



SECRETARIAL AUDIT

SCOPE AND SECTORWISE INDICATIVE LIST OF LAWS

Section 204 of the Companies Act, 2013 read with the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, provides that every listed company and every prescribed company shall annex with its Board's Report, a Secretarial Audit Report, given by a Company Secretary in Practice, in Form MR- 3.

The Council at its 226th meeting held on November 21, 2014 after deliberating on the views that emerged from consultation meets and taking into consideration the views of members of Corporate Laws and Governance Committee, decided that the Scope of Secretarial Audit includes:

- Reporting on compliance of five laws as mentioned in form MR-3
 - Companies Act, 2013 and the rules made thereunder;
 - Securities Contracts (Regulation) Act, 1956 ('SCRA'), and the rules made thereunder;
 - Depositories Act, 1996, and the rules made thereunder;
 - Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder to the extent of Foreign Direct Investment, Overseas Direct Investment and External Commercial Borrowings;
 - Regulations and Guidelines prescribed under the Securities and Exchange Board of India Act, 1992 ('SEBI Act'):-
 1. The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
 2. The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992;
 3. The Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;
 4. The Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999;
 5. The Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008;
 6. The Securities and Exchange Board of India (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 regarding the Companies Act and dealing with client;
 7. The Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009; and



8. The Securities and Exchange Board of India (Buyback of Securities) Regulations, 1998;

- Reporting on compliance of secretarial standards issued by the Institute of Company Secretaries of India;
- Reporting on Compliances with the Listing Agreement;
- Reporting on compliance of 'Other laws as may be applicable specifically to the company' which shall include all the laws which are applicable to specific industry for example for Banks- all laws applicable to Banking Industry; for insurance company-all laws applicable to insurance industry; likewise for a company in petroleum sector- all laws applicable to petroleum industry; similarly for companies in pharmaceutical sector, cement industry etc.
- examining and reporting whether the adequate systems and processes are in place to monitor and ensure compliance with general laws like labour laws, competition law, environmental laws.
- Examining and reporting specific observations / qualification, reservation or adverse remarks in respect of the Board Structures/system and processes relating to the Audit period.
- In case of financial laws like tax laws and Customs Act etc., Secretarial Auditor may rely on the Reports given by statutory auditors or other designated professionals.

Other laws as may be specifically applicable to the company (point (vi) as per MR-3)*

For the benefit of members, the Institute is developing a list of various laws specifically applicable to companies in different sectors. An indicative list of sector specific central laws in respect of some of the sectors is placed below for reference.

INDICATIVE SECTOR WISE LIST

1. PHARMACEUTICAL INDUSTRY

- Pharmacy Act, 1948
- Drugs and Cosmetics Act, 1940
- Homoeopathy Central Council Act, 1973
- Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954
- Narcotic Drugs and Psychotropic Substances Act, 1985
- Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974
- The Medicinal & Toilet Preparations (Excise Duties) Act, 1955
- Petroleum Act 1934
- Poisons Act 1919
- Food Safety And Standards Act, 2006



- Insecticides Act 1968
- Biological Diversity Act, 2002
- The Indian Copyright Act, 1957
- The Patents Act, 1970
- The Trade Marks Act, 1999

2. COMPUTER PROGRAMMING, CONSULTANCY AND RELATED SERVICES

- The Information Technology Act, 2000
- The Special Economic Zone Act, 2005
- Policy relating to Software Technology Parks of India and its regulations
- The Indian Copyright Act, 1957
- The Patents Act, 1970
- The Trade Marks Act, 1999

3. GAS INDUSTRY

- The Petroleum Act, 1934
- Petroleum and Minerals Pipelines (Acquisition of Right of User Inland) Act, 1962
- Explosives Act, 1884
- The Oilfield (Regulation & Development) Act , 1948
- Petroleum and Natural Gas Regulatory Board Act, 2006
- The Oil Industry(Development) Act 1974
- The Mines Act, 1952

4. OIL & PETROLEUM SECTOR

- The Petroleum Act, 1934
- Petroleum and Minerals Pipelines (Acquisition of Right of User Inland) Act, 1962
- Explosives Act, 1884
- The Oilfield (Regulation & Development) Act , 1948
- Petroleum and Natural Gas Regulatory Board Act, 2006
- The Oil Industry(Development) Act 1974
- The Mines Act, 1952
- Mines and Minerals (Regulations and Development) Act, 1957
- The Territorial Waters, Continental Shelf, Exclusive Economic Zone And Other Maritime Zones Act, 1976
- Offshore Areas Minerals (Development and Regulation) Act, 2002

5. POWER



- The Electricity Act, 2003
- National Tariff Policy
- Essential Commodities Act, 1955
- Explosives Act, 1884
- Mines Act, 1952 (wherever applicable)
- Mines and Mineral (Regulation and Development) Act, 1957 (wherever applicable)

6. **SUGAR INDUSTRY**

- Sugar Cess Act, 1982
- Levy Sugar Price Equalisation Fund Act, 1976
- Food Safety And Standards Act, 2006
- Essential Commodities Act, 1955
- Sugar Development Fund Act, 1982
- Export (Quality Control and Inspection) Act, 1963
- Agricultural and Processed Food Products Export Act, 1986

7. **TOBACCO INDUSTRY**

- Tobacco Board Act, 1975
- Tobacco Cess Act, 1975
- Beedi and Cigar Workers (Conditions of Employment) Act, 1966 as amended in 1993
- Beedi Workers Welfare Cess Act, 1976
- Beedi Workers Welfare Fund Act, 1976
- Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COPTA)
- The Cable Television Network (Regulation) Act, 1955

8. **INSURANCE**

- Insurance Act, 1938
- Insurance Regulatory and Development Authority Act, 1999
- General Insurance Business (Nationalisation) Act, 1972
- Industrial Disputes (Banking and Insurance Companies) Act, 1949
- Marine Insurance Act, 1963

9. **COMMERCIAL BANKS (OTHER THAN NATIONALISED BANKS AND STATE BANK OF INDIA)**

- Reserve Bank of India Act, 1934



- Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
- The Bankers' Books Evidence Act, 1891
- Recovery of Debts due to Banks & Financial Institution Act, 1993
- Credit Information Companies (Regulation) Act, 2005
- Prevention of Money Laundering Act, 2002
- The Deposit Insurance and Credit Guarantee Corporation Act, 1961
- Industrial Disputes (Banking and Insurance Companies) Act, 1949
- Information Technology Act, 2000

10. **BEVERAGES (NON- ALCOHOLIC)**

- Food Safety and Standards Act, 2006
- The Insecticide Act, 1968
- Export (Quality Control and Inspection) Act, 1963
- Inflammable Substances Act, 1952
- Agricultural and Processed Food Products Export Cess Act, 1986
- Agricultural Produce (Grading and Marking) Act, 1937

11. **REAL ESTATE SECTOR**

- Housing Board Act, 1965
- Transfer of Property Act, 1882
- Building and Other Construction Workers' (Regulation of Employment and Conditions of Services) Act, 1996

12. **AUTOMOBILE**

- Motor Vehicles Act, 1988
- The Motor Transport Workers Act, 1961
- The Explosive Act, 1884
- The Petroleum Act, 1934
- The Environment (Protection) Act, 1986
- The Water(Prevention and Control of Pollution) Act, 1974
- The Air(Prevention and Control of Pollution) Act, 1981

13. **AVIATION SECTOR**

- Aircraft Act, 1934
- Airports Authority of India Act, 1994
- Carriage by Air Act, 1972
- Tokyo Convention Act, 1975
- Anti-Hijacking Act, 1982
- Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982



- Airports Economic Regulatory Authority of India Act, 2008

14. HUMAN HEALTH SECTOR

- Clinical Establishment (Registration and Regulation) Act, 2010
- Indian Medical Council Act 1956
- Indian Medical Degrees Act, 1916
- Indian Nursing Council Act 1947
- The Dentists Act 1948
- Rehabilitation Council of India Act, 1992
- Drugs and Cosmetic Act 1940
- The Drugs Control Act, 1950
- Pharmacy Act, 1948
- Narcotics and Psychotropic Substances Act 1985
- Homoeopathy Central Council Act, 1973
- Insecticide Act 1968
- Transplantation of Human Organs Act 1994
- Drugs and Magic Remedies (Objectionable) Advertisements Act 1954
- Birth and Death and Marriage Registration Act 1886
- Mental Health Act, 1987
- Ear Drums and Ear Bones (Authority for Use For Therapeutic Purposes) Act, 1982
- Eyes (Authority for Use For Therapeutic Purposes) Act, 1982
- The Epidemic Disease Act 1897

15. MINING OF METAL ORES

- Mines Act, 1952
- Mines and Minerals (Development and Regulation) Act, 1957
- Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976
- Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976

16. EDIBLE OILS

- National Oil Seeds and Vegetable Oils Development Board Act, 1983
- Cotton Copra and Vegetable Oils Cess (Abolition) Act, 1987
- Seeds Act, 1966
- Protection of Plant Varieties and Farmers Right Act, 2001
- Food Safety And Standards Act, 2006

17. ROAD TRANSPORT

- National Highways Act, 1956
- The Multimodal Transportation of Goods Act, 1993
- Control of National Highways (Land and Traffic) Act, 2002
- Carriage by Road Act, 2007
- Road Transport Corporations Act, 1950
- Motor Vehicles Act, 1988

The Parliamentary Standing Committee on Finance in its 21st Report on Companies Bill 2009 has clearly stated that Secretarial Audit gives a necessary comfort to the investors that the affairs of the company are being conducted in accordance with the legal requirements and also protects the companies from non-compliances...

Secretarial Audit is a tool to ensure compliance of **all applicable laws** to the company and good governance. **The proposed Secretarial Standard on Meetings of Board of Directors requires that the list of laws applicable to the company be placed as an item of agenda at the first meeting of the Board in the financial year.**

Secretarial Audit has no doubt presented a great opportunity to the Practising Company Secretaries but more than that, it seeks to ensure the compliances of the laws applicable to the company thereby providing necessary comfort to the Board of directors, particularly the independent directors, the regulators and the investors of the company.

Realising that this is an onerous responsibility, the Institute has developed a set of FAQs on Secretarial Audit which are available on website of the Institute.

**Disclaimer:*

The Institute with a view to facilitate the members to conduct Secretarial Audit has compiled list of specific Central Acts applicable to various sectors. The list is indicative only and not exhaustive.

It may so happen that some of the sector specific laws do not figure in this list. Members are advised to use their own professional judgement and resources in identifying other sector specific Laws/ Rules/ Regulations/ Guidelines/ Orders/ Amendments/ Standards/Policies, as well as State Laws, while conducting Secretarial Audit.

Due care has been taken in the preparation of the list. The Institute shall not be responsible for any loss or damage resulting from any action taken on the basis of these lists. Professional Judgement is advised.



Members may send their suggestions relating to any addition/deletion from the indicative list of laws applicable to any particular sector at secretarialaudit@icsi.edu .