words "meeting of the Board", the words "which shall be subsequently</p>	<p>Existing Director cannot act as alternate director.</p> <p>Casual Vacancy can be filled by a private company board also.</p>

<p>annual general meeting should have been held, whichever is earlier.</p> <p>(2) The Board of Directors of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint a person, not being a person holding any <b>alternate directorship for any other director in the company</b>, to act as an alternate director for a director during his absence for a period of not less than three months from India:</p> <p>Provided that 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 provisions of this Act:</p> <p>Provided further that an alternate director shall not hold office for a period longer than that permissible to the director in whose place he has been appointed and shall vacate the office if and when the director in whose place he has been appointed returns to India:</p> <p>Provided also that 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</p>	<p>approved by members in the immediate next general meeting" shall be inserted.</p>	<p>Casual vacancy appointment by Board to be ratified in the next general meeting.</p>
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	<p>directors in default of another appointment shall apply to the original, and not to the alternate director.</p> <p>(3) Subject to the articles of a company, the Board may appoint any person as a director nominated by any institution in pursuance of the provisions of any law for the time being in force or of any agreement or by the Central Government or the State Government by virtue of its shareholding in a Government company.</p> <p>(4) <b>In the case of a public company,</b> if the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy 103 may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a <b>meeting of the Board:</b>          Provided that any 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.</p>		
50	<p>Disqualifications for appointment of director.—          (1) A person shall not be eligible for appointment as</p>	<p>In section 164 of the principal Act,—  <i>(i)</i> in sub-section (2), the following proviso shall be</p>	

<p>a director of a company, if —</p> <p>(a) he is of unsound mind and stands so declared by a competent court;</p> <p>(b) he is an undischarged insolvent;</p> <p>(c) he has applied to be adjudicated as an insolvent and his application is pending;</p> <p>(d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence:</p> <p>Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company;</p> <p>(e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;</p> <p>(f) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call;</p> <p>(g) he has been convicted</p>	<p>inserted, namely:—</p> <p>"Provided that where a person is appointed as a director of a company which is in default of clause (a) or clause (b), he shall not incur the disqualification for a period of six months from the date of his appointment.";</p> <p>(ii) in sub-section (3), for the proviso, the following proviso shall be substituted, namely:—</p> <p>"Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall continue to apply even if the appeal or petition has been filed against the order of conviction or disqualification."</p>	<p>Director appointed in a default company shall hold the office for a period of six months.</p> <p>Relaxation regarding appeal provisions gone away</p>
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<p>of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or</p> <p>(h) he has not complied with sub-section (3) of section 152.</p> <p><b>(2) No person who is or has been a director of a company which—</b></p> <p><b>(a) has not filed financial statements or annual returns for any continuous period of three financial years; or</b></p> <p><b>(b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more,</b></p> <p><b>shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of five years from the date on which the said company fails to do so.</b></p> <p>(3) A private company may by its articles provide for any disqualifications for appointment as a director in addition to those specified in sub-sections (1) and (2):</p> <p><b>Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub-</b></p>		
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	<p>section (1) shall not take effect—</p> <p>(i) for thirty days from the date of conviction or order of disqualification;</p> <p>(ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed off; or</p> <p>(iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed off.</p>		
51	<p>Number of directorships.</p> <p>— (1) No person, after the commencement of this Act, shall hold office as a director, including any alternate directorship, in more than twenty companies at the same time:</p> <p>Provided that the maximum number of public companies in which a person can be appointed as a director shall not exceed ten.</p> <p><b>Explanation.— For reckoning the limit of public companies in which a person can be appointed as director, directorship in private companies that are either holding or subsidiary company of a</b></p>	<p>In section 165 of the principal Act, in sub-section (1), the <i>Explanation</i> shall be renumbered as <i>Explanation I</i> and after <i>Explanation I</i> as so numbered, the following <i>Explanation</i> shall be inserted, namely:—</p> <p><b>"Explanation II.—For reckoning the limit of directorships of twenty companies, the directorship in a dormant company shall not be included."</b></p>	<p>For counting limits the dormant Company not included.</p>

<p><b>public company shall be included.</b></p> <p>(2) Subject to the provisions of sub-section (1), the members of a company may, by special resolution, specify any lesser number of companies in which a director of the company may act as directors.</p> <p>(3) Any person holding office as director in companies more than the limits as specified in sub-section (1), immediately before the commencement of this Act shall, within a period of one year from such commencement,—</p> <p>(a) choose not more than the specified limit of those companies, as companies in which he wishes to continue to hold the office of director;</p> <p>(b) resign his office as director in the other remaining companies; and</p> <p>(c) intimate the choice made by him under clause (a), to each of the companies in which he was holding the office of director before such commencement and to the Registrar having jurisdiction in respect of each such company.</p> <p>(4) Any resignation made in pursuance of clause (b) of sub-section (3) shall become effective immediately on the despatch thereof to the</p>		
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	company concerned.		
52	<p>Vacation of office of director.— (1) The office of a director shall become vacant in case—</p> <p>(a) <b>he incurs any of the disqualifications specified in section 164;</b></p> <p>(b) he absents himself from all the meetings of the Board of Directors held during a period of twelve months with or without seeking leave of absence of the Board;</p> <p>(c) he acts in contravention of the provisions of section 184 relating to entering into contracts or arrangements in which he is directly or indirectly interested;</p> <p>(d) he fails to disclose his interest in any contract or arrangement in which he is directly or indirectly interested, in contravention of the provisions of section 184;</p> <p>(e) he becomes disqualified by an order of a court or the Tribunal;</p> <p>(f) he is convicted by a court of any offence, whether involving moral turpitude or otherwise and sentenced in respect thereof to imprisonment for not less than six months:</p> <p><b>Provided that the office shall be vacated by the director even if he has filed an appeal against the order of such court;</b></p>	<p>In section 167 of the principal Act, in sub-section (1),—</p> <p>(i) in clause (a), the following proviso shall be inserted, namely:—</p> <p><b>"Provided that where he incurs disqualification under sub-section (2) of section 164, the office of the director shall become vacant in all the companies, other than the company which is in default under that sub-section.";</b></p> <p>(ii) in clause (f), for the proviso the following proviso shall be substituted, namely,—</p> <p><b>"Provided that the office shall not be vacated by the director in case of orders referred to in clauses (e) and (f)—</b></p> <p><b>(i) for thirty days from the date of conviction or order of disqualification;</b></p> <p><b>(ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed of; or</b></p> <p><b>(iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed of.".</b></p>	<p>Welcome amendment where the defaulting Company he won't vacate office.</p> <p>Clarity is given for convicted directors to go for appeal.</p>

	<p>(g) he is removed in pursuance of the provisions of this Act;</p> <p>(h) he, having been appointed a director by virtue of his holding any office or other employment in the holding, subsidiary or associate company, ceases to hold such office or other employment in that company.</p>		
53	<p>Resignation of director.— (1) A director may resign from his office by giving a notice in writing to the company and the Board shall on receipt of such notice take note of the same and the company shall intimate the Registrar in such manner, within such time and in such form as may be prescribed and shall also place the fact of such resignation in the report of directors laid in the immediately following general meeting by the company:</p> <p>Provided that a <b>director shall also forward</b> a copy of his resignation along with detailed reasons for the resignation to the Registrar within thirty days of resignation in such manner as may be prescribed.</p>	<p>In section 168 of the principal Act, in sub-section (1), in the proviso, for the words, "director shall also forward", the words, "<b>director may also forward</b>" shall be substituted</p>	<p>DIR-11 is optional to the out going Director.</p>
54	<p>Meetings of Board.— (1) Every company shall hold the first meeting of the Board of Directors within thirty days of the date of its incorporation and thereafter hold a minimum</p>	<p>In section 173 of the principal Act, in sub-section (2), after the first proviso, the following proviso shall be inserted, namely:—</p> <p><b>"Provided further that where there is quorum in a meeting</b></p>	<p>Clarification given.</p>

<p>number of four meetings of its Board of Directors every year in such a manner that not more than one hundred and twenty days shall intervene between two consecutive meetings of the Board: Provided that the Central Government may, by notification, direct that the provisions of this subsection shall not apply in relation to any class or description of companies or shall apply subject to such exceptions, modifications or conditions as may be specified in the notification.</p> <p>(2) The participation of directors in a meeting of the Board may be either in person or through video conferencing or other audio visual means, as may be prescribed, which are capable of recording and recognising the participation of the directors and of recording and storing the proceedings of such meetings along with date and time: <b>Provided that the Central Government may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio visual means.</b></p> <p>(3) A meeting of the Board shall be called by giving</p>	<p>through physical presence of directors, any other director may participate through video conferencing or other audio visual means in such meeting on any matter specified under the first proviso.".</p>	
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	<p>not less than seven days' notice in writing to every director at his address registered with the company and such notice shall be sent by hand delivery or by post or by electronic means:</p> <p>Provided that a meeting of the Board may be called at shorter notice to transact urgent business subject to the condition that at least one independent director, if any, shall be present at the meeting:</p>		
<p>55</p>	<p>Audit Committee.— (1) The Board of Directors of <b>every listed company</b> and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.</p> <p>(2) The Audit Committee shall consist of a minimum of three directors with independent directors forming a majority: Provided that majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand, the financial statement.</p> <p>(3) Every Audit Committee of a company existing immediately before the commencement of this Act shall, within one year of such commencement, be</p>	<p>In section 177 of the principal Act,—</p> <p>(i) in sub-section (1), for the words "every listed company", the words "<b>every listed public company</b>" shall be substituted;</p> <p>(ii) in sub-section (4), in clause (iv), after the proviso, the following provisos shall be inserted, namely:—</p> <p><b>"Provided further that in case of transaction, other than transactions referred to in section 188, and where Audit Committee does not approve the transaction, it shall make its recommendations to the Board:</b></p> <p><b>Provided also that in case any transaction involving any amount not exceeding one</b></p>	<p>Private Companies debentures listed in stock exchanges this section is not applicable</p> <p>More strict provision for approval of the related party transaction by Audit Committee</p>

<p>reconstituted in accordance with sub-section (2).</p> <p>(4) Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, inter alia, include,—</p> <p>(i) the recommendation for appointment, remuneration and terms of appointment of auditors of the company;</p> <p>(ii) review and monitor the auditor's independence and performance, and effectiveness of audit process;</p> <p>(iii) examination of the financial statement and the auditors' report thereon;</p> <p>(iv) approval or any subsequent modification of transactions of the company with related parties:</p> <p><b>Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed;]</b></p> <p>(v) scrutiny of inter-corporate loans and investments;</p> <p>(vi) valuation of undertakings or assets of the company, wherever it is necessary;</p> <p>(vii) evaluation of internal financial controls and risk</p>	<p>crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director concerned shall indemnify the company against any loss incurred by it:</p> <p>Provided also that the provisions of this clause shall not apply to a transaction, other than a transaction referred to in section 188, between a holding company and its wholly owned subsidiary company.".</p>	
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	<p>management systems;  (viii) monitoring the end use of funds raised through public offers and related matters.  (5) The Audit Committee may call for the comments of the auditors about internal control systems, the scope of audit, including the observations of the auditors and review of financial statement before their submission to the Board and may also di</p>		
56	<p>Nomination and Remuneration Committee and Stakeholders Relationship Committee.— (1) The Board of Directors of <b>every listed company</b> and such other class or classes of companies, as may be prescribed shall constitute the Nomination and Remuneration Committee consisting of three or more non-executive directors out of which not less than one-half shall be independent directors:  Provided that the chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee.  (2) The Nomination and Remuneration Committee shall identify persons who</p>	<p>In section 178 of the principal Act,—  (i) in sub-section (1), for the words "every listed company", the words "<b>every listed public company</b>" shall be substituted;  (ii) in sub-section (2), for the words "shall carry out evaluation of every director's performance", the words "<b>shall specify the manner for effective evaluation of performance of Board, its committees and individual directors to be carried out either by the Board, by the Nomination and Remuneration Committee or by an independent external agency and review its implementation and compliance</b>" shall be substituted;  (iii) in sub-section (4), in clause (c), for the proviso, the following proviso shall be substituted, namely:—  "<b>Provided that such policy shall be placed on the website of the company, if any, and the salient features of the policy and changes therein, if any,</b></p>	<p>Every Listed Public Company introduced.</p>



<p>are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal and <b>shall carry out evaluation of every director's performance.</b></p> <p>(3) The Nomination and Remuneration Committee shall formulate the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration for the directors, key managerial personnel and other employees.</p> <p>(4) The Nomination and Remuneration Committee shall, while formulating the policy under sub-section (3) ensure that—</p> <p>(a) the level and composition of remuneration is reasonable and sufficient to attract, retain and motivate directors of the quality required to run the company successfully;</p> <p>(b) relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and</p> <p>(c) remuneration to directors, key managerial personnel and senior</p>	<p>along with the web address of the policy, if any, shall be disclosed in the Board's report.";</p> <p>(iv) in sub-section (8), in the proviso, for the words "non-consideration of resolution of any grievance", the words <b>inability to resolve or consider any grievance</b> shall be substituted.</p>	
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<p>management involves a balance between fixed and incentive pay reflecting short and long-term performance objectives appropriate to the working of the company and its goals:</p> <p><b>Provided that such policy shall be disclosed in the Board's report.</b></p> <p>(5) The Board of Directors of a company which consists of more than one thousand shareholders, debenture-holders, deposit-holders and any other security holders at any time during a financial year shall constitute a Stakeholders Relationship Committee consisting of a chairperson who shall be a non-executive director and such other members as may be decided by the Board.</p> <p>(6) The Stakeholders Relationship Committee shall consider and resolve the grievances of security holders of the company.</p> <p>(7) The chairperson of each of the committees constituted under this section or, in his absence, any other member of the committee authorised by him in this behalf shall attend the general meetings of the company.</p> <p>(8) In case of any contravention of the provisions of section 177 and this section, the company shall be</p>		
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	<p>punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both:</p> <p>Provided that <b>non-consideration of resolution of any grievance</b> by the Stakeholders Relationship Committee in good faith shall not constitute a contravention of this section.</p>		
57	<p>Restriction on powers of Board.— (1) The Board of Directors of a company shall exercise the following powers only with the consent of the company by a special resolution, namely:—</p> <p>(a) to sell, lease or otherwise dispose of 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</p> <p>Explanation.—For the purposes of this clause,—</p> <p>(i) —undertakingll shall mean an undertaking in</p>	<p>In section 180 of the principal Act, in sub-section (1), in item (c), for the words "paid-up share capital and free reserves", the words "<b>paid-up share capital, free reserves and securities premium</b>" shall be substituted.</p>	<p>The work Security premium added up for calculating effective capital</p>

	<p>which the investment of the company exceeds twenty per cent. of its net worth as per the audited balance sheet of the preceding financial year or an undertaking which generates twenty per cent. of the total income of the company during the previous financial year;</p> <p>(ii) the expression—substantially the whole of the undertakingll in any financial year shall mean twenty per cent. or more of the value of the undertaking as per the audited balance sheet of the preceding financial year;</p> <p>(b) to invest otherwise in trust securities the amount of compensation received by it as a result of any merger or amalgamation;</p> <p>(c) to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its <b>paid-up share capital and free reserves</b>, apart from temporary loans obtained from the company's bankers in the ordinary course of business:</p> <p>Provided that the 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</p>	
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	<p>withdrawable by cheque, draft, order or otherwise, shall not be deemed to be a borrowing of monies by the banking company within the meaning of this clause.</p> <p>Explanation.—For the purposes of this clause, the expression —temporary loansll means loans repayable on demand or within six months from the date of the loan such as short-term, cash credit arrangements, the discounting of bills and the issue of other short-term loans of a seasonal character, but does not include loans raised for the purpose of financial expenditure of a capital nature;</p> <p>(d) to remit, or give time for the repayment of, any debt due from a director.</p>		
58	<p>Disclosure of interest by director.— (1) Every director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the disclosures already made, then at the first Board meeting held after such change, disclose his concern or interest in any company or companies or bodies corporate, firms, or other association of</p>	<p>In section 184 of the principal Act,—</p> <p>(i) in sub-section (4), the words "shall not be less than fifty thousand rupees but which" shall be <b>omitted</b>;</p> <p>(ii) in sub-section (5), for clause (b), the following clause shall be substituted, namely:—</p> <p><b>"(b) shall apply to any contract or arrangement entered into or to be entered into between two companies or between one or more companies and one or more bodies corporate where any of the directors of the one company or body corporate or</b></p>	<p>Minimum penalty of Rs. 50,000 removed.</p> <p>Body Corporates added up for disclosures</p>

<p>individuals which shall include the shareholding, in such manner as may be prescribed.</p> <p>(2) Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into—</p> <p>(a) with a body corporate in which such director or such director in association with any other director, holds more than two per cent. shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate; or</p> <p>(b) with a firm or other entity in which, such director is a partner, owner or member, as the case may be,</p> <p>shall disclose the nature of his concern or interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting:</p> <p>Provided that where any director who is not so concerned or interested at the time of entering into such contract or arrangement, he shall, if he becomes concerned or interested after the contract or arrangement is entered into, disclose his concern or interest</p>	<p>two or more of them together holds or hold not more than two per cent. Of the paid-up share capital in the other company or the body corporate.".</p>	
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<p>forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested.</p> <p>(3) A contract or arrangement entered into by the company without disclosure under sub-section (2) or with participation by a director who is concerned or interested in any way, directly or indirectly, in the contract or arrangement, shall be voidable at the option of the company.</p> <p>(4) If a director of the company contravenes the provisions of sub-section (1) or subsection (2), such director shall be punishable with imprisonment for a term which may extend to one year or with fine which <b>shall not be less than fifty thousand rupees</b> but which may extend to one lakh rupees, or with both.</p> <p>(5) Nothing in this section—</p> <p>(a) shall be taken to prejudice the operation of any rule of law restricting a director of a company from having any concern or interest in any contract or arrangement with the company;</p> <p><b>(b) shall apply to any contract or arrangement entered into or to be entered into between two companies where</b></p>		
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	any of the directors of the one company or two or more of them together holds or hold not more than two per cent. of the paid-up share capital in the other company.		
59	<p><b>Loan to directors, etc.—</b></p> <p><b>(1) Save as otherwise provided in this Act, no company shall, directly or indirectly, advance any loan, including any loan represented by a book debt, to any of its directors or to any other person in whom the director is interested or give any guarantee or provide any security in connection with any loan taken by him or such other person: Provided that nothing contained in this subsection shall apply to—</b></p> <p><b>(a) the giving of any loan to a managing or whole-time director—</b></p> <p><b>(i) as a part of the conditions of service extended by the company to all its employees; or</b></p> <p><b>(ii) pursuant to any scheme approved by the members by a special resolution; or</b></p> <p><b>(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</b></p>	<p>For section 185 of the principal Act, the following section shall be substituted, namely:—</p> <p>'185. (1) No company shall, directly or indirectly, advance any loan, including any loan represented by a book debt to, or give any guarantee or provide any security in connection with any loan taken by,—</p> <p>(a) any director of company, or of a company which is its holding company or any partner or relative of any such director; or</p> <p>(b) any firm in which any such director or relative is a partner.</p> <p>(2) A company may advance any loan including any loan represented by a book debt, or give any guarantee or provide any security in connection with any loan taken by any person in whom any of the director of the company is interested, subject to the condition that—</p> <p>(a) a special resolution is passed by the company in general meeting:</p> <p>Provided that the explanatory statement to the notice for the relevant general meeting shall disclose the full particulars of the loans given, or guarantee given or security provided and the purpose for which the loan</p>	<p>Save as otherwise provided gone away.</p> <p>With Special Resolution company can provide other than director</p>



<p>of such loans an interest is charged at a rate not less than the bank rate declared by the Reserve Bank of India;</p> <p>1[(c) 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</p> <p>(d) 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: Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.]</p> <p><b>Explanation.—</b>For the purposes of this section, the expression —to any other person in whom director is interestedll means—</p> <p>(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;</p> <p>(b) any firm in which any such director or relative is a partner;</p> <p>(c) any private company of which any such</p>	<p>or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or security and any other relevant fact; and</p> <p>(b) the loans are utilised by the borrowing company for its principal business activities.</p> <p><i>Explanation.—</i>For the purposes of this sub-section, the expression "any person in whom any of the director of the company is interested" means—</p> <p>(a) any private company of which any such director is a director or member;</p> <p>(b) any body corporate at a general meeting of which not less than twenty-five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or</p> <p>(c) 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 or directors, of the lending company.</p> <p>(3) Nothing contained in sub-sections (1) and (2) shall apply to—</p> <p>(a) the giving of any loan to a managing or whole-time director—</p> <p>(i) as a part of the conditions of service extended by the company to all its employees; or</p> <p>(ii) pursuant to any scheme approved by the members by a special resolution; or</p>	
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<p>director is a director or member;</p> <p>(d) any body corporate at a general meeting of which not less than twenty-five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or</p> <p>(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 or directors, of the lending company.</p> <p>(2) If any loan is advanced or a guarantee or security is given or provided in contravention of the provisions of sub-section (1), the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, and the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which</p>	<p>(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 rate of prevailing yield of one year, three year, five year or ten year Government security closest to the tenor of the loan; or</p> <p>(c) 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</p> <p>(d) 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:</p> <p>Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.</p> <p>(4) If any loan is advanced or a guarantee or security is given or provided or utilised in contravention of the provisions of this section, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, and the director or the other person to whom any loan is advanced or guarantee or security is given or provided</p>	
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	<p>may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.</p>	<p>in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.'</p>	
60	<p>Loan and investment by company.— (1) Without prejudice to the provisions contained in this Act, a company shall unless otherwise prescribed, make investment through not more than two layers of investment companies: Provided that the provisions of this sub-section shall not affect,—</p> <p>(i) a company from acquiring any other company incorporated in a country outside India if such other company has investment subsidiaries beyond two layers as per the laws of such country;</p> <p>(ii) a subsidiary company from having any investment subsidiary for the purposes of meeting the requirements under any law or under any rule or regulation framed under any law for the time being in force.</p> <p>(2) No company shall directly or indirectly —</p> <p>(a) give any loan to any</p>	<p>In section 186 of the principal Act,—</p> <p>(i) sub- section (1) shall be omitted;</p> <p>(ii) in sub-section (2), the following <i>Explanation</i> shall be inserted, namely:—</p> <p>'<i>Explanation.</i>—For the purposes of this sub-section, the word "person" does not include any individual who is in the employment of the company.'</p> <p>(iii) for sub-section (3), the following sub-section shall be substituted, namely:—</p> <p>'(3) Where the aggregate of the loans and investment so far made, the amount for which guarantee or security so far provided to or in all other bodies corporate along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceed the limits specified under sub-section (2), no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting: Provided that where a loan or guarantee is given or where a security has been provided by a company to its</p>	<p>Two Layer limit gone away.</p> <p>Person does not include Employee.</p> <p>Wholly owned subsidiary , excepted , Loan or Guarantee to WOS and JV</p>

<p>person or other body corporate;  <b>(b) give any guarantee or provide security in connection with a loan to any other body corporate or person; and</b>  <b>(c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate, exceeding sixty per cent. of its paid-up share capital, free reserves and securities premium account or one hundred per cent. of its free reserves and securities premium account, whichever is more.</b>  <b>(3) Where the giving of any loan or guarantee or providing any security or the acquisition under sub-section (2) exceeds the limits specified in that sub-section, prior approval by means of a special resolution passed at a general meeting shall be necessary.</b>  <b>(4) The company shall disclose to the members in the financial statement the full particulars of the loans given, investment made or guarantee given or security provided and the purpose for which the loan or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or</b></p>	<p>wholly owned subsidiary company or a joint venture company, or acquisition is made by a holding company, by way of subscription, purchase or otherwise of, the securities of its wholly owned subsidiary company, the requirement of this sub-section shall not apply:  Provided further that the company shall disclose the details of such loans or guarantee or security or acquisition in the financial statement as provided under sub-section (4).  (iv) for sub-section (11), the following sub-section shall be substituted, namely:—  "(11) Nothing contained in this section shall apply—  (a) to any loan made, any guarantee given or any security provided or any investment made by a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of and engaged in the business of financing industrial enterprises, or of providing infrastructural facilities;  (b) to any investment—  (i) made by an investment company;  (ii) made in shares allotted in pursuance of clause (a) of sub-section (1) of section 62 or in shares allotted in pursuance of rights issues made by a body corporate;  (iii) made, in respect of investment or lending</p>	<p>Infrastructure Company restored</p>
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<p>security.</p> <p>(5) No investment shall be made or loan or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution concerned where any term loan is subsisting, is obtained:</p> <p>Provided that prior approval of a public financial institution shall not be required where the aggregate of the loans and investments so far made, the amount for which guarantee or security so far provided to or in all other bodies corporate, along with the investments, loans, guarantee or security proposed to be made or given does not exceed the limit as specified in sub-section (2), and there is no default in repayment of loan instalments or payment of interest thereon as per the terms and conditions of such loan to the public financial institution.</p> <p>(6) No company, which is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and covered under such class or classes of companies</p>	<p>activities, by a non-banking financial company registered under Chapter III-B of the Reserve Bank of India Act, 1934 and whose principal business is acquisition of securities.";</p> <p>(v) in the <i>Explanation</i>, in clause (a), after the words "other securities" the following shall be inserted, namely:—</p> <p>"and a company will be deemed to be principally engaged in the business of acquisition of shares, debentures or other securities, if its assets in the form of investment in shares, debentures or other securities constitute not less than fifty per cent. of its total assets, or if its income derived from investment business constitutes not less than fifty per cent. as a proportion of its gross income.".</p>	
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<p>as may be prescribed, shall take inter-corporate loan or deposits exceeding the prescribed limit and such company shall furnish in its financial statement the details of the loan or deposits.</p> <p>(7) No loan shall be given under this section at a rate of interest lower than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan.</p> <p>(8) No company which is in default in the repayment of any deposits accepted before or after the commencement of this Act or in payment of interest thereon, shall give any loan or give any guarantee or provide any security or make an acquisition till such default is subsisting.</p> <p>(9) Every company giving loan or giving a guarantee or providing security or making an acquisition under this section shall keep a register which shall contain such particulars and shall be maintained in such manner as may be prescribed.</p> <p>(10) The register referred to in sub-section (9) shall be kept at the registered office of the company and —</p> <p>(a) shall be open to inspection at such office; and</p> <p>(b) extracts may be taken</p>		
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<p>therefrom by any member, and copies thereof may be furnished to any member of the company on payment of such fees as may be prescribed.</p> <p><b>(11) Nothing contained in this section, except sub-section (1), shall apply—</b></p> <p><b>(a) to a loan made, guarantee given or security provided by a banking company or an insurance company or a housing finance company in the ordinary course of its business or a company engaged in the business of financing of companies or of providing infrastructural facilities;</b></p> <p><b>(b) to any acquisition—</b></p> <p><b>(i) made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 (2 of 1934) and whose principal business is acquisition of securities:</b></p> <p><b>Provided that exemption to non-banking financial company shall be in respect of its investment and lending activities;</b></p> <p><b>(ii) made by a company whose principal business is the acquisition of securities;</b></p> <p><b>(iii) of shares allotted in pursuance of clause (a) of sub-section (1) of section 62.</b></p>		
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	<p>(12) The Central Government may make rules for the purposes of this section.</p> <p>(13) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.</p> <p>Explanation.—For the purposes of this section,—</p> <p>(a) the expression —investment companyll means a company whose principal business is the acquisition of shares, debentures or <b>other securities</b>;</p> <p>(b) the expression —infrastructure facilitiesll means the facilities specified in Schedule VI.</p>		
61	<p>Related party transactions.— (1) Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or</p>	<p>In section 188 of the principal Act,—</p> <p>(i) in sub-section (1), after second proviso, the following proviso shall be inserted, namely:—</p> <p>"Provided also that nothing contained in the second proviso shall apply to a company in which ninety per</p>	<p>Exemption from related party voting. – 90%</p>



<p>arrangement with a related party with respect to—</p> <p>(a) sale, purchase or supply of any goods or materials;</p> <p>(b) selling or otherwise disposing of, or buying, property of any kind;</p> <p>(c) leasing of property of any kind;</p> <p>(d) availing or rendering of any services;</p> <p>(e) appointment of any agent for purchase or sale of goods, materials, services or property;</p> <p>(f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and</p> <p>(g) underwriting the subscription of any securities or derivatives thereof, of the company:</p> <p>Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a 1[resolution]:</p> <p>Provided further that no member of the company shall vote on such 1[resolution], to approve any contract or arrangement which may be entered into by the</p>	<p>cent. or more members, in number, are relatives of promoters or are related parties:";</p> <p>(ii) in sub-section (3), for the words "shall be voidable at the option of the Board", the words "shall be voidable at the option of the Board or, as the case may be, of the shareholders" shall be substituted.</p>	
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<p>company, if such member is a related party:          Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm's length basis:  <b>2[Provided also that the requirement of passing the resolution under first proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.]</b>          Explanation.— In this sub-section,—          (a) the expression —office or place of profitll means any office or place—          (i) where such office or place is held by a director, if the director holding it receives from the company anything by way of remuneration over and above the remuneration to which he is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;          (ii) where such office or</p>		
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<p>place is held by an individual other than a director or by any firm, private company or other body corporate, if the individual, firm, private company or body corporate holding it receives from the company anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;</p> <p>(b) the expression —arm’s length transactionll means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.</p> <p>(2) Every contract or arrangement entered into under sub-section (1) shall be referred to in the Board’s report to the shareholders along with the justification for entering into such contract or arrangement.</p> <p>(3) Where any contract or arrangement is entered into by a director or any other employee, without obtaining the consent of the Board or approval by a 1[resolution] in the general meeting under sub-section (1) and if it is not ratified by the Board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement</p>		
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	<p>was entered into, such contract or arrangement <b>shall be voidable at the option of the Board</b> and if the contract or arrangement is with a related party to any director, or is authorised by any other director, the directors concerned shall indemnify the company against any loss incurred by it.</p>		
<p>62</p>	<p><b>Prohibition on forward dealings in securities of company by director or key managerial personnel.— (1) No director of a company or any of its key managerial personnel shall buy in the company, or in its holding, subsidiary or associate company—</b>  <b>(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>  <b>(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.</b>  <b>(2) If a director or any key managerial personnel of the</b></p>	<p>Section 194 of the principal Act shall <b>be omitted</b>.</p>	

<p>company contravenes the provisions of sub-section (1), such director or key managerial personnel shall be punishable with imprisonment for a term which may extend to two years or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.</p> <p>(3) Where a director or other key managerial personnel acquires any securities in contravention of sub-section (1), he shall, subject to the provisions contained in sub-section (2), be liable to surrender the same to the company and the company shall not register the securities so acquired in his name in the register, and if they are in dematerialised form, it shall inform the depository not to record such acquisition and such securities, in both the cases, shall continue to remain in the names of the transferors.</p> <p>Explanation.—For the purposes of this section, <u>“relevant shares”</u> and <u>“relevant debentures”</u> mean shares and debentures of the company in which the concerned person is a whole-time director or</p>		
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	<p>other key managerial personnel or shares and debentures of its holding and subsidiary companies.</p>		
<p>63</p>	<p><b>Prohibition on insider trading of securities.—</b>  <b>(1) No person including any director or key managerial personnel of a company shall enter into insider trading:</b>  <b>Provided that nothing contained in this sub-section shall apply to any communication required in the ordinary course of business or profession or employment or under any law.</b>  <b>Explanation.—For the purposes of this section,—</b>  <b>(a) —insider tradingll means—</b>  <b>(i) an act of subscribing, buying, selling, dealing or agreeing to subscribe, buy, sell or deal in any securities by any director or key managerial personnel or any other officer of a company either as principal or agent if such director or key managerial personnel 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>  <b>(ii) an act of counselling</b></p>	<p>Section 195 of the principal Act shall be <b>omitted</b>.</p>	

	<p>about procuring or communicating directly or indirectly any non-public price-sensitive information to any person;</p> <p>(b) —price-sensitive information 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.</p> <p>(2) If any person contravenes the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher, or with both.</p>		
64	<p>Appointment of managing director, whole-time director or manager.— (1) No company shall appoint or employ at the same time a managing director and a manager.</p> <p>(2) No company shall appoint or re-appoint any person as its managing director, whole-time director or manager for a term exceeding five years</p>	<p>In section 196, in sub-section (4), for the words "specified in that Schedule", the words "specified in Part I of that Schedule" shall be substituted.</p>	Clarity Given

<p>at a time: Provided that no re-appointment shall be made earlier than one year before the expiry of his term.</p> <p>(3) No company shall appoint or continue the employment of any person as managing director, whole-time director or manager who —</p> <p>(a) is below the age of twenty-one years or has attained the age of seventy years: Provided that appointment of a person who has attained the age of seventy years may be made by passing a special resolution in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;</p> <p>(b) is an undischarged insolvent or has at any time been adjudged as an insolvent;</p> <p>(c) has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them; or</p> <p>(d) has at any time been convicted by a court of an offence and sentenced for a period of more than six months.</p> <p>(4) Subject to the provisions of section 197 and Schedule V, a managing director, whole-time director or manager</p>		
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	<p>shall be appointed and the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which shall be subject to approval by a resolution at the next general meeting of the company and by the Central Government in case such appointment is at variance to the conditions <b>specified in that Schedule:</b></p> <p>Provided that a notice convening Board or general meeting for considering such appointment shall include the terms and conditions of such appointment, remuneration payable and such other matters including interest, of a director or directors in such appointments, if any:</p> <p>Provided further that a return in the prescribed form shall be filed within sixty days of such appointment with the Registrar.</p> <p>(5) Subject to the provisions of this Act, where an appointment of a managing director, whole-time director or manager is not approved by the company at a general meeting, any act done by him before such approval shall not be deemed to be invalid.</p>		
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65	<p>Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits.— (1) The total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the remuneration of the directors shall not be deducted from the gross profits:  Provided that the company in general meeting may, <b>with the approval of the Central Government</b>, authorise the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V:  <b>Provided further that, except with the approval of the company in general meeting,—</b>  <b>(i) the remuneration payable to any one managing director; or whole-time director or manager shall not exceed five per cent. of the net profits of the</b></p>	<p>In section 197 of the principal Act,—  (a) in sub-section (1),—  (i) in the first proviso, the words "with the approval of the Central Government," shall be omitted; <b>special resolution, shall be inserted;</b>  (iii) after the second proviso, the following proviso shall be inserted, namely:—  <b>"Provided also that, where any term loan of any bank or public financial institution is subsisting or the company has defaulted in payment of dues to non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting.";</b>  (b) in sub-section (3), the words "and if it is not able to comply with such provisions, with the previous approval of the Central Government" shall be <b>omitted;</b>  (c) for sub-section (9), the following sub-section shall be substituted, namely:—  <b>"(9) If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without approval required under this section, he shall refund such sums to the company, within two years of</b></p>	<p>Central Govt. gone only Special Resolution sufficient.</p> <p>In case of default of debt concern to be taken</p> <p>Excess drawn to be returned within Two Years</p>
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<p>company and if there is more than one such director remuneration shall not exceed ten per cent. of the net profits to all such directors and manager taken together;</p> <p>(ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,—</p> <p>(A) one per cent. of the net profits of the company, if there is a managing or whole-time director or manager;</p> <p>(B) three per cent. of the net profits in any other case.</p> <p>(2) The percentages aforesaid shall be exclusive of any fees payable to directors under sub-section (5).</p> <p>(3) Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or whole-time director or manager, by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule V and if it is not able to comply with such</p>	<p>such lesser period as may be allowed by the company, and until such sum is refunded, hold it in trust for the company.";</p> <p>(d) in sub-section (10),—</p> <p>(i) for the words "permitted by the Central Government", the words "approved by the company by special resolution within two years from the date the sum becomes refundable" shall be substituted;</p> <p>(ii) the following proviso shall be inserted, namely:—</p> <p>"Provided that where any term loan of any bank or public financial institution is subsisting or the company has defaulted in payment of dues to non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining approval of such waiver.";</p> <p>(e) in sub-section (11), the words "and if such conditions are not being complied, the approval of the Central Government had been obtained" shall be omitted;</p> <p>(f) after sub-section (15), the following sub-sections shall be inserted, namely:—</p> <p>"(16) The auditor of the company shall, in his report under section 143, make a statement as to whether the remuneration paid by the company to its directors is in</p>	<p>Auditor To comment on the Managerial Remuneration</p>
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<p><b>provisions, with the previous approval of the Central Government.</b></p> <p>(4) The remuneration payable to the directors of a company, including any managing or whole-time director or manager, shall be determined, in accordance with and subject to the provisions of this section, either by the articles of the company, or by a resolution or, if the articles so require, by a special resolution, passed by the company in general meeting and the remuneration payable to a director determined aforesaid shall be inclusive of the remuneration payable to him for the services rendered by him in any other capacity: Provided that any remuneration for services rendered by any such director in other capacity shall not be so included if—</p> <p>(a) the services rendered are of a professional nature; and</p> <p>(b) in the opinion of the Nomination and Remuneration Committee, if the company is covered under sub-section (1) of section 178, or the Board of Directors in other cases, the director possesses the requisite qualification for the practice of the profession.</p>	<p>accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section and give such other details as may be prescribed.</p> <p>(17) On and from the commencement of the Companies (Amendment) Act, 2016, any application made to the Central Government under the provisions of this section [as it stood before such commencement], which is pending with that Government shall abate, and the company shall, within one year of such commencement, obtain the approval in accordance with the provisions of this section, as so amended."</p>	
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<p>(5) A director may receive remuneration by way of fee for attending meetings of the Board or Committee thereof or for any other purpose whatsoever as may be decided by the Board: Provided that the amount of such fees shall not exceed the amount as may be prescribed: Provided further that different fees for different classes of companies and fees in respect of independent director may be such as may be prescribed.</p> <p>(6) A director or manager may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by the other.</p> <p>(7) Notwithstanding anything contained in any other provision of this Act but subject to the provisions of this section, an independent director shall not be entitled to any stock option and may receive remuneration by way of fees provided under sub-section (5), reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.</p> <p>(8) The net profits for the</p>		
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	<p>purposes of this section shall be computed in the manner referred to in section 198.</p> <p><b>(9) If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without the prior sanction of the Central Government, where it is required, he shall refund such sums to the company and until such sum is refunded, hold it in trust for the company.</b></p> <p>(10) The company shall not waive the recovery of any sum refundable to it under sub-section (9) unless <b>permitted by the Central Government.</b></p> <p>(11) In cases where Schedule V is applicable on grounds of no profits or inadequate profits, any provision relating to the remuneration of any director which purports to increase or has the effect of increasing the amount thereof, whether the provision be contained in the company's memorandum or articles, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or its Board, shall not have any effect unless such increase is in accordance with the</p>		
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<p>conditions specified in that Schedule <b>and if such conditions are not being complied, the approval of the Central Government had been obtained.</b></p> <p>(12) Every listed company shall disclose in the Board's report, the ratio of the remuneration of each director to the median employee's remuneration and such other details as may be prescribed.</p> <p>(13) Where any insurance is taken by a company on behalf of its managing director, whole-time director, manager, Chief Executive Officer, Chief Financial Officer or Company Secretary for indemnifying any of them against any liability in respect of any negligence, default, misfeasance, breach of duty or breach of trust for which they may be guilty in relation to the company, the premium paid on such insurance shall not be treated as part of the remuneration payable to any such personnel: Provided that if such person is proved to be guilty, the premium paid on such insurance shall be treated as part of the remuneration.</p> <p>(14) Subject to the provisions of this section, any director who is in receipt of any commission</p>		
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	<p>from the company and who is a managing or whole-time director of the company shall not be disqualified from receiving any remuneration or commission from any holding company or subsidiary company of such company subject to its disclosure by the company in the Board's report.</p> <p><b>(15) If any person contravenes the provisions of this section, he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.</b></p>		
66	<p>Calculation of profits.— (1) In computing the net profits of a company in any financial year for the purpose of section 197,—</p> <p>(a) credit shall be given for the sums specified in sub-section (2), and credit shall not be given for those specified in sub-section (3); and</p> <p>(b) the sums specified in sub-section (4) shall be deducted, and those specified in sub-section (5) shall not be deducted.</p> <p>(2) In making the computation aforesaid, credit shall be given for the bounties and subsidies received from any Government, or any public authority constituted or authorised in this behalf,</p>	<p>In section 198 of the principal Act,—</p> <p>(i) in sub-section (3), in clause (a), after the words "sold by the company", the words "<b>unless the company is an investment company as referred to in the Explanation to section 186</b>" shall be inserted;</p> <p>(ii) in sub-section (4), in clause (h), the words "which begins at or after the commencement of this Act" shall <b>be omitted</b>.</p>	



<p>by any Government, unless and except in so far as the Central Government otherwise directs.</p> <p>(3) In making the computation aforesaid, credit shall not be given for the following sums, namely:—</p> <p>(a) profits, by way of premium on shares or debentures of the company, which are issued or <b>sold by the company</b>;</p> <p>(b) profits on sales by the company of forfeited shares;</p> <p>(c) profits of a capital nature including profits from the sale of the undertaking or any of the undertakings of the company or of any part thereof;</p> <p>(d) profits from the sale of any immovable property or fixed assets of a capital nature comprised in the undertaking or any of the undertakings of the company, unless the business of the company consists, whether wholly or partly, of buying and selling any such property or assets:</p> <p>Provided that where the amount for which any fixed asset is sold exceeds the written-down value thereof, credit shall be given for so much of the excess as is not higher than the difference</p>		
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	<p>between the original cost of that fixed asset and its written-down value;</p> <p>(e) any change in carrying amount of an asset or of a liability recognised in equity reserves including surplus in profit and loss account on measurement of the asset or the liability at fair value.</p> <p>(4) In making the computation aforesaid, the following sums shall be deducted, namely:—</p> <p>(a) all the usual working charges;</p> <p>(b) directors' remuneration;</p> <p>(c) bonus or commission paid or payable to any member of the company's staff, or to any engineer, technician or person employed or engaged by the company, whether on a whole-time or on a part-time basis;</p> <p>(d) any tax notified by the Central Government as being in the nature of a tax on excess or abnormal profits;</p> <p>(e) any tax on business profits imposed for special reasons or in special circumstances and notified by the Central Government in this behalf;</p> <p>(f) interest on debentures issued by the company;</p> <p>(g) interest on mortgages executed by the company and on loans and advances secured by a charge on its fixed or</p>		
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	<p>floating assets;</p> <p>(h) interest on unsecured loans and advances;</p> <p>(i) expenses on repairs, whether to immovable or to movable property, provided the repairs are not of a capital nature;</p> <p>(j) outgoings inclusive of contributions made under section 181;</p> <p>(k) depreciation to the extent specified in section 123;</p> <p>(l) the excess of expenditure over income, which had arisen in computing the net profits in accordance with this section in any year <b>which begins at or after the commencement of this Act</b>, in so far as such excess has not been deducted in any subsequent year preceding the year in respect of which the net profits have to be ascertained;</p> <p>(m) any compensation or damages to be paid in virtue of any legal liability including a liability arising from a breach of contract;</p> <p>(n) any sum paid by way of insurance against the risk of meeting any liability such as is referred to in clause (m);</p> <p>(o) debts considered bad and written off or adjusted during the year of account.</p>		
67	Central Government or company to fix limit with regard to remuneration.—	In section 200 of the principal Act, the words "the Central Government or" appearing at	

	<p>Notwithstanding anything contained in this Chapter, the <b>Central Government</b> or a company may, while according its approval under section 196, to any appointment or to any remuneration under section 197 in respect of cases where the company has inadequate or no profits, fix the remuneration within the limits specified in this Act, at such amount or percentage of profits of the company, as it may deem fit and while fixing the remuneration, the <b>Central Government</b> or the company shall have regard to—</p> <p>(a) the financial position of the company;</p> <p>(b) the remuneration or commission drawn by the individual concerned in any other capacity;</p> <p>(c) the remuneration or commission drawn by him from any other company;</p> <p>(d) professional qualifications and experience of the individual concerned;</p> <p>(e) such other matters as may be prescribed.</p>	<p>both the places shall be omitted.</p>	
68	<p>Forms of, and procedure in relation to, certain applications.— (1) Every application made to the Central Government under <b>this Chapter</b> shall be in such form as may be prescribed.</p> <p>(2) (a) Before any</p>	<p>In section 201 of the principal Act,—</p> <p>(a) in sub-section (1), for the words "this Chapter", the word and figures "<b>section 196</b>" shall be substituted;</p> <p>(b) in sub-section (2), in clause (a), for the words "any of the sections aforesaid", the word</p>	

	<p>application is made by a company to the Central Government under <b>any of the sections aforesaid</b>, there shall be issued by or on behalf of the company a general notice to the members thereof, indicating the nature of the application proposed to be made.</p> <p>(b) Such notice shall be published at least once in a newspaper in the principal language of the district in which the registered office of the company is situate and circulating in that district, and at least once in English in an English newspaper circulating in that district.</p> <p>(c) The copies of the notices, together with a certificate by the company as to the due publication thereof, shall be attached to the application.</p>	<p>and figures "section 196" shall be substituted.</p>	
69	<p>Investigation of ownership of company.— (1) Where it appears to the Central Government that there is a reason so to do, it may appoint one or more inspectors to investigate and report on matters relating to the company, and its membership for the purpose of determining the true persons—</p> <p>(a) who are or have been financially interested in the success or failure, whether real or apparent, of the company; or</p>	<p>In section 216 of the principal Act, in sub-section (1),—</p> <p>(i) in clause (b), for the word "company", the words "<b>company; or</b>" shall be substituted;</p> <p>(ii) after clause (b), the following clause shall be inserted, namely:—</p> <p><b>"(c) who have or had beneficial interest in shares of a company or who are or have been beneficial owners or significant beneficial owner of a company."</b></p>	

<p>(b) who are or have been able to control or to materially influence the policy of the <b>company</b>.</p> <p>(2) Without prejudice to its powers under sub-section (1), the Central Government shall appoint one or more inspectors under that sub-section, if the Tribunal, in the course of any proceeding before it, directs by an order that the affairs of the company ought to be investigated as regards the membership of the company and other matters relating to the company, for the purposes specified in sub-section (1).</p> <p>(3) While appointing an inspector under sub-section (1), the Central Government may define the scope of the investigation, whether as respects the matters or the period to which it is to extend or otherwise, and in particular, may limit the investigation to matters connected with particular shares or debentures.</p> <p>(4) Subject to the terms of appointment of an inspector, his powers shall extend to the investigation of any circumstances suggesting the existence of any arrangement or understanding which, though not legally binding, is or was observed or is likely to be observed in</p>		
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	<p>practice and which is relevant for the purposes of his investigation.</p>		
<p>70</p>	<p>Inspector's report.— (1) An inspector appointed under this Chapter may, and if so directed by the Central Government shall, submit interim reports to that Government, and on the conclusion of the investigation, shall submit a final report to the Central Government.</p> <p>(2) Every report made under sub-section (1) shall be in writing or printed as the Central Government may direct.</p> <p>(3) A copy of the report made under sub-section (1) <b>may be obtained</b> by making an application in this regard to the Central Government.</p> <p>(4) The report of any inspector appointed under this Chapter shall be authenticated either—</p> <p>(a) 1[by the seal, if any] of the company whose affairs have been investigated; or</p> <p>(b) by a certificate of a public officer having the custody of the report, as provided under section 76 of the Indian Evidence Act, 1872 (1 of 1872), and such report shall be admissible in any legal proceeding as evidence in relation to any matter contained in the report.</p> <p>(5) Nothing in this section shall apply to the report</p>	<p>In section 223 of the principal Act, in sub-section (3), after the words "may be obtained", the words "<b>by members, creditors or any other person whose interest is likely to be affected</b>" shall be inserted.</p>	

	referred to in section 212.		
71	<p>Purchase of minority shareholding.— (1) In the event of an acquirer, or a person acting in concert with such acquirer, becoming registered holder of ninety per cent. or more of the issued equity share capital of a company, or in the event of any person or group of persons becoming ninety per cent. majority or holding ninety per cent. of the issued equity share capital of a company, by virtue of an amalgamation, share exchange, conversion of securities or for any other reason, such acquirer, person or group of persons, as the case may be, shall notify the company of their intention to buy the remaining equity shares.</p> <p>(2) The acquirer, person or group of persons under sub-section (1) shall offer to the minority shareholders of the company for buying the equity shares held by such shareholders at a price determined on the basis of valuation by a registered valuer in accordance with such rules as may be prescribed.</p> <p>(3) Without prejudice to the provisions of sub-sections (1) and (2), the minority shareholders of the company may offer to the majority shareholders</p>	<p>In section 236 of the principal Act, in sub-sections (4), (5) and (6), for the words, "transferor company", wherever they occur, the words "company whose shares are being transferred" shall be substituted.</p>	



<p>to purchase the minority equity shareholding of the company at the price determined in accordance with such rules as may be prescribed under sub-section (2).</p> <p>(4) The majority shareholders shall deposit an amount equal to the value of shares to be acquired by them under sub-section (2) or sub-section (3), as the case may be, in a separate bank account to be operated by the <b>transferor company</b> for at least one year for payment to the minority shareholders and such amount shall be disbursed to the entitled shareholders within sixty days:</p> <p>Provided that such disbursement shall continue to be made to the entitled shareholders for a period of one year, who for any reason had not been made disbursement within the said period of sixty days or if the disbursement have been made within the aforesaid period of sixty days, fail to receive or claim payment arising out of such disbursement.</p> <p>(5) In the event of a purchase under this section, the <b>transferor company</b> shall act as a transfer agent for receiving and paying the</p>		
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	<p>price to the minority shareholders and for taking delivery of the shares and delivering such shares to the majority, as the case may be.</p> <p>(6) In the absence of a physical delivery of shares by the shareholders within the time specified by the company, the share certificates shall be deemed to be cancelled, and the <b>transferor company</b> shall be authorised to issue shares in lieu of the cancelled shares and complete the transfer in accordance with law and make payment of the price out of deposit made under sub-section (4) by the majority in advance to the minority by dispatch of such payment.</p>		
72	<p>Valuation by registered valuers.— (1) Where a valuation is required to be made in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets (herein referred to as the assets) or net worth of a company or its liabilities under the provision of this Act, it shall be valued by a person having such qualifications and experience and registered as a valuer in such manner, on such terms and conditions as may be</p>	<p>In section 247 of the principal Act, in sub-section (2), in clause (d), for the words "during or after the valuation of assets", the words "<b>during a period of three years prior to his appointment as valuer or three years after the valuation of assets was conducted by him</b>" shall be substituted.</p>	

	<p>prescribed and appointed by the audit committee or in its absence by the Board of Directors of that company.</p> <p>(2) The valuer appointed under sub-section (1) shall,—</p> <p>(a) make an impartial, true and fair valuation of any assets which may be required to be valued;</p> <p>(b) exercise due diligence while performing the functions as valuer;</p> <p>(c) make the valuation in accordance with such rules as may be prescribed; and</p> <p>(d) not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time <b>during or after the valuation of assets.</b></p> <p>(3) If a valuer contravenes the provisions of this section or the rules made thereunder, the valuer shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees:</p> <p>Provided that if the valuer has contravened such provisions with the intention to defraud the company or its members, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less</p>	
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	<p>than one lakh rupees but which may extend to five lakh rupees.</p> <p>(4) Where a valuer has been convicted under sub-section (3), he shall be liable to—</p> <p>(i) refund the remuneration received by him to the company; and</p> <p>(ii) pay for damages to the company or to any other person for loss arising out of incorrect or misleading statements of particulars made in his report.</p>		
73	<p>Companies capable of being registered.— (1) For the purposes of this Part, the word —companyll includes any partnership firm, limited liability partnership, cooperative society, society or any other business entity formed under any other law for the time being in force which applies for registration under this Part.</p> <p>(2) With the exceptions and subject to the provisions contained in this section, any company formed, whether before or after the commencement of this Act, in pursuance of any Act of Parliament other than this Act or of any other law for the time being in force or being otherwise duly constituted according to law, and consisting of seven or more members, may at any time register under</p>	<p>In section 366 of the principal Act, in sub-section (2),—</p> <p>(i) for the words "seven or more members", the words "two or more members" shall be substituted;</p> <p>(ii) in the proviso, after clause (vi), the following clause shall be inserted, namely:—</p> <p><b>"(vii) a company with less than seven members shall register as a private company."</b></p>	

<p>this Act as an unlimited company, or as a company limited by shares, or as a company limited by guarantee, in such manner as may be prescribed and the registration shall not be invalid by reason only that it has taken place with a view to the company's being wound up: Provided that—</p> <ul style="list-style-type: none"><li>(i) a company registered under the Indian Companies Act, 1882 (6 of 1882) or under the Indian Companies Act, 1913 (7 of 1913) or the Companies Act, 1956 (1 of 1956), shall not register in pursuance of this section;</li><li>(ii) a company having the liability of its members limited by any Act of Parliament other than this Act or by any other law for the time being in force, shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;</li><li>(iii) a company shall be registered in pursuance of this section as a company limited by shares only if it has a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in the one way and partly in the other, and formed on</li></ul>		
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<p>the principle of having for its members the holders of those shares or that stock, and no other persons;</p> <p>(iv) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person, or where proxies are allowed, by proxy, at a general meeting summoned for the purpose;</p> <p>(v) where a company not having the liability of its members limited by any Act of Parliament or any other law for the time being in force is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person, or where proxies are allowed, by proxy, at the meeting;</p> <p><b>(vi) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts</b></p>		
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	<p>and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.</p> <p>(3) In computing any majority required for the purposes of sub-section (1), when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.</p>		
74	<p>Application of Act to foreign companies.— <b>Where not less than fifty per cent. of the paid-up share capital, whether equity or preference or partly equity and partly preference, of a foreign company is held by one or more citizens of India or by one or more companies or bodies corporate incorporated in India, or by one or more citizens of India and one or more companies or bodies corporate incorporated in India, whether singly</b></p>	<p>Section 379 of the principal Act shall be renumbered as sub-section (2) thereof and before sub-section (2) as so renumbered, the following sub-section shall be inserted, namely:—</p> <p><b>"(1) Sections 380 to 386 (both inclusive) and sections 392 and 393 shall apply to all foreign companies:</b></p> <p><b>Provided that the Central Government may, by Order published in the Official Gazette, exempt any class of foreign companies, specified in the Order, from any of the provisions of sections 380 to 386 and sections 392 and 393</b></p>	

	<p>or in the aggregate, such company shall comply with the provisions of this Chapter and such other provisions of this Act as may be prescribed with regard to the business carried on by it in India as if it were a company incorporated in India</p>	<p>and a copy of every such order shall, as soon as may be after it is made, be laid before both Houses of Parliament."</p>	
75	<p>Debentures, annual return, registration of charges, books of account and their inspection.— (1) The provisions of section 71 shall apply mutatis mutandis to a foreign company.</p> <p>(2) The provisions of <b>section 92</b> shall, subject to such exceptions, modifications and adaptations as may be made therein by rules made under this Act, apply to a foreign company as they apply to a company incorporated in India.</p> <p>(3) The provisions of section 128 shall apply to a foreign company to the extent of requiring it to keep at its principal place of business in India, the books of account referred to in that section, with respect to monies received and spent, sales and purchases made, and assets and liabilities, in the course of or in relation to its business in India.</p> <p>(4) The provisions of Chapter VI shall apply mutatis mutandis to</p>	<p>In section 384 of the principal Act, in sub-section (2), after the word and figures "section 92", the words and figures "<b>and section 135</b>" shall be inserted.</p>	



	<p>charges on properties which are created or acquired by any foreign company.</p> <p>(5) The provisions of Chapter XIV shall apply mutatis mutandis to the Indian business of a foreign company as they apply to a company incorporated in India</p>		
76	<p>Fee for filing, etc.— (1) <b>Any document, required to be submitted, filed, registered or recorded, or any fact or information required or authorised to be registered under this Act, shall be submitted, filed, registered or recorded within the time specified in the relevant provision on payment of such fee as may be prescribed:</b></p> <p><b>Provided that any document, fact or information may be submitted, filed, registered or recorded, after the time specified in relevant provision for such submission, filing, registering or recording, within a period of two hundred and seventy days from the date by which it should have been submitted, filed, registered or recorded, as the case may be, on payment of such additional fee as may be prescribed:</b></p> <p><b>Provided further that</b></p>	<p>In section 403 of the principal Act,—</p> <p>(i) in sub-section (1), for the first and second provisos, the following provisos shall be substituted, namely:—</p> <p>"Provided that where any document, fact or information required to be submitted, filed, registered or recorded, as the case may be, under section 89, 92, 117, 121, 137 or 157 is not submitted, filed, registered or recorded, as the case may be, within the period provided in those sections, it may be submitted, filed, registered or recorded, as the case may be, within a period of two hundred and seventy days from the expiry of the period so provided in those sections, on payment of such additional fee as may be prescribed:</p> <p>Provided further that where the document, fact or information, is not submitted, filed, registered or recorded, as the case may be,—</p> <p>(a) in case of document, fact or information referred to in section 89, 92, 117, 121, 137 or 157, within the period of two hundred and seventy days</p>	

	<p>any such document, fact or information may, without prejudice to any other legal action or liability under the Act, be also submitted, filed, registered or recorded, after the first time specified in first proviso on payment of fee and additional fee specified under this section.</p> <p>(2) Where a company fails or commits any default to submit, file, register or record any document, fact or information under sub-section (1) before the expiry of the period specified in the first proviso to that sub-section with additional fee, the company and the officers of the company who are in default, shall, without prejudice to the liability for payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default.</p>	<p>as provided in the first proviso; or</p> <p>(b) in any other case within the period in the relevant section, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed, registered or recorded, as the case may be, on payment of such higher additional fee or additional fee, as may be prescribed:</p> <p>Provided also that where there is default on two or more occasions in submitting, filing, registering or recording of the document, fact or information under section 89, 92, 117, 121, 137 or 157, the provisions of the first and second provisos shall not apply, until the document, fact or information is submitted, filed, registered or recorded, as the case may be, with additional fee, without prejudice to any legal action or liability under this Act.";</p> <p>(ii) in sub-section (2), for the words "first proviso to that sub-section", the words "relevant section" shall be substituted.</p>	
77	<p><b>Power to modify Act in its application to Nidhis.— (1) In this section, "Nidhi" means a company which has been incorporated as a Nidhi with the object of cultivating the habit of thrift and savings amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit, and</b></p>	<p>For section 406 of the principal Act, the following section shall be substituted, namely:—</p> <p>'406. (1) In this section, "<i>Nidhi</i>" or "<i>Mutual Benefit Society</i>" means a company which the Central Government may, by notification in the Official Gazette, declare to be a <i>Nidhi</i> or <i>Mutual Benefit Society</i>, as the case may be.</p> <p>(2) The Central Government may, by notification in the</p>	

<p>which complies with such rules as are prescribed by the Central Government for regulation of such class of companies.</p> <p>(2) Save as otherwise expressly provided, the Central Government may, by notification, direct that any of the provisions of this Act shall not apply, or shall apply with such exceptions, modifications and adaptations as may be specified in that notification, to any Nidhi or Nidhis of any class or description as may be specified in that notification.</p> <p>(3) A copy of every notification proposed to be issued under sub-section (2), shall be laid in draft be comprised in one session or in two or more successive sessions, and 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, the notification shall not be issued or, as the case may be, shall be issued only in such modified</p>	<p>Official Gazette, direct that any of the provisions of this Act specified in the notification—</p> <p>(a) shall not apply to any <i>Nidhi</i> or Mutual Benefit Society; or</p> <p>(b) shall apply to any <i>Nidhi</i> or Mutual Benefit Society with such exceptions, modifications and adaptations as may be specified in the notification.</p> <p>(3) A copy of every notification proposed to be issued under sub-section (2), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.</p> <p>(4) In reckoning any such period of thirty days as is referred to in sub-section (3), no account shall be taken of any period during which the House referred to in subsection (3) is prorogued or adjourned for more than four consecutive days.</p> <p>(5) The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament.'</p>	
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	<p><b>form as may be agreed upon by both the Houses.</b>before each House of Parliament, while it is in session, for a total period of thirty days which may</p>		
78	<p>Qualification of President and Members of Tribunal.— (1) The President shall be a person who is or has been a Judge of a High Court for five years.</p> <p>(2) A person shall not be qualified for appointment as a Judicial Member unless he—</p> <p>(a) is, or has been, a judge of a High Court; or</p> <p>(b) is, or has been, a District Judge for at least five years; or</p> <p>(c) has, for at least ten years been an advocate of a court.</p> <p>Explanation.—For the purposes of clause (c), in computing the period during which a person has been an advocate of a court, there shall be included 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.</p> <p>(3) A person shall not be qualified for appointment as a Technical Member unless he—</p> <p>(a) has, for at least fifteen</p>	<p>In section 409 of the principal Act, in sub-section (3),—</p> <p>(i) in clause (a), for the words "out of which at least three years shall be in the pay scale of Joint Secretary to the Government of India or equivalent or above in that service", the words "and has been holding the rank of Secretary or Additional Secretary to the Government of India" shall be substituted;</p> <p>(ii) for clause (e) the following clause shall be substituted namely:—</p> <p>"(e) is a person of proven ability, integrity and standing having special knowledge and professional experience of not less than fifteen years in industrial finance, industrial management, industrial reconstruction, investment and accountancy."</p>	

<p>years been a member of the Indian Corporate Law Service or Indian Legal Service out of which at least three years shall be in the pay scale of Joint Secretary to the Government of India or equivalent or above in that service; or</p> <p>(b) is, or has been, in practice as a chartered accountant for at least fifteen years; or</p> <p>(c) is, or has been, in practice as a cost accountant for at least fifteen years; or</p> <p>(d) is, or has been, in practice as a company secretary for at least fifteen years; or</p> <p><b>(e) is a person of proven ability, integrity and standing having special knowledge and experience, of not less than fifteen 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; or</b></p> <p>(f) is, or has been, for at least five years, a presiding officer of a Labour Court, Tribunal or</p>		
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	National Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947).		
		shall be substituted, namely:— "(3) A technical member shall be a person of proven ability, integrity and standing having special knowledge and professional experience of not less than twenty-five years in industrial finance, industrial management, industrial reconstruction, investment and accountancy."	
80	<p>Selection of Members of Tribunal and Appellate Tribunal.— (1) The President of the Tribunal and the chairperson and Judicial Members of the Appellate Tribunal, shall be appointed after consultation with the Chief Justice of India.</p> <p><b>(2) The Members of the Tribunal and the Technical Members of the Appellate Tribunal shall be appointed on the recommendation of a Selection Committee consisting of—</b></p> <p><b>(a) Chief Justice of India or his nominee— Chairperson;</b></p> <p><b>(b) a senior Judge of the Supreme Court or a Chief Justice of High Court— Member;</b></p> <p><b>(c) Secretary in the Ministry of Corporate Affairs—Member;</b></p> <p><b>(d) Secretary in the Ministry of Law and</b></p>	<p>In section 412 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—</p> <p>"(2) The Members of the Tribunal and the Technical Members of the Appellate Tribunal shall be appointed on the recommendation of a Selection Committee consisting of—</p> <p>(a) Chief Justice of India or his nominee - Chairperson;</p> <p>(b) a senior Judge of the Supreme Court or Chief Justice of High Court - Member;</p> <p>(c) Secretary in the Ministry of Corporate Affairs - Member; and</p> <p>(d) Secretary in the Ministry of Law and Justice - Member.</p> <p>(2A) Where in a meeting of the Selection Committee, there is equality of votes on any matter, the Chairperson shall have a casting vote."</p>	

	<p><b>Justice—Member; and</b></p> <p><b>(e) Secretary in the Department of Financial Services in the Ministry of Finance— Member.</b></p> <p>(3) The Secretary, Ministry of Corporate Affairs shall be the Convener of the Selection Committee.</p> <p>(4) The Selection Committee shall determine its procedure for recommending persons under sub-section (2).</p> <p>(5) No appointment of the Members of the Tribunal or the Appellate Tribunal shall be invalid merely by reason of any vacancy or any defect in the constitution of the Selection Committee.</p>		
81	<p><b>Establishment of Special Courts.— (1) The Central Government may, for the purpose of providing speedy 1[trial of offences punishable under this Act with imprisonment of two years or more], by notification, establish or designate as many Special Courts as may be necessary:</b></p> <p><b>2[Provided that all other offences shall be tried, as the case may be, by a 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.]</b></p>	<p>For section 435 of the principal Act, the following shall be substituted, namely:—</p> <p>"435.(1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.</p> <p>(2) A Special Court shall consist of—</p> <p>(a) a single judge holding office as Session Judge or Additional Session Judge, in case of offences punishable under this Act with imprisonment of two years or more; and</p> <p>(b) a Metropolitan Magistrate or a Judicial Magistrate of the First Class, in the case of other offences, who shall be</p>	

	<p>(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.</p> <p>(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding office of a Sessions Judge or an Additional Sessions Judge.</p>	<p>appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.".</p>	
82	<p>Application of Code to proceedings before Special Court.—Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be <b>deemed to be a Court of Session</b> and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor</p>	<p>In section 438 of the principal Act, for the words "deemed to be a Court of Session", the words "<b>deemed to be a Court of Session or the court of Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be,</b>" shall be substituted.</p>	
83	<p>Offences to be non-cognizable.— (1) Notwithstanding anything in the Code of Criminal Procedure, 1973 (2 of</p>	<p>In section 439 of the principal Act, in sub-section (2), after the words "a shareholder", the words "<b>or a member</b>" shall be inserted.</p>	



	<p>1974), every offence under this Act except the offences referred to in sub-section (6) of section 212 shall be deemed to be non-cognizable within the meaning of the said Code.</p> <p>(2) No 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, <b>a shareholder</b> of the company, or of a person authorised by the Central Government in that behalf:</p> <p>Provided that 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 authorised by the Securities and Exchange Board of India:</p> <p>Provided further that nothing in this sub-section shall apply to a prosecution by a company of any of its officers.</p>		
84	<p>Transitional provisions.— Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a <b>Court of Session</b> exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal</p>	<p>In section 440 of the principal Act, for the words "Court of Session", at both the places, the words "<b>Court of Session or the court of Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be</b>" shall be substituted.</p>	

	<p>Procedure, 1973 (2 of 1974):          Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a <b>Court of Session</b> under this section.</p>		
85	<p>Compounding of certain offences.— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act (whether committed by a company or any officer thereof) <b>with fine only</b>, may, either before or after the institution of any prosecution, be compounded by—          (a) the Tribunal; or          (b) where the maximum amount of fine which may be imposed for such offence does not exceed five lakh rupees, by the Regional Director or any officer authorised by the Central Government,          220          on payment or credit, by the company or, as the case may be, the officer, to the Central Government of such sum as that Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be, may specify:          Provided that the sum so</p>	<p>In section 441 of the principal Act, in sub-section (1), for the words "with fine only", the words "<b>not being an offence punishable with imprisonment only, or punishable with imprisonment and also with fine</b>" shall be substituted.</p>	

	<p>specified shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded:</p> <p>Provided further that in specifying the sum required to be paid or credited for the compounding of an offence under this sub-section, the sum, if any, paid by way of additional fee under sub-section (2) of section 403 shall be taken into account:</p>		
<p>86</p>	<p><b>Application of fines.—</b>  <b>The court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards the payment of a reward to the person on whose information the proceedings were instituted</b></p>	<p>After section 446 of the principal Act, the following sections shall be inserted, namely:—</p> <p>"446A. The court or the Special Court, while deciding the amount of fine or imprisonment under this Act, shall have due regard to the following factors, namely:—</p> <ul style="list-style-type: none"> <li>(a) size of the company;</li> <li>(b) nature of business carried on by the company;</li> <li>(c) injury to public interest;</li> <li>(d) nature of the default; and</li> <li>(e) Repetition of the default.</li> </ul> <p>446B. Notwithstanding anything contained in this Act, if a One Person Company or a small company fails to comply with the provisions of sub-section (5) of section 92, clause (c) of sub-section (2) of section 117, sub-section (3) of section 137, such company and officer in default of such company shall be punishable with fine or imprisonment or</p>	

		fine and imprisonment, as the case may be, which shall not be more than one-half of the fine or imprisonment or fine and imprisonment, as the case may be, of the minimum or maximum fine or imprisonment or fine and imprisonment, as the case may be, specified in such sections."	
87	<p>Punishment for fraud.— Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be <b>guilty of fraud</b>, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:</p> <p><b>Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.</b></p>	<p>In section 447 of the principal Act,—</p> <p>(i) after the words "guilty of fraud", the words "<b>involving an amount of at least ten lakh rupees or one percent. of the turnover of the company, whichever is lower</b>" shall be inserted;</p> <p>(ii) after the proviso, the following proviso shall be inserted, namely:—</p> <p><b>"Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to twenty lakh rupees or with both."</b></p>	