CL 113

रजिस्ट्री सं० डी० एल०-33004/99 REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)
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PUBLISHED BY AUTHORITY

सं. 472] नई दिल्ली, शुक्रवार, सितम्बर 12, 2014/भाद्र 21, 1936
No. 472] NEW DELHI, FRIDAY, SEPTEMBER 12, 2014/BHADRA 21, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 12 सितम्बर, 2014

सा.का.नि. 644(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 135 और धारा 469 की उप-धारा (1) और उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (कारपोरेट सामाजिक दायित्व नीति) नियम, 2014 को संशोधित करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (कारपोरेट सामाजिक दायित्व नीति) संशोधन नियम, 2014 है।

(2) ये नियम राजपत्र में प्रकाशन की तारीख से प्रवृत्त होंगे।

2. कंपनी (कारपोरेट सामाजिक दायित्व नीति) नियम, 2014 में नियम 4 के उपनियम (6) में शब्दों "किंतु ऐसा व्यय" के पश्चात् "जिसके अंतर्गत प्रशासनिक ऊपरी खर्च पर व्यय भी है", शब्दों और अल्पविराम जोड़ा जाएगा।

[फा. सं.1/18/2013-सीएल-V-पार्ट]

मनोज कुमार, संयुक्त सचिव,

टिप्पणीः मूल अधिसूचना भारत के राजपत्र में तारीख 27.02.2014 की संख्या सा.का.नि. 129(अ) द्वारा प्रकाशित की गई थी।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 12th September, 2014

G.S.R. 644(E).—In exercise of the powers conferred under Section 135 and sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 4, in sub-rule (6), after the words "but such expenditure" the words and comma "including expenditure on administrative overheads," shall be inserted.

[F. No. 1/18/2013-CL-V-Part]

MANOJ KUMAR, Jt. Secy.

Note : The principal notification was published in the Gazette of India *vide* No. G.S.R. 129(E), dated 27.02.2014.

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Companies Act, 2013

रजिस्ट्री सं० डी० एल०-33004/99 REGD. NO. D. L.-33004/99

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सं. 35] नई दिल्ली, शुक्रवार, जनवरी 16, 2015/पौष 26, 1936
No. 35] NEW DELHI, FRIDAY, JANUARY 16, 2015/PAUSA 26, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 16 जनवरी, 2015

सा.का.नि. 37(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (लेखा) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:—

1. (1) इन नियमों का नाम कंपनी (लेखा) संशोधन नियम, 2015 है।

(2) ये नियम राजपत्र में प्रकाशन की तारीख को प्रवृत होंगे।

2. कंपनी (लेखा) नियम, 2014 में,—

(i) नियम 2 के पश्चात् निम्नलिखित नियम अंत:स्थापित किया जाएगा, अर्थात् :-

"**2क. पते की सूचना जहां लेखाबहियों का अनुरक्षण किया जाना है.**—धारा 128 की उप-धारा (1) के पहले परंतुक के प्रयोजनार्थ पते की सूचना जहां लेखाबहियों का अनुरक्षण किया जाना है प्ररूप एओसी-5 के अनुसार रखी जाएगी।"

(ii) नियम 6 के तीसरे परंतुक के पश्चात् निम्नलिखित परंतुक अंत:स्थापित किया जाएगा, अर्थात् :-

"परंतु यह भी कि भारत के बाहर निगमित समनुषंगी या समानुषंगियों वाली कंपनी के लिए केवल 01 अप्रैल, 2014 को या उसके पश्चात् प्रारंभ होने वाली वित्तीय वर्ष के लिए वित्तीय विवरण के समेकन के संबंध में इस नियम की कोई बात लागू नहीं होगी।"

(iii) उपाबंध में प्ररूप एओसी-4 के पश्चात् निम्नलिखित प्ररूप अंत:स्थापित किया जाएगा, अर्थात् :-

प्ररूप संख्या एओसी-5 **[कंपनी अधिनियम, 2013 की धारा 128 की उप-धारा (1) के पहले परंतुक और कंपनी (लेखा) नियम, 2014 के नियम 2क के अनुसरण में]**	सत्यमेव जयते	**पते की सूचना जहां लेखाबहियों का अनुरक्षण किया जाना है**

प्ररूप की भाषा ..... अँग्रेजी ..... हिंदी

प्ररूप भरने के लिए अनुदेश किट देखें।

1. (क) *कंपनी की कारपोरेट पहचान संख्या (सीआईएन) ..... **पहले से भरा हुआ**

   (ख) कंपनी की वैश्विक स्थान संख्या (जीएलएन) .....

2. (क) कंपनी का नाम .....

   (ख) कंपनी के रजिस्ट्रीकृत कार्यालय का पता .....

3. * पता जहां लेखाबहियों का अनुरक्षण किया जाना हैं के संबंध में निर्णय लिए जाने वाले बोर्ड के संकल्प की तारीख ..... (दिन/मास/वर्ष)

4. पता जहां लेखाबहियों का अनुरक्षण किया जाना है

   (क) *पता पंक्ति-I .....

   पंक्ति II .....

   (ख) *शहर .....

   (ग) *राज्य .....

   (घ) देश .....

   (ड.) *पिन कोड .....

5. उस पुलिस स्टेशन से संबंधित ब्यौरा जिसके क्षेत्राधिकार के अधीन पता जहां लेखाबहियों का अनुरक्षण का स्थान आता है

   (क) *पुलिस स्टेशन का नाम .....

   (ख) *पता पंक्ति- I .....

   पंक्ति II .....

   (ग) *शहर .....

   (घ) *राज्य .....

   (ड.) देश .....

   (च) *पिन कोड .....

संलग्नकों की सूची

संलग्नक

1. *बोर्ड संकल्प की प्रति संलग्न करें
2. वैकल्पिक संलग्नक - यदि कोई हो संलग्न करें

संलग्नक हटाएं

घोषणा

मुझे कंपनी के निदेशक बोर्ड के *संकल्प संख्या ..... *तारीख ..... द्वारा इस प्ररूप पर हस्ताक्षर करने और यह घोषणा करने के लिए प्राधिकृत किया गया है कि इस प्ररूप की विषय-वस्तु और उससे आनुषंगिक मामलों के संबंध में कंपनी अधिनियम, 2013 और उसके अधीन बनाए गए नियमों की सभी अपेक्षाओं का अनुपालन किया गया है। मैं यह भी घोषणा करता हूँ कि यहां दी गई सभी सूचना इस प्ररूप के संलग्नकों सहित सत्य, सही और पूर्ण है और कोई भी महत्वपूर्ण सूचना छुपाई नहीं गई है।

*डिजिटल हस्ताक्षर किया जाए **डीएससी बॉक्स**

*पदनाम .....

*निदेशक की निदेशक पहचान संख्या या कंपनी सचिव की सदस्यता संख्या या प्रबंधक अथवा सीईओ अथवा सीएफओ का डीआईएन/पैन .....

टिप्पण : धारा 448 और 449 के उपबंधों की ओर भी ध्यान आकृष्ट किया जाता है जिसमें गलत विवरण और गलत साक्ष्य के लिए शास्ति का प्रावधान है।

संशोधन करें **प्ररूप की जांच करें** **पूर्व संवीक्षा** **जमा करें**

केवल कार्यालय उपयोग के लिए **फाइलिंग ब्यौरे लगाएं**

ई-प्ररूप सेवा अनुरोध संख्या (एसआरएन) ..... ई-प्ररूप फाइलिंग की तारीख ..... (दिन/मास/वर्ष)

इस ई-प्ररूप को रजिस्ट्रीकृत किया जाता है

प्राधिकृत अधिकारी का डिजिटल हस्ताक्षर ..... जमा करने की पुष्टि करें

हस्ताक्षर की तारीख ..... (दिन/मास/वर्ष)

[फा. सं. 1/19/2013-सीएल-V भाग]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पणः मूल नियम भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उपखंड (i) में सा.का.नि. 239(अ) तारीख 31 मार्च, 2014 द्वारा प्रकाशित किए गए थे और तत्पश्चात् अधिसूचना संख्या सा.का.नि. 723(अ) तारीख 14 अक्तूबर, 2014 द्वारा संशोधित किए गए थे।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 16th January, 2015

G.S.R. 37(E).—In exercise of the powers conferred by Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Accounts) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Accounts) Amendment Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Accounts) Rules, 2014,-

(i) after rule 2, following rule shall be inserted, namely:-

"**2A. Notice of address at which books of account are to be maintained.**—For the purposes of the first proviso to sub-section (1) of Section 128, the notice regarding address at which books of account may be kept shall be in Form AOC-5."

(ii) in rule 6, after the third proviso, the following proviso shall be inserted, namely :—

"Provided also that nothing in this rule shall apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing on or after 1st April, 2014."

(iii) in the Annexure, after Form AOC-4, the following Form shall be inserted, namely :—

FORM NO. AOC-5

[Pursuant to first proviso to sub-section (1) of section 128 of the Companies Act, 2013 and Rule 2A of Companies (Accounts) Rules, 2014]

सत्यमेव जयते

Notice of address at which books of account are to be maintained

Form language o English o Hindi

Refer the instruction kit for filing the form.

1.(a) *Corporate identity number (CIN) of company [ ] Pre-Fill

(b) Global location number (GLN) of company [ ]

2.(a) Name of the company [ ]

(b) Address of the registered office of the company [ ]

3. *Date of board resolution wherein a decision regarding address at which books of account are to be maintained has been taken [ ] (DD/MM/YYYY)

4. Address at which the books of account are to be maintained

(a) *Address Line I [ ]

Line II [ ]

(b) *City [ ]

(c) *State [ ]

(d) Country [ ]

(e) *Pin code [ ]

5. Details pertaining to police station under whose jurisdiction the place of the address at which the books of account are to be maintained falls

(a) *Police station name [ ]

(b) *Address Line I [ ]

Line II [ ]

(c) *City [ ]

(d) State [ ]

(e) Country [ ]

(f) *Pin code [ ]

Attachments

1. *Copy of board resolution Attach

2. Optional attachment(s) - if any Attach

List of attachments

Remove attachment

Declaration

I am authorized by the Board of Directors of the Company vide *resolution number [ ] *dated [ ] to sign this form and declare that all the requirements of Companies Act, 2013 and the rules made thereunder in respect of the subject matter of this form and matters incidental thereto have been complied with. I also declare that all the information given herein above is true, correct and complete including the attachments to this form and nothing material has been suppressed.

*To be digitally signed by [DSC]

*Designation [ ]

*Director identification number of the director or membership number of the company secretary or DIN/PAN of Manager or CEO or CFO [ ]

Note: Attention is also drawn to provisions of Section 448 and 449 which provide for punishment for false statement and false evidence.

[ ] [Check Form] [Prescrutiny] [ ]

For office use only:

eForm Service request number (SRN) [ ] eForm filing date [ ] (DD/MM/YYYY)

This e-Form is hereby registered

Digital signature of the authorising officer [ ] [ ]

Date of signing [ ] (DD/MM/YYYY)

[F. No. 1/19/2013-CL-V-Part]

AMARDEEP SINGH BHATIA, Joint Secretary

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 239(E), dated the 31st March, 2014 and was subsequently amended by notification number G.S.R. 723(E), dated the 14th October, 2014.

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Companies Act, 2013

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सं. 40] नई दिल्ली, सोमवार, जनवरी 19, 2015/पौष 29, 1936
No. 40] NEW DELHI, MONDAY, JANUARY 19, 2015/PAUSA 29, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 19 जनवरी, 2015

सा.का.नि. 42(अ).—केंद्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 के साथ पठित धारा 149 की उप-धारा (1) के दूसरे परंतुक, उप-धारा (4) और उप-धारा (6) के खंड (च), धारा 150 की उप-धारा (3) और उप-धारा (4), धारा 151, धारा 152 की उप-धारा (5), धारा 153, धारा 154, धारा 157, धारा 160, धारा 168 की उप-धारा (1) और धारा 170 के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए और कंपनी (निदेशकों की नियुक्ति और अर्हता) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (निदेशकों की नियुक्ति और अर्हता) संशोधन नियम, 2015 है।

(2) ये नियम राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कंपनी (निदेशकों की नियुक्ति और अर्हता) नियम, 2014 के नियम 16 में निम्नलिखित परंतुक अंत:स्थापित किया जाएगा, अर्थात् :—

"परंतु किसी कंपनी ने नियम 15 के अधीन प्ररूप डीआईआर-12 रजिस्ट्रार के पास पहले ही दायर कर दिया है, की दशा में, ऐसी कंपनी से पदत्याग करने वाला विदेशी निदेशक किसी व्यवसायरत चार्टर्ड अकाउंटेंट या व्यवसायरत लागत लेखाकार या व्यवसायरत कंपनी सचिव या कंपनी का किसी अन्य निवासी निदेशक को प्ररूप डीआईआर-11 पर हस्ताक्षर करने और उसे त्यागपत्र के कारण की सूचना देते हुए उसकी ओर से फाइल करने के लिए प्राधिकृत कर सकता है।"।

[फा. सं. 01/9/2013-सीएल.V (पार्ट-II)]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण : मूल नियम भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उप-खंड (i) में सा.का.नि. 259(अ), तारीख 31 मार्च, 2014 द्वारा प्रकाशित किए गए थे और उसमें अधिसूचना संख्या सा.का.नि. 671(अ), तारीख 18 सितंबर, 2014 द्वारा संशोधन किए गए थे।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 19th January, 2015

G.S.R. 42(E).—In exercise of the powers conferred by the second proviso to sub-section (1), sub-section (4) and clause (f) of sub-section (6) of section 149, sub-sections (3) and (4) of section 150, section 151, sub-section (5) of section 152, section 153, section 154, section 157, section 160, sub-section (1) of section 168 and section 170 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Appointment and Qualification of Directors) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Appointment and Qualification of Directors) Amendment Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Appointment and Qualification of Directors) Rules, 2014, in rule 16, the following proviso shall be inserted, namely:—

"Provided that in case a company has already filed **Form DIR-12** with the Registrar under rule 15, a foreign director of such company resigning from his office may authorise in writing a practising chartered accountant or cost accountant in practice or company secretary in practice or any other resident director of the company to sign **Form DIR-11** and file the same on his behalf intimating the reasons for the resignation.".

[F. No. 01/9/2013-CL.V(Part-II)]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note.-The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), *vide* number G.S.R. 259(E), dated the 31st March, 2014 and was subsequently amended by notification number G.S.R. 671(E), dated the 18th September, 2014.

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EXTRAORDINARY
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सं. 41] नई दिल्ली, सोमवार, जनवरी 19, 2015/पौष 29, 1936
No. 41] NEW DELHI, MONDAY, JANUARY 19, 2015/PAUSA 29, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 19 जनवरी, 2015

सा.का.नि. 43(अ).—केंद्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 135 और धारा 469 की उपधारा (1) और उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (कारपोरेट सामाजिक दायित्व नीति) नियम, 2014 में और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (कारपोरेट सामाजिक दायित्व नीति) संशोधन नियम, 2015 है।

(2) ये नियम राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कंपनी (कारपोरेट सामाजिक दायित्व नीति) नियम, 2014 के नियम 4 के उप नियम (2) में,—

(i) "अधिनियम की धारा 8 के अधीन कंपनी द्वारा स्थापित किसी कंपनी अथवा उसकी होल्डिंग या अनुषंगी या सहयोगी कंपनी के माध्यम से अथवा अन्य तरीके से" शब्दों के स्थान पर "अधिनियम की धारा 8 के अधीन कंपनी द्वारा, या तो अकेले या उसकी होल्डिंग या अनुषंगी या सहयोगी कंपनी के साथ, या किसी अन्य कंपनी या ऐसी अन्य कंपनी की होल्डिंग या अनुषंगी या सहयोगी कंपनी के साथ स्थापित, या अन्य किसी तरीके से" शब्द रखे जाएंगे।

(ii) परंतुक के खंड (i) में, "उस कंपनी अथवा उसकी होल्डिंग या अनुषंगी या सहयोगी कंपनी द्वारा नहीं की गई हो तो इसके" शब्दों के स्थान पर "उस कंपनी द्वारा, या तो अकेले या उसकी होल्डिंग या अनुषंगी

Companies Act, 2013

या सहयोगी कंपनी के साथ, या किसी अन्य कंपनी या ऐसी अन्य कंपनी की होल्डिंग या अनुषंगी या सहयोगी कंपनी के साथ नहीं की गई हो तो इसके" शब्द रखे जाएंगे।

[फा.सं. 1/18/2013-सीएल-V-भाग]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण : मूल नियम सा.का.नि. 129 (अ), तारीख 27 फरवरी, 2014 द्वारा भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (i) में प्रकाशित किए गए थे और अधिसूचना संख्या सा.का.नि. 644 (अ), तारीख 12 सितंबर, 2014 द्वारा इसमें पश्चातवर्ती संशोधन किए गए थे।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 19th January, 2015

G.S.R. 43(E).— In exercise of the powers conferred under section 135 and sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 4, in sub-rule (2),—

(i) for the words "established by the company or its holding or subsidiary or associate company under section 8 of the Act or otherwise", the words "established under section 8 of the Act by the company, either singly or alongwith its holding or subsidiary or associate company, or alongwith any other company or holding or subsidiary or associate company of such other company, or otherwise" shall be substituted;

(ii) in the proviso, in clause (i), for the words "not established by the company or its holding or subsidiary or associate company, it", the words "not established by the company, either singly or alongwith its holding or subsidiary or associate company, or alongwith any other company or holding or subsidiary or associate company of such other company" shall be substituted.

[F. No. 1/18/2013-CL-V-Part]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note.—The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 129(E), dated the 27th February, 2014 and was subsequently amended by notification number G.S.R. 644(E), dated the 12th September, 2014.

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सं. 113] नई दिल्ली, मंगलवार, फरवरी 24, 2015/फाल्गुन 5, 1936
No. 113] NEW DELHI, TUESDAY, FEBRUARY 24, 2015/PHALGUNA 5, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 24 फरवरी, 2015

सा.का.नि. 121(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 के साथ पठित धारा 123 की उप-धारा (1) के तहत प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (लाभांश की घोषणा और अदायगी) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :–

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (लाभांश की घोषणा और अदायगी) (संशोधन) नियम, 2015 है।
   (2) ये राजपत्र में प्रकाशन की तारीख से प्रवृत्त होंगे।

2. तारीख 12 जून, 2014 की सा.का.नि. संख्या-397(अ), के द्वारा भारत के राजपत्र, असाधारण, भाग-II, खंड–3, उप-खंड (i) में प्रकाशित कंपनी (लाभांश की घोषणा और अदायगी) संशोधन नियम, 2014 में "अमरदीप सिंह भाटिया, संयुक्त सचिव" शब्दों के पश्चात् निम्नलिखित पाद टिप्पण अंत:स्थापित किया जाएगा, अर्थात् :–

"**पाद टिप्पण**–मूल नियम सा.का.नि. 241(अ), तारीख 31 मार्च, 2014 द्वारा भारत के राजपत्र, असाधारण, भाग-II, खंड–3, उपखंड (i) में प्रकाशित किए गए थे।"

[फा. सं.-1/31/2013-सीएल-V-पार्ट]
अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण.– मूल नियम सा.का.नि. 241(अ), तारीख 31 मार्च, 2014 द्वारा भारत के राजपत्र, असाधारण, भाग-II, खंड–3, उपखंड (i) में प्रकाशित किए गए थे और पश्चातवर्ती अधिसूचना संख्या सा.का.नि. 397(अ), तारीख 12 जून, 2014 द्वारा संशोधित किया गया था।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 24th February, 2015

G.S.R. 121(E).—In exercise of the powers conferred under sub-section (1) of Section 123 read with Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Declaration and Payment of Dividend) Rules, 2014, namely :—

1. (1) These rules may be called the Companies (Declaration and Payment of Dividend) (Amendment) Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Declaration and Payment of Dividend) Amendment Rules, 2014, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* G.S.R. No. 397(E), dated the 12th June, 2014, after the words "AMARDEEP SINGH BHATIA, Jt. Secy.", the following Foot Note shall be inserted, namely :—

"Foot Note. - The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 241(E), dated the 31st March, 2014.".

[F. No. 1/31/2013-CL-V-Part]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note.—The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), *vide* number G.S.R. 241(E), dated the 31st March, 2014 and was subsequently amended by notification number G.S.R. 397(E), dated the 12th June, 2014.

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सं. 114] नई दिल्ली, मंगलवार, फरवरी 24, 2015/फाल्गुन 5, 1936
No. 114] NEW DELHI, TUESDAY, FEBRUARY 24, 2015/PHALGUNA 5, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 24 फरवरी, 2015

सा.का.नि.122(अ). – केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 की उपधारा (1) और उपधारा (2) के साथ पठित धारा 396, धारा 398, धारा 399, धारा 403 और धारा 404 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (रजिस्ट्रीकरण कार्यालय और फीस) नियम, 2014 का संशोधन करने के लिए निम्नलिखित और नियम बनाती है, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (रजिस्ट्रीकरण कार्यालय और फीस) संशोधन नियम, 2015 है।

(2) ये नियम राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

(क) कंपनी (रजिस्ट्रीकरण कार्यालय और फीस) नियम, 2014 के नियम 10 के उपनियम (6) के पश्चात् उपनियम (7) अंत:स्थापित किया जाएगा अर्थात् –

"7 कारपोरेट कार्य मंत्रालय के पास इलेक्ट्रोनिक रीति से फाइल किए गए आवेदन या ई-प्ररूप या दस्तावेज के संबंध में मांगी गई कोई अतिरिक्त सूचना या दस्तावेज प्ररूप संख्या जीएनएल – 4 में परिशिष्ट के रूप में उपलब्ध कराई जाएगी।"

(ख) उपाबंध में, प्ररूप संख्या जीएनएल 3 के पश्चात् निम्नलिखित प्ररूप अंत:स्थापित किया जाएगा अर्थात्:—

प्ररूप सं. जीएनएल-4 [कंपनी (रजिस्ट्रीकरण कार्यालय और फीस) नियम, 2014 के नियम 10(7) के अनुसरण में]	सत्यमेव जयते	त्रुटियों या अपूर्णताओं के सुधार के लिए परिशिष्ट फाइल करने का प्ररूप

प्ररूप की भाषा o अंग्रेजी o हिन्दी

टिप्पण- *चिन्हित सभी भरी किया जाना आज्ञापक हैं।

1. *संगत प्ररूप (प्ररूपों) की सेवा अनुरोध संख्या (एसआरएन) ..... **(पूर्व भरा हुआ)**

(जिस प्ररूप के संबंध में परिशिष्ट फाइल किया जा रहा है उसके एसआरएन का उल्लेख करें। सुनिश्चित करें कि इस फील्ड में सही एसआरएन उल्लिखित हो और प्रणाली द्वारा नीचे दर्शाए गए ब्यौरों से सत्यापित करें)

2. (क) *एसआरएन की तारीख ..... (दिन/मास/वर्ष)

(ख) प्ररूप संख्या .....

3 (क) कंपनी की कारपोरेट पहचान संख्या (सीआईएन) ..... **(पूर्व भरा हुआ)**

या विदेशी कंपनी रजिस्ट्रीकरण संख्या (एफसीआरएन)

(ख) कंपनी की वैश्विक प्रस्थिति संख्या (जीएलएन).....

4. (क) कंपनी का नाम.....

(ख) कंपनी की भारत में रजिस्ट्रीकृत कार्यालय या प्रमुख व्यवसाय स्थान का पता

.....

(ग) इस प्ररूप को फाइल करने वाले व्यक्ति का नाम (गैर कंपनी या अभी तक निगमित नहीं की गई कंपनी के संबंध में फाइलिंग के मामले में लागू)

.....

(घ) ई-मेल आईडी .....

5. (क) कंपनी रजिस्ट्रार (आरओसी) या किसी अन्य सक्षम प्राधिकारी द्वारा बताई गई त्रुटियों या मांगी गई और सूचना के ब्यौरे

.....

.....

(ख) *त्रुटियों के सुधार या उपलब्ध कराई गई अतिरिक्त सूचना के ब्यौरे

.....

.....

6. (क) अतिरिक्त (विशेष) स्टाम्प शुल्क संदाय का एसआरएन ..... **(पूर्व भरा हुआ)**

अतिरिक्त (विशेष) स्टाम्प शुल्क के ब्यौरे

(ख) (i) स्टाम्प शुल्क की रकम ..... दस्तावेज का नाम .....

(ii) स्टाम्प शुल्क की रकम ..... दस्तावेज का नाम .....

(iii) स्टाम्प शुल्क की रकम ..... दस्तावेज का नाम .....

(यह सुनिश्चित करें कि नीचे ड्रापडाउन में दिए गए दस्तावेजों की सूची सही प्रकार के दस्तावेज का चयन किया जाए। अधिकतम पांच दस्तावेज संलग्न किए जा सकते हैं)

7. (क) दस्तावेज का प्रकार ..... **(संलग्न करें)**
(ख) दस्तावेज का प्रकार ..... **(संलग्न करें)**
(ग) दस्तावेज का प्रकार ..... **(संलग्न करें)**
(घ) दस्तावेज का प्रकार ..... **(संलग्न करें)**
(ड.) दस्तावेज का प्रकार ..... **(संलग्न करें)**

संलग्नकों की सूची

संलग्नक हटाएं

सत्यापन

मेरी सर्वोत्तम जानकारी और विश्वास के अनुसार, इस आवेदन और इसके संलग्नकों में दी गई सूचना सही और पूर्ण है।

अंकीय हस्ताक्षर किया जाए

1. निदेशक या प्रबंध निदेशक या प्रबंधक या मुख्य कार्यकारी अधिकारी या मुख्य वित्तीय अधिकारी या सचिव (भारतीय कंपनी के मामले में) या कोई प्राधिकृत प्रतिनिधि (विदेशी कंपनी के मामले में) .....
पदनाम .....
निदेशक या प्रबंध निदेशक की निदेशक पहचान संख्या (डीआईएन); .....
या प्रबंधक या सीईओ या सीएफओ या प्राधिकृत प्रतिनिधि का
आयकर पैन; या सचिव की सदस्यता संख्या, यदि लागू हो या
आयकर पैन (किसी कंपनी का कोई सचिव जो आईसीएसआई का सदस्य नहीं है, अपना
आयकर पैन दे सकता है)

2. निदेशक या प्रबंध निदेशक .....
पदनाम .....
निदेशक या प्रबंध निदेशक का डीआईएन .....

3. यदि जिस प्ररूप के संबंध में परिशिष्ट फाइल किया जा रहा है उस पर आवेदक या अभिदाता या वकील या न्यायवादी या प्लीडर या प्रभारी व्यक्ति या प्रभारधारक या एआरसी या समनुदेशिती या न्यासी या प्रतिभूतिधारक या प्राप्तकर्ता या नियुक्ति पाने वाले व्यक्ति या लेखापरीक्षक या समापक या लागत लेखापरीक्षक या चार्टर्ड अकाउंटेंट (पूर्णकालिक व्यवसायिक) या कंपनी सचिव (पूर्णकालिक व्यवसायिक) या लागत लेखाकार (पूर्णकालिक व्यवसायिक) या किसी अन्य द्वारा हस्ताक्षर किया गया हो

I. पदनाम ....
क्षमता .....
II. पदनाम ....
III. पदनाम ....

प्रमाण-पत्र

यह प्रमाणित किया जाता है कि मैंने ऊपर उल्लिखित विवरणों (संलग्नक सहित) का अभिलेखों से सत्यापन कर लिया है और उन्हें सत्य एवं सही पाया है। यह भी प्रमाणित किया जाता है कि सभी अपेक्षित संलग्नक इस प्ररूप के पूर्णतया संलग्न किए गए हैं।

- o चार्टर्ड अकाउंटेंट (पूर्णकालिक व्यवसायिक) या
- o लागत लेखाकार (पूर्णकालिक व्यवसायिक) या
- o कंपनी सचिव (पूर्णकालिक व्यवसायिक) .....

क्या सहयुक्त है या अध्येता O सहयुक्त O अध्येता

सदस्यता संख्या या व्यवसाय प्रमाण-पत्र .....

उपांतरित करें **जांच करें** **पूर्व संवीक्षा** **जमा करें**

इस प्ररूप पर प्राधिकार देने वाले अधिकारी का हस्ताक्षर अपेक्षित नहीं है क्योंकि इसे पहले से फाइल किए गए ई-प्ररूप के संबंध में फाइल किया गया है।

[फा. सं. 01/16/2013-सीएल-V (भाग-I)]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण – मूल नियम भारत के राजपत्र, भाग II, खंड 3, उपखंड (i) में सा.का.नि. 268(अ), तारीख 31 मार्च, 2014 द्वारा प्रकाशित किए गए थे और इसमें पश्चातवर्ती संशोधन सा.का.नि. 297(अ), तारीख 28 अप्रैल, 2014 द्वारा किया गया था।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 24th February, 2015

G.S.R. 122(E).—In exercise of the powers conferred by Sections 396, 398, 399, 403, and section 404, read with sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Registration Offices and Fees) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Registration Offices and Fees) Amendment Rules, 2015.

(2) In the Companies (Registration Offices and Fees) Rules, 2014,—

(a) in rule 10, after sub-rule (6), the following sub-rule shall be inserted, namely:—

"7. Any further information or documents called for, in respect of application or e-form or document, filed electronically with the Ministry of Corporate Affairs shall be furnished in Form No. GNL-4 as an addendum"

(b) in the Annexure, after Form No. GNL-3, the following Form shall be inserted, namely:—

FORM NO. GNL-4
[Pursuant to Rule 10(7) of the Companies (Registration offices and Fee) Rules, 2014]

सत्यमेव जयते

Form for filing addendum for rectification of defects or incompleteness

Form Language ○ English ○ Hindi

Note - All fields marked in *are to be mandatorily filled.

1. Service request number (SRN) of relevant form(s*) [ ] Pre-Fill

(Mention SRN of relevant form(s) in respect of which addendum is being filed. Ensure that correct SRN is mentioned in this field and verify the system displayed details below)

2. (a) Date of SRN [ ] (DD/MM/YYYY)

(b) Form number is [ ]

3. (a) Corporate identity number (CIN) or foreign company registration number (FCRN) of the company [ ]

(b) Global location number (GLN) of company [ ]

4.(a) Name of the company [ ]

(b) Address of the registered office or of the principal place of business in India of the company [ ]

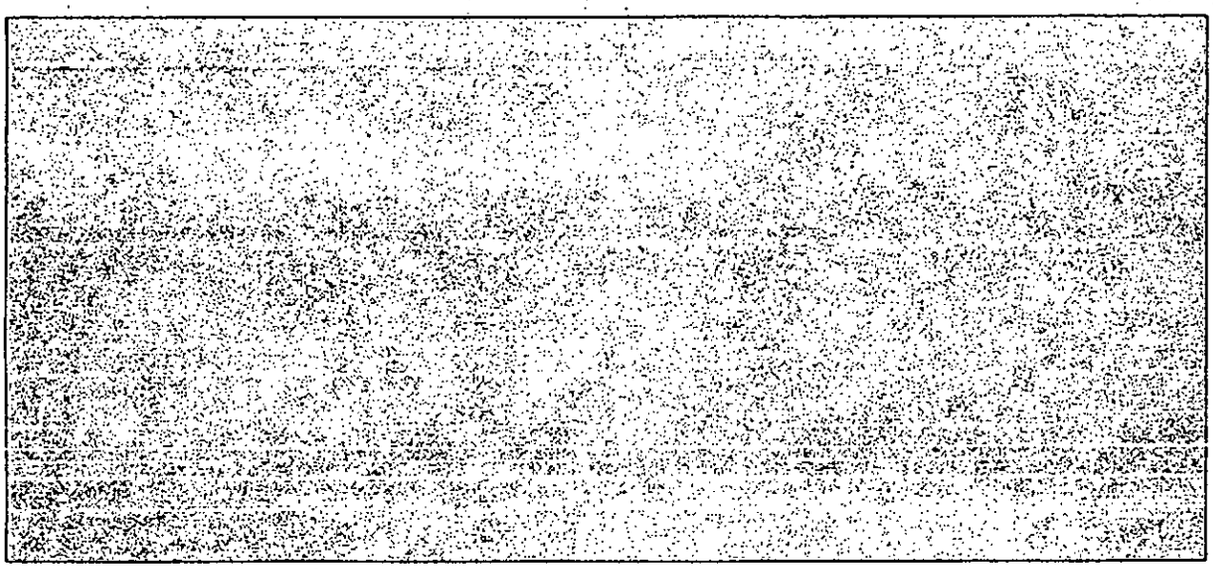
(c) Name of the person filing this form (applicable in case of filing in respect of non-company or company yet to be incorporated)

[ ]

(d) *e-mail ID [ ]

941 57 15-2

5. (a) Details of defects pointed out or further information called by the Registrar of Companies (RoC) or any other competent authority



(b) *Details of rectification of the defects or further information furnished

6. (a) SRN of additional (differential) stamp duty payment Pre Fill

Details of additional (differential) stamp duty

(b) (i) Amount of stamp duty Document name

(ii) Amount of stamp duty Document name

(iii) Amount of stamp duty Document name

(Ensure that correct type of document is selected from the list of documents given in the drop down below.

Maximum five documents can be attached).

7. (a) Type of document

(b) Type of document

(c) Type of document

(d) Type of document

(e) Type of document

List of attachments

Verification

To the best of my/our knowledge and belief, the information given above and in the attached documents is correct and complete.

To be digitally signed by

1. Director or Managing Director or manager or CEO or CFO or secretary (In case of an Indian company) or an authorised representative (In case of a foreign company)

Designation

Director identification number (DIN) of the director or Managing Director; or

Income-tax PAN of the manager or CEO or CFO or authorised representative; or

Membership number, if applicable or income-tax PAN of the secretary (secretary of a company who is not a member of ICSI, may quote his/ her income-tax PAN)

2. Director or Managing Director

Designation

DIN of the director or Managing Director

3. In case the form in respect of which addendum is being filed was signed by applicant or subscriber or advocate or attorney or pleader or person charged or chargeholder or ARC or assignee or trustee of debenture holder or receiver or person

securing appointment or auditor or liquidator or cost auditor or chartered accountant (in whole-time practice) or company secretary (in whole-time practice) or cost accountant (in whole-time practice) or others

I. Designation [redacted]

Capacity

II. Designation [redacted]

III. Designation [redacted]

Certificate

It is hereby certified that I have verified the above particulars (including attachment(s)) from the records of

and found them to be true and correct. I further certify that all required attachment(s) have been completely attached to this form.

○ Chartered accountant (in whole-time practice) or ○ Cost accountant (in whole-time practice) or ○ Company secretary (in whole-time practice) [redacted]

Whether associate or fellow ○ Associate ○ Fellow

Membership number or certificate of practice

Modify Check Form Prescrutiny Submit

This form is not required to be signed by the authorising officer as this has been filed in respect of an already filed eForm

[F. No. 01/16/2013-CL-V (Part-I)]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note:—The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), *vide* number. G.S.R. 268(E), dated the 31st March, 2014 and was last amended by notification *vide* number G.S.R 297(E), dated the 28th April, 2014.

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The Gazette of India

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कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 19 मार्च, 2015

सा.का.नि. 207(अ).—केंद्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 की उप-धारा (1) और (2) के साथ पठित धारा 108 के द्वारा शक्तियों का प्रयोग करते हुए कंपनी (प्रबंधन और प्रशासन) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (प्रबंधन और प्रशासन) संशोधन नियम, 2015 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होगें।

2. कंपनी (प्रबंधन और प्रशासन) नियम, 2014 में नियम 20 के स्थान पर निम्नलिखित नियम रखा जाएगा, अर्थात्:—

"20. **इलेक्ट्रानिक माध्यम से मतदान**—(1) इस नियम के प्रारंभ में उपबंध उन साधारण अधिवेशनों के संबंध में लागू होंगे जिनके लिए इस नियम के लागू होने की तारीख को अथवा उसके पश्चात नोटिस जारी की गई हो।

(2) भारतीय प्रतिभूति और विनिमय बोर्ड (पूंजी का निर्गम और प्रकटीकरण अपेक्षाएं) नियमन, 2009 के अध्याय Xख अथवा अध्याय Xग में उल्लिखित कंपनी से भिन्न कंपनी जिसके किसी मान्यता प्राप्त स्टॉक एक्सचेंज में सूचीबद्ध साधारण शेयर है या कोई कंपनी जिसके कम-से-कम एक हजार सदस्य है, अपने सदस्यों को साधारण बैठकों में विचार करने हेतु प्रस्तावित संकल्पों पर इलेक्ट्रानिक माध्यम से उनके मताधिकार का प्रयोग करने की सुविधा देगी।

स्पष्टीकरण- इस नियम के प्रयोजनों के लिए, पद-

(i) "अभिकरण" से नेशनल सेक्यूरिटीज डिपोजिटिरी लिमिटेड, सेंट्रल डिपोजिटीरी सर्विसेज (इंडिया) लिमिटेड अथवा कारपोरेट कार्य मंत्रालय द्वारा अनुमोदित कोई अन्य संस्था अभिप्रेत है बशर्ते नेशनल सेक्यूरिटीज डिपोजिटिरी लिमिटेड, सेंट्रल डिपोजिटीरी सर्विसेज (इंडिया) लिमिटेड अथवा कारपोरेट कार्य मंत्रालय द्वारा

अनुमोदित किसी अन्य संस्था ने मानकीकरण परीक्षण और गुणवत्ता प्रमाणन निदेशालय, सूचना प्रौद्योगिकी विभाग, संचार एवं सूचना प्रौद्योगिकी मंत्रालय, भारत सरकार से स्पष्टीकरण (vi) के अधीन निर्दिष्ट मानकों के अनुपालन सहित प्रमाणपत्र प्राप्त किया हो;

(ii) "अंतिम तारीख" उस तारीख से वह अभिप्रेत है जो इलेक्ट्रानिक माध्यम द्वारा अथवा साधारण अधिवेशन में मतदान के लिए पात्रता निर्धारित करने हेतु साधारण अधिवेशन की तारीख से कम-से-कम सात दिन पहले हो;

(iii) 'साइबर सुरक्षा' सूचना, उपकरण, युक्ति, कम्प्यूटर, कम्प्यूटर संसाधन, संचार युक्ति और उसमें भंडारण की गई सूचना की अनाधिकृत पहुंच, उपयोग, प्रकटीकरण, विघटन, परिवर्तन अथवा विनाश होने से सुरक्षित करना अभिप्रेत है;

(iv) "इलेक्ट्रानिक मतदान प्रणाली" एक ऐसी रीति से इलेक्ट्रानिक मतपत्र के प्रदर्शन, सदस्यों के मतों को दर्ज करना और पक्ष अथवा विपक्ष में डाले गए मतों की संख्या दर्शाने वाली 'सुरक्षित प्रणाली' आधारित प्रक्रिया से है कि इलेक्ट्रानिक माध्यम द्वारा किए गए संपूर्ण मतदान की पर्याप्त 'साइबर सुरक्षा' के साथ एक केंद्रीकृत सर्वर में इलेक्ट्रानिक रजिस्ट्री में रजिस्ट्रीकरण और गणना की जाए अभिप्रेत है;

(v) "दूरस्थ ई-मतदान" से ऐसा अभिप्रेत है जो किसी सदस्य द्वारा किसी साधारण अधिवेशन के स्थान से भिन्न किसी अन्य स्थान से इलेक्ट्रानिक मतदान प्रणाली का उपयोग करके मत देने की सुविधा से है;

(vi) 'सुरक्षित प्रणाली' कम्प्यूटर हार्डवेयर, सॉफ्टवेयर और प्रक्रिया से अभिप्रेत है जो –

(क) अनाधिकृत पहुंच और दुरूपयोग से युक्ति युक्त से सुरक्षित है;

(ख) विश्वसनीयता और सही परिचालन का उचित स्तर उपलब्ध कराता है;

(ग) अभिप्रेत कार्यों के निर्वाह में उचित रूप से अनुकूल है; और

(घ) साधारण रूप से स्वीकृत सुरक्षा प्रक्रियाओं का अनुपालन करता है;

(vii) "इलेक्ट्रानिक माध्यम द्वारा मतदान" "दूरस्थ ई-मतदान" सम्मिलित है जिसमें साधारण अधिवेशन में इलेक्ट्रानिक मत प्रणाली के माध्यम से किया गया मतदान है जिसे दूरस्थ ई-मतदान के लिए उपयोग किया जाए।

(3) कोई सदस्य उपनियम (2) में निर्दिष्ट संकल्पो पर इलेक्ट्रानिक माध्यम द्वारा मतदान करके अपने मताधिकार का प्रयोग कर सकता है और कंपनी इन नियम के उपबंधों के अनुसरण में ऐसे संकल्प पारित करेगी।

(4) कोई कंपनी जो अपने सदस्यो को इलेक्ट्रानिक माध्यम द्वारा मतदान करने की सुविधा देती है, को निम्नलिखित प्रक्रिया का अनुपालन करेगी, अर्थात्:-

(i) अधिवेशन की नोटिस कंपनी के सभी सदस्यों, निदेशकों और लेखापरीक्षकों को इनमें से एक द्वारा भेजी जाएगी-

(क) रजिस्ट्रीकृत डाक या स्पीड पोस्ट द्वारा; या

(ख) इलेक्ट्रानिक माध्यम से, अर्थात, प्राप्तकर्ता की रजिस्ट्रीकृत ई-मेल आईडी से; या

(ग) कुरियर सेवा द्वारा;

(ii) यह नोटिस सदस्यों को भेजने के पश्चात् कंपनी और अभिकरण की वेबसाइट, यदि कोई हो, पर भी रखी जाएगी;

(iii) अधिवेशन की नोटिस में स्पष्ट बताया जाएगा-

(अ) कि कंपनी इलेक्ट्रानिक माध्यम द्वारा मतदान की सुविधा दे रही है और उसका संव्यवहार ऐसे मतदान द्वारा किया जाएगा;

(आ) कि मतदान, चाहे इलेक्ट्रानिक मतदान प्रणाली या मतपत्र या मत दस्तावेज द्वारा हो, की सुविधा अधिवेशन में दी जाएगी और अधिवेशन में भाग लेने वाले सदस्य, जिन्होंने दूरस्थ ई-मतदान द्वारा अपना मत पहले नहीं दिया है, अधिवेशन में अपने मताधिकार का प्रयोग समर्थ कर सकेंगे।

(ग) कि जिन सदस्यों ने अधिवेशन से पहले दूरस्थ ई-मतदान द्वारा अपना मत दे दिया है, वे अधिवेशन में भाग ले सकते है किंतु अपना मत पुनः देने का पात्र नहीं होगा;

(iv) नोटिस में –

(अ) इलेक्ट्रानिक माध्यम द्वारा मतदान के लिए प्रक्रिया और रीति दर्शित जाए;

(आ) समय अवधि, सहित समय अनुसूची जिसके दौरान दूरस्थ ई-मतदान द्वारा मत डाले जाएंगे, का उपदर्शित किया जाए;

(इ) लॉगिन आईडी के बारे में ब्यौरें दिए जाएं;

(ई) पासवर्ड बनाने या प्राप्त करने और सुरक्षित रीति से मतदान करने की सृजित और रीति का विनिर्दिष्ट किया जाए।

(v) कंपनी, नियम 20 के उपनियम (4) के खंड (i) के अधीन अधिवेशन के लिए नोटिस प्रेषित करने के तत्काल बाद किंतु साधारण अधिवेशन की तारीख से कम-से-कम इक्कीस दिन पहले उस जिले, जिसमें कंपनी का रजिस्ट्रीकृत कार्यालय स्थित है, के प्रांतीय समाचार पत्र, जो उस जिले में व्यापक परिचालित होता हो, में मुख्य प्रांतीय भाषा में कम-से-कम एक बार और देशभर परिचालित होने वाले अंग्रेजी समाचारपत्र में अंग्रेजी भाषा में कम-से-कम एक बार प्रकाशित करेगी और उस विज्ञापन में अन्य के साथ-साथ निम्नलिखित विषय निर्दिष्ट किए जाएंगे, अर्थात् :-

(क) कथन के कारबार का संव्यवहार इलेक्ट्रानिक माध्यम द्वारा मतदान से किया जा सकेगा;

(ख) दूरस्थ ई-मतदान प्रारंभ करने की तारीख और समय;

(ग) दूरस्थ ई-मतदान समाप्त करने की तारीख और समय;

(घ) निर्णायक तारीख;

(ङ) पद्धति जिसकी रीति नोटिस, प्रेषित करने के बाद कंपनी के शेयर प्राप्त करने और सदस्य बनने वाले व्यक्ति लॉगिन आईडी और पासवर्ड अभिप्राप्त करेंगे;

(च) कथन कि -

(अ) उक्त समय और तारीख के परे दूरस्थ ई-मतदान की अनुज्ञात नही होगी;

(आ) रीति जिसमें कंपनी अधिवेशन में उपस्थित सदस्यों द्वारा मतदान को प्रदान देगी; और

(इ) कोई सदस्य, दूरस्थ ई-मतदान द्वारा अपने मताधिकार का प्रयोग करने के बाद भी साधारण अधिवेशन में भाग ले सकता है किंतु उसे अधिवेशन में पुनः मत देने की अनुज्ञा नहीं होगी; और

(ई) कोई व्यक्ति, जिसका नाम सदस्यों के रजिस्टर या निक्षेपकर्ताओं द्वारा रखे जाने वाले लाभप्रद स्वामियों के रजिस्टर में अंतिम तारीख तक अभिरक्षित है, को दूरस्थ ई-मतदान की सुविधा का साथ-साथ साधारण अधिवेशन में मतदान करने का पात्र होगा;

(छ) कंपनी और उस अभिकरण, के वेबसाइट का पता यदि कोई हो, का जहां अधिवेशन की नोटिस प्रदर्शित की गई है; और

(ज) इलेक्ट्रानिक तरीकें से मतदान के लिए सुविधा से संबंधित शिकायतों के निपटान हेतु उत्तरदायी व्यक्ति का नाम, पदनाम, पता, ईमेल आइडी और टेलीफोन नबंर:

परंतु सार्वजनिक नोटिस कंपनी की वेबसाइट, यदि कोई हो, के साथ-साथ अभिकरण की वेबसाइट पर रखी जाएगी;

(vi) दूरस्थ स्थानों से ई-मतदान की सुविधा कम से कम तीन दिनों तक खुली रहेगी और साधारण अधिवेशन की तारीख की पूर्व संध्या 5.00 बजे अपराह्न बंद होगी;

(vii) दूरस्थ स्थानों के लिए, ई-मतदान सुविधा जारी रहने की अवधि के दौरान यदि भौतिक रूप में या अभौतिक रूप में शेयर रखने वाले कंपनी के सदस्य, निर्णायक तारीख की स्थिति के अनुसार, दूरस्थ ई-मतदान विकल्प का उपयोग कर सकते हैं :

परंतु सदस्य द्वारा एक बार मतदान कर देने के उसे बाद में इसमें परिवर्तन या पुनः मत देने की अनुज्ञात नहीं होगी;

परंतु यह और कि दूरस्थ ई-मतदान के माध्यम अपना मतदान का उपयोग करने के बाद भी कोई सदस्य साधारण अधिवेशन में भाग ले सकता है किंतु उसे पुनः मत देने की अनुज्ञात नहीं होगी;

(viii) दूरस्थ ई-मतदान अवधि के अंत में, इस सुविधा को बंद कर दिया जाएगा:

परंतु यह कि यदि कोई कंपनी साधारण अधिवेशन के दौरान, उपयोग में लाई गई दूरस्थ ई-मतदान के समान ही इलेक्ट्रॉनिक प्रणाली उपलब्ध करने का विकल्प लेता है तो उक्त सुविधा अधिवेशन में सभी संकल्पों पर विचार करने और मतदान हो जाने तक प्रचालन में रहेगी और अधिवेशन में भाग लेने वाले तथा दूरस्थ ई-मतदान द्वारा मताधिकार का प्रयोग नहीं करने वाले सदस्यों द्वारा ही मत के लिए इसका उपयोग किया जा सकेगा।

(ix) निदेशक बोर्ड एक या अधिक संवीक्षकों की नियुक्ति करेगा जो कार्यरत चार्टर्ड अकांउटेंट, कार्यरत लागत लेखाकार या कार्यरत कंपनी सचिव या अधिवक्ता या अन्य कोई व्यक्ति हो सकता है जो कंपनी में नियोजन न हो जो प्रसिद्ध हो और बोर्ड के राय में मतदान और दूरस्थ ई-मतदान प्रक्रिया की संवीक्षा निष्पक्ष और पारदर्शी रीति से कर सके;

परंतु इस प्रकार नियुक्त संवीक्षक किसी ऐसे व्यक्ति की सहायता ले सकते हैं जो कंपनी में नियोजन में ना हो और इलेक्ट्रानिक मतदान प्रणाली से भलीभांति परिचित हो;

(x) संवीक्षक नियुक्ति का इच्छुक होना चाहिए और अपेक्षित बहुमत प्रयोजन करने के लिए उपलब्ध होना चाहिए;

(xi) अध्यक्ष, साधारण अधिवेशन में, संकल्प, जिस पर मतदान किया जाना है, पर विचार-विमर्श के अंत में नियम 21 के उपनियम (1) के खंड (क) से (ज), यथा-उपबंधित, में निर्दिष्ट मतदान की मतपत्र या मत कागजपत्र या उन सदस्यों के लिए जो साधारण अधिवेशन में उपस्थित है किंतु उन्होंने दूरस्थ ई-मतदान सुविधा का प्रयोग करते हुए अपना मत नहीं दिया है के द्वारा संवीक्षकों की सहायता के साथ अनुज्ञात देगा।

(xii) संवीक्षक साधारण अधिवेशन में मतदान के परिणामों के तत्काल बाद पहले अधिवेशन में डाले गए मतों की गणना करेंगे और उसके बाद अधिवेशन समाप्त होने के अधिकतम तीन दिन के भीतर कम-से-कम ऐसे दो साक्षी, जो कंपनी में नियोजन ना हो की उपस्थिति में दूरस्थ ई-मतदान द्वारा मत देना शुरू करेगा, पक्ष या विपक्ष में डाले गए कुल मतों, यदि हों तो उसकी समेकित संवीक्षक रिपोर्ट अध्यक्ष या उनके द्वारा प्राधिकृत किसी व्यक्ति, जो उस पर प्रतिहस्ताक्षर करेगा, प्रस्तुत करेगा।

परंतु अध्यक्ष या उसके द्वारा लिखित में प्राधिकृत व्यक्ति मतदान का परिणाम घोषित करेगा;

स्पष्टीकरण – यह स्पष्ट किया जाता है कि पद्यति जिसके अनुसार, सदस्यों ने अपना मत दिया है अर्थात्, संकल्प का प्रतिज्ञान या विरोध करने के लिए गोपनीय रहेंगी और अधिवेशन में मत डाले जाने तक अध्यक्ष, संवीक्षक या किसी अन्य व्यक्ति को उपलब्ध नहीं होगी।

(xiii) यह प्रयोजन करने के लिए, जिन सदस्यों ने अपने दूरस्थ ई-मतदान द्वारा दे दिए हैं, साधारण अधिवेशन में मत न दें, संवीक्षक को दूरस्थ ई-मतदान के लिए अवधि समाप्त होने के पश्चात् और साधारण अधिवेशन शुरू होने से पहले सदस्यों, उनके नाम, फोलियो, शेयरों की संख्या और ऐसी सूचना दी जाएगी जो संवीक्षक के लिए अपेक्षित है, जिन्होंने अपना मत दूरस्थ ई-वोटिंग के माध्यम से डाला है किंतु जिसने उस तरीके में नहीं जिससे उन्होंने अपना मत डाला था;

(xiv) संवीक्षक पुस्तिका रूप में या इलेक्ट्रानिक रूप में सम्मति या असम्मति अभिलिखित करने के लिए एक रजिस्टर रखेंगे जिसमें नाम, पता, फोलियों न. या सदस्यों की आईडी, शेयरों की संख्यां, ऐसे शेयरों का न्यूनतम मूल्य और क्या शेयरों का अंतरीय मताधिकार है, के उल्लेख दिए जाएगें:

(xv) इलेक्ट्रानिक माध्यम द्वारा मतदान संबंध रजिस्टर और अन्य सभी कागज-पत्र संवीक्षकों के पास अभिरक्षा में रहेंगे जब तक कि अध्यक्ष कार्यवृत्त पर विचार, अनुमोदित और हस्ताक्षर ना करें तथा तपश्चात् संवीक्षक कंपनी को रजिस्टर और अन्य संबंधित कागज-पत्र सौंप देंगे:

(xvi) घोषित परिणाम और संवीक्षक की रिपोर्ट कंपनी की वेबसाइट यदि हो, अभिकरण की वेबसाइट पर अध्यक्ष द्वारा परिणाम घोषित करने के तत्काल बाद रखी जाएगी;

परंतु जिन कंपनियो के साम्या शेयर किसी मान्यता प्राप्त स्टॉक एक्सचेंज में सूचीबद्ध है, इस मामले में कंपनी साथ ही साथ परिणामों संबंधित, स्टॉक एक्सचेंज या एक्सचेंजों को भी भेजेगी जहां उसके साम्यता शेयर सूचीबद्ध है और ऐसे स्टॉक एक्सचेंज परिणाम अपनी वेबसाइट पर रखेगें।

(xvii) अपेक्षित संख्या में मत प्राप्त होने के अधीन, संकल्प संबंधित साधारण अधिवेशन की तारीख को पारित समझा जाएगा।

स्पष्टीकरण- इस खंड के प्रयोजन के लिए मतो की अपेक्षित संख्या अधिनियम की धारा 114 के अधीन 'साधारण संकल्प' या 'विशेष संकल्प' के रूप में संकल्प पारित करने के लिए अपेक्षित मत होंगे।

(xviii) इलेक्ट्रानिक माध्यम द्वारा मतदान से विचार के लिए प्रस्तावित संकल्प को वापस लिया हुआ नहीं माना जाएगा।"

[फा. सं. 01/34/2013-सीएल-V-भाग-II]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण.—मूल नियम भारत के राजपत्र, असाधारण, भाग-II, खंड 3, उप-खंड (i) में सा.का.नि. संख्या 260(अ) तारीख 31 मार्च, 2014 द्वारा प्रकाशित किए गए थे और तत्पश्चात में सा.का.नि. 415(अ) तारीख 23 जून, 2014 और सा.का.नि. 537(अ) तारीख 24 जुलाई, 2014 द्वारा संशोधित किया गया।

1320 GI/15-2

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 19th March, 2015

G.S.R. 207(E).—In exercise of the powers conferred by section 108 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Management and Administration) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Management and Administration) Amendment Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Management and Administration) Rules, 2014, for rule 20, the following rule shall be substituted, namely:—

"20. **Voting though electronic means.**— (1) The provisions of this rule shall apply in respect of the general meetings for which notices are issued on or after the date of commencement of this rule.

(2) Every company other than a company referred to in Chapter XB or Chapter XC of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 having its equity shares listed on a recognised stock exchange or a company having not less than one thousand members, shall provide to its members facility to exercise their right to vote on resolutions proposed to be considered at general meetings by electronic means.

Explanation.— For the purposes of this rule, the expression—

(i) "agency" means the National Securities Depository Limited, the Central Depository Services (India) Limited or any other entity approved by the Ministry of Corporate Affairs subject to the condition that the National Securities Depository Limited, the Central Depository Services (India) Limited or such other entity has obtained a certificate from the Standardisation Testing and Quality Certification Directorate, Department of Information Technology, Ministry of Communications and Information Technology, Government of India including with regard to compliance with parameters specified under Explanation (vi);

(ii) "cut-off date" means a date not earlier than seven days before the date of general meeting for determining the eligibility to vote by electronic means or in the general meeting;

(iii) "cyber security" means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosures, disruption, modification or destruction;

(iv) ''electronic voting system'' means a secured system based process of display of electronic ballots, recording of votes of the members and the number of votes polled in favour or against, in such a manner that the entire voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralised server with adequate cyber security;

(v) ''remote e-voting'' means the facility of casting votes by a member using an electronic voting system from a place other than venue of a general meeting;

(vi) ''secured system'' means computer hardware, software, and procedure that –

(a) are reasonably secure from unauthorised access and misuse;

(b) provide a reasonable level of reliability and correct operation;

(c) are reasonably suited to performing the intended functions; and

(d) adhere to generally accepted security procedures;

(vii) "voting by electronic means" includes "remote e-voting" and voting at the general meeting through an electronic voting system which may be the same as used for remote e-voting.

(3) A member may exercise his right to vote through voting by electronic means on resolutions referred to in sub-rule (2) and the company shall pass such resolutions in accordance with the provisions of this rule.

(4) A company which provides the facility to its members to exercise voting by electronic means shall comply with the following procedure, namely:—

(i) the notice of the meeting shall be sent to all the members, directors and auditors of the company either—

(a) by registered post or speed post ; or

(b) through electronic means, namely, registered e-mail ID of the recipient; or

(c) by courier service;

(ii) the notice shall also be placed on the website, if any, of the company and of the agency forthwith after it is sent to the members;

(iii) the notice of the meeting shall clearly state—

(A) that the company is providing facility for voting by electronic means and the business may be transacted through such voting;

(B) that the facility for voting, either through electronic voting system or ballot or polling paper shall also be made available at the meeting and members attending the meeting who have not already cast their vote by remote e-voting shall be able to exercise their right at the meeting;

(C) that the members who have cast their vote by remote e-voting prior to the meeting may also attend the meeting but shall not be entitled to cast their vote again;.

(iv) the notice shall —

(A) indicate the process and manner for voting by electronic means ;

(B) indicate the time schedule including the time period during which the votes may be cast by remote e-voting;

(C) provide the details about the login ID;

(D) specify the process and manner for generating or receiving the password and for casting of vote in a secure manner.

(v) the company shall cause a public notice by way of an advertisement to be published, immediately on completion of despatch of notices for the meeting under clause (i) of sub-rule (4) but at least twenty-one days before the date of general meeting, at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and having a wide circulation in that district, and at least once in English language in an English newspaper having country-wide circulation, and specifying in the said advertisement, *inter alia*, the following matters, namely:-

(a) statement that the business may be transacted through voting by electronic means ;

(b) the date and time of commencement of remote e-voting;

(c) the date and time of end of remote e-voting;

(d) cut-off date;

(e) the manner in which persons who have acquired shares and become members of the company after the despatch of notice may obtain the login ID and password;

(f) the statement that—

(A) remote e-voting shall not be allowed beyond the said date and time;

(B) the manner in which the company shall provide for voting by members present at the meeting; and

(C) a member may participate in the general meeting even after exercising his right to vote through remote e-voting but shall not be allowed to vote again in the meeting; and

(D) a person whose name is recorded in the register of members or in the register of beneficial owners maintained by the depositories as on the cut-off date only shall be entitled to avail the facility of remote e-voting as well as voting in the general meeting;

(g) website address of the company, if any, and of the agency where notice of the meeting is displayed; and

(h) name, designation, address, email id and phone number of the person responsible to address the grievances connected with facility for voting by electronic means:

Provided that the public notice shall be placed on the website of the company, if any, and of the agency;

(vi) the facility for remote e-voting shall remain open for not less than three days and shall close at 5.00 p.m. on the date preceding the date of the general meeting;

(vii) during the period when facility for remote e-voting is provided, the members of the company, holding shares either in physical form or in dematerialised form, as on the cut-off date, may opt for remote e-voting:

Provided that once the vote on a resolution is cast by the member, he shall not be allowed to change it subsequently or cast the vote again:

Provided further that a member may participate in the general meeting even after exercising his right to vote through remote e-voting but shall not be allowed to vote again;

(viii) at the end of the remote e-voting period, the facility shall forthwith be blocked:

Provided that if a company opts to provide the same electronic voting system as used during remote e-voting during the general meeting, the said facility shall be in operation till all the resolutions are considered and voted upon in the meeting and may be used for voting only by the members attending the meeting and who have not exercised their right to vote through remote e-voting.

(ix) the Board of Directors shall appoint one or more scrutinisers, who may be Chartered Accountant in practice, Cost Accountant in practice, or Company Secretary in practice or an Advocate, or any other person who is not in employment of the company and is a person of repute who, in the opinion of the Board can scrutinise the voting and remote e-voting process in a fair and transparent manner:

Provided that the scrutinisers so appointed may take assistance of a person who is not in employment of the company and who is well-versed with the electronic voting system;

(x) the scrutiniser shall be willing to be appointed and be available for the purpose of ascertaining the requisite majority;

(xi) the Chairman shall, at the general meeting, at the end of discussion on the resolutions on which voting is to be held, allow voting, as provided in clauses (a) to (h) of sub-rule (1) of rule 21, as applicable, with the assistance of scrutinisers, by use of ballot or polling paper or by using an electronic voting system for all those members who are present at the general meeting but have not cast their votes by availing the remote e-voting facility.

(xii) the scrutinisers shall, immediately after the conclusion of voting at the general meeting, first count the votes cast at the meeting, thereafter unblock the votes cast through remote e-voting in the presence of at least two witnesses not in the employment of the company and make, not later than three days of conclusion of the meeting, a consolidated scrutiniser's report of the total votes cast in favour or against, if any, to the Chairman or a person authorised by him in writing who shall countersign the same:

Provided that the Chairman or a person authorised by him in writing shall declare the result of the voting forthwith;

Explanation.—It is hereby clarified that the manner in which members have cast their votes, that is, affirming or negating the resolution, shall remain secret and not available to the Chairman, Scrutiniser or any other person till the votes are cast in the meeting.

(xiii) For the purpose of ensuring that members who have cast their votes through remote e-voting do not vote again at the general meeting, the scrutinisers shall have access, after the closure of period for remote e-voting and before the start of general meeting, to details relating to members, such as their names, folios, number of shares held and such other information that the scrutinisers may require, who have cast votes through remote e-voting but not the manner in which they have cast their votes:

(xiv) the scrutinisers shall maintain a register either manually or electronically to record the assent or dissent received, mentioning the particulars of name, address, folio number or client ID of the members, number of shares held by them, nominal value of such shares and whether the shares have differential voting rights;

(xv) the register and all other papers relating to voting by electronic means shall remain in the safe custody of the scrutinisers until the Chairman considers, approves and signs the minutes and thereafter, the scrutinisers shall hand over the register and other related papers to the company.

(xvi) the results declared along with the report of the scrutiniser shall be placed on the website of the company, if any, and on the website of the agency immediately after the result is declared by the Chairman :

Provided that in case of companies whose equity shares are listed on a recognised stock exchange, the company shall, simultaneously, forward the results to the concerned stock exchange or exchanges where its equity shares are listed and such stock exchange or exchanges shall place the results on its or their website.

(xvii) subject to receipt of requisite number of votes, the resolution shall be deemed to be passed on the date of the relevant general meeting.

Explanation.—For the purposes of this clause, the requisite number of votes shall be the votes required to pass the resolution as the 'ordinary resolution' or the 'special resolution', as the case may be, under section 114 of the Act.

(xviii) a resolution proposed to be considered through voting by electronic means shall not be withdrawn."

[F. No. 01/34/2013-CL-V- Part-II]

AMARDEEP S. BHATIA, Jt. Secy.

Note.—The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 260(E), dated the 31st March, 2014 and subsequently amended *vide* number G.S.R. 415(E), dated the 23rd June, 2014 and *vide* number G.S.R. 537(E), dated the 24th July, 2014.

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The Gazette of India

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कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 31 मार्च, 2015

सा.का.नि. 241(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 की उपधारा (1) के साथ पठित धारा 73 और धारा 76 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कंपनी (जमा की स्वीकृति) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :-

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (जमा की स्वीकृति) संशोधन नियम, 2015 है।

(2) ये नियम राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कंपनी (जमा की स्वीकृति) नियम, 2014 में, -

(1) नियम 2 के उपनियम (1) के खंड (ग) में, -

(क) उपखंड (vii) के स्पष्टीकरण (क) में, निम्नलिखित परंतुक अंत:स्थापित किया जाएगा, अर्थात् :—

"परंतु कंपनी अधिनियम, 1956 (1956 का 1) या भारतीय प्रतिभूति और विनिमय बोर्ड अधिनियम, 1992 (1992 का 15) या उसके अधीन बनाए गए नियमों या विनियमों के अधीन जबतक कि अन्यथा अपेक्षित न हो, किसी कंपनी द्वारा 01 अप्रैल, 2014 से पूर्व किसी शेयर, स्टॉक, बांड या प्रतिभूति के अंशदान द्वारा प्राप्त और 31 मार्च, 2014 को या उसके पूर्व समाप्त वित्तीय वर्ष के लिए तुलन पत्र में प्रकट की गई किसी राशि, जिसके लिए आवंटन 31 मार्च, 2015 को लंबित हो, के मामले में कोई शेयर, स्टॉक, बांड या प्रतिभूति निर्धारित अवधि में आवंटित करने के लिए कंपनी, 01 जून, 2015 तक या तो उन व्यक्तियों को ऐसी राशि वापस करेगी जिनसे यह प्राप्त की गई थी या शेयर, स्टॉक, बांड या प्रतिभूति आवंटित करेगी या इन नियमों का अनुपालन करेगी।"

(ख) उपखंड (xii) के मद (ख) में -

(अ) "सम्पत्ति के प्रतिफल" शब्दों के स्थान पर "स्थावर संपत्ति के प्रतिफल" शब्द रखे जाएंगे;

(आ) "संपत्ति के प्रति" शब्दों के स्थान पर "ऐसी संपत्ति के प्रति" शब्द रखे जाएंगे;

(ग) उपखंड (xii) के स्पष्टीकरण में "प्रथम परंतुक में निर्दिष्ट" शब्दों के स्थान पर "परंतुक में निर्दिष्ट" शब्द रखे जाएंगे;

(2) नियम 3 में उपनियम (7) के पश्चात् निम्नलिखित उपनियम अंत:स्थापित किया जाएगा, अर्थात् :-

"(8) प्रत्येक पात्र कंपनी, वर्ष में कम-से-कम एक बार उसके द्वारा स्वीकार की गई जमा के लिए क्रेडिट रेटिंग नीचे विनिर्दिष्ट रीति में प्राप्त करेगी और उस रेटिंग की एक प्रति प्ररूप डीपीटी-3 में जमा की विवरणी के साथ कंपनी रजिस्ट्रार को प्रेषित करेगी;

अभिकरण का नाम	न्यूनतम निवेश ग्रेड रेटिंग
(क) द क्रेडिट रेटिंग इंफॉरमेशन सर्विसेज ऑफ इंडिया लिमिटेड	एफए - (एफए मायनस)
(ख) आईसीआरए लिमिटेड	एमए - (एमए मायनस)
(ग) क्रेडिट एनालेसिस एंड रिसर्च लिमिटेड	सीएआरई बीबीबी(एफडी)
(घ) फिच रेटिंग्स इंडिया प्राइवेट लिमिटेड	टीए–(इंड) (एफडी)
(ड.) ब्रिकवर्क रेटिंग्स इंडिया प्राइवेट लिमिटेड	बीडब्ल्यूआर एफ ए
(च) एसएमई रेटिंग एजेंसी ऑफ इंडिया लिमिटेड	एसएमईआरए ए"

(3) नियम 5 के उपनियम (1) के परंतुक के स्थान पर निम्नलिखित परंतुक रखा जाएगा, अर्थात्:-

"परंतु कंपनियां 31 मार्च, 2016 तक या किसी जमा बीमा उत्पाद की उपलब्धता तक, जो भी पूर्वतर हो, बिना जमा बीमा संविदा के जमा स्वीकार कर सकेगी।"

(4) उपाबंध में, प्ररूप "डीपीटी-3" के स्थान पर, निम्नलिखित प्ररूप रखा जाएगा, अर्थात् :-

प्ररूप डीपीटी 3

जमा की विवरणी

[कंपनी नियम (जमा की स्वीकृति) नियम, 2014 के नियम 16 के अनुसरण में]

1. (क) सीआईएन:
   (ख) जीएलएन:

2. (क) कंपनी का नाम:
   (ख) रजिस्ट्रीकृत कार्यालय का पता:
   (ग) ई-मेल:

3. कंपनी की किस्म
   पब्लिक कंपनी
   प्राइवेट कंपनी

4. क्या कंपनी सरकारी कंपनी है:

हां

नहीं

5. कंपनी के उद्देश्य:

6. (क) विज्ञापन या परिपत्र जारी करने की तारीख:

(ख) लेखों समापन की पिछली तारीख:

(ग) विज्ञापन या परिपत्र की वैधता समाप्त होने की तारीख:

7. रिटर्न की तिथि से पूर्व पिछले लेखापरीक्षित तुलन-पत्र के अनुसार शुद्ध मूल्य-

(क) (i) संदत्त शेयर पूंजी

(ii) मुक्त आरक्षित

(ख) (i) संचित हानि

(ii) आस्थगित राजस्व व्यय का शेष

(iii) संचित अनुपलब्धता अवमूल्यन

(iv) विविध व्यय और प्रारंभिक व्यय

(v) अन्य अमूर्त आस्तियां

(ग) शुद्ध मूल्य (क-ख)

(घ) जमा की अधिकतम सीमा (अर्थात् सरकारी कंपनी के मामलों में उपर्युक्त का 35% या अन्यों के मामले में 25%)

8. जमा के विवरण (शेयरधारकों और अन्यों से प्राप्त जमा के संबंध में अलग-अलग दिए जाने हैं)

(क) 1 अप्रैल को वर्तमान जमा की रकम

(ख) वर्ष के दौरान स्वीकृत या नवीकरण की गई जमा की रकम

(i) प्रतिभूति जमा

(ii) प्रतिभूति रहित जमा

(ग) वर्ष के दौरान पुनः सद्त जमा की रकम

(घ) वर्ष के अंत में बकाया जमा का शेष (क+ख-ग)

9. बकाया जमा का विवरण:-

विशिष्टियां	जमा प्राप्ति की तारीख	ब्याज दर	.....के पश्चात् पुन: संदाय किया जाना है

10. (क) जमा की रकम जो देय हो गई है परंतु जिसका दावा नहीं किया गया है:

(ख) जमा की रकम जो देय हो गई है और दावा की गई लेकिन जिसका संदाय नहीं किया गया है:

11. नकद आस्तियों के विवरण

(क) अगले वर्ष और उसके अगले वर्ष 31 मार्च से पहले देय होने वाली जमा की रकम:

(ख) नकद आस्तियों में निवेश के लिए अपेक्षित रकम:

(ग) नकद आस्तियों के विवरण:

	निवेश/जमा की तारीख	रकम
(क) किसी अधिसूचित बैंक में प्रभार या अधिकार मुक्त चालू या अन्य जमा खाते में रकम		
(ख) केंद्रीय/राज्य सरकार की प्रभार मुक्त प्रतिभूतियां		
प्रत्यक्ष मूल्य		
बाजार मूल्य		
(ग) प्रभार मुक्त न्यास प्रतिभूतियां		
प्रत्यक्ष मूल्य		
बाजार मूल्य		

12. जमा बीमा के विवरण:

(क) जमा बीमा संविदा पर हस्ताक्षर करने की तारीख

(ख) बीमाकर्ता का नाम

(ग) संदेय प्रीमियम

(घ) प्रीमियम का संदाय कब तक किया गया है:

(ङ) प्रत्येक जमाकर्ता के लिए अधिकतम सीमा

13. प्रभार के विवरण

(क) न्यास विलेख पर हस्ताक्षर करने की तारीख

(ख) न्यासी का नाम

(ग) संपत्ति के संक्षिप्त विवरण जिस पर जमाकर्ताओं की सुरक्षा के लिए प्रभार लगाया गया है

(घ) संपत्ति का मूल्य

14. प्राप्त की गई क्रेडिट रेटिंग

क्रेडिट रेटिंग देने वाला .....

रेटिंग .....

हस्ताक्षर

तारीख

स्थानः

संलग्नकः

1. लेखापरीक्षक का प्रमाण-पत्र;
2. जमा बीमा संविदा;
3. न्यास विलेख की प्रति;
4. प्रभार लगाने की लिखत की प्रति;
5. जमाकर्ताओं के नाम, पता, जमा की गई रकम, वर्ष के दौरान संदत्त और बकाया, शोध्य ब्याज, वित्त वर्ष की समाप्ति पर शोध्य संदेय ब्याज तथा पृथक रूप से उन जमा को जो परिपक्व नहीं हुए हैं, परिपक्व हो गए हैं, जिनका दावा किया गया है, संदाय किया गया है और परिपक्व हो गए हैं, जिनका दावा किया गया है किंतु संदाय नहीं किया गया है और परिपक्व हो गए हैं किंतु संदाय के लिए दावा नहीं किया गया है को उपदर्शित करते हुए सूची। परिपक्व जमा, जारी किए गए चेक, किंतु जिनका समाशोधन नहीं किया गया है को पृथक: उपदर्शित किया जाएगा।
6. प्राप्त की गई रेटिंग की प्रति।
7. वैकल्पिक संलग्नक, यदि कोई हो।

[फा. सं. 1/8/2013-सीएल-V]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पणी.– मूल नियम भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उपखंड (i) में सा.का.नि. 256(अ), तारीख 31 मार्च, 2014 द्वारा प्रकाशित किया गया था और सा.का.नि. संख्या 386(अ) तारीख 06 जून, 2014 द्वारा इसमें बाद में संशोधन किया गया था।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 31st March, 2015

G.S.R. 241(E).—In exercise of the powers conferred by Sections 73 and 76 read with sub-section (1) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Acceptance of Deposits) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Acceptance of Deposits) Amendment Rules, 2015.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Companies (Acceptance of Deposits) Rules, 2014,—

(1) in rule 2, in sub-rule (1), in clause (c),—

(a) in sub-clause (vii), in Explanation (a), the following proviso shall be inserted, namely:—

"Provided that unless otherwise required under the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or rules or regulations made thereunder to allot any share, stock, bond, or debenture within a specified period, if a company had received any amount by way of subscriptions to any shares, stock, bonds or debentures before the 1st April, 2014 and disclosed it in the balance sheet for the financial year ending on or before the 31st March, 2014 against which the allotment is pending on the 31st March, 2015, the company shall, by the 1st June 2015, either return such amounts to the persons from whom these were received or allot shares, stock, bonds or debentures or comply with these rules."

(b) in sub-clause (xii), in item (b),—

(A) for the words "consideration for property", the words "consideration for an immovable property" shall be substituted;

(B) for the words "against the property", the words "against such property" shall be substituted;

(c) in sub-clause (xii), in the Explanation, for the words "referred to in the first proviso", the words "referred to in the proviso" shall be substituted;

(2) in rule 3, after sub-rule (7), the following sub-rule shall be inserted, namely:-

"(8) Every eligible company shall obtain, at least once in a year, credit rating for deposits accepted by it in the manner specified herein below and a copy of the rating shall be sent to the Registrar of Companies alongwith the return of deposits in Form DPT-3;

Name of the agency	Minimum investment Grade Rating
(a) The Credit Rating Information Services of India Ltd.	FA- (FA Minus)
(b) ICRA Ltd.	MA- (MA Minus)
(c) Credit Analysis and Research Ltd.	CARE BBB(FD)
(d) Fitch Ratings India Private Ltd.	tA-(ind)(FD)
(e) Brickwork Ratings India Pvt. Ltd.	BWR F A
(f) SME Rating Agency of India Ltd.	SMERA A"

(3) in rule 5, in sub-rule (1), for the proviso, the following proviso shall be substituted, namely:—

"Provided that the companies may accept deposits without deposit insurance contract till the 31st March, 2016 or till the availability of a deposit insurance product, whichever is earlier."

(4) in Annexure, for Form "DPT-3" the following form shall be substituted, namely:—

Form DPT-3

Return of deposits

[Pursuant to rule 16 of the Companies (Acceptance of Deposits) Rules, 2014]

1. (a) CIN:

   (b) GLN:

2. (a) Name of the company:

   (b) Registered office address:

   (c) E-mail Id:

3. Whether the company is

   Public company

   Private company

4. Whether the company is a Government company:

YES

NO

5. Objects of the company:

6. (a) Date of issue of advertisement or circular:

(b) Date of last closing of accounts:

(c) Date of expiry of validity of advertisement or circular:

7. Net Worth as per the latest audited balance sheet preceding the date of the return-

(a) (i) Paid up share capital

(ii) Free reserves

(b) (i) Accumulated loss

(ii) Balance of deferred revenue expenditure

(iii) Accumulated unprovided depreciation

(iv) Miscellaneous expense and preliminary expenses

(v) Other intangible assets

(c) Net worth (a-b)

(d) Maximum limit of deposits (i.e., 35% of the above in case of Government Company or 25% in case of others)

8. Particulars of deposits(to be furnished in respect of deposits from shareholders and others separately)

(a) Amount of existing deposits as at 1st April

(b) Amount of deposits accepted or renewed during the year

(i) Secured deposits

(ii) Unsecured deposits

(c) Amount of deposits repaid during the year

(d) Balance of deposits outstanding at the end of the year (a+b-c)

9. Details of outstanding deposits:

Particulars	Date of receipt of deposit	Rate of interest	Repayable after .....

10. (a) Amount of deposits that have matured but not claimed:

(b) Amount of deposits that have matured and claimed but not paid:

11. Particulars of liquid assets

(a) Amount of deposits maturing before 31st March next year and following next year:

(b) Amount required to be invested in liquid assets:

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(c) Details of liquid assets—

	Date of investment/deposit	Amount
(a) Amount in current or other deposits account, free from charge or lien, with any scheduled bank		
(b) Unencumbered securities of Central/State Government Face value Market value		
(c) Unencumbered trust securities Face value Market value		

12. Particulars of deposit insurance:

(a) Date of entering into deposit insurance contract

(b) Name of the insurer

(c) Premium payable

(d) Premium paid upto:

(e) Maximum ceiling limit for every depositor

13. Particulars of charge

(a) Date of entering into trust deed

(b) Name of the trustee

(c) Short particulars of the property on which charge is created for securing depositors

(d) Value of the property

14. Credit Rating obtained

From: _____

Rating: _____

Date: Signature

Place:

Attachment:

1. Auditor's certificate;
2. Deposit insurance contract;
3. Copy of trust deed;
4. Copy of instrument creating charge;
5. List of depositors indicating name, address, amount deposited, repaid during the year and outstanding, interest due, paid and payable as at the close of the Financial Year and separately indicating deposits not yet matured,

matured, claimed and paid and matured, claimed but not paid and matured but not claimed for payment. List of deposits matured, cheques issued but not yet cleared to be shown separately.

6. Copy of rating obtained.

7. Optional attachment, if any.

[F. No. 1/8/2013-CL-V]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note.—The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 256(E), dated the 31st March, 2014 and were subsequently amended vide number G.S.R. 386(E), dated the 6th June, 2014.

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कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 1 मई, 2015

सा.का.नि. 349(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 की उपधारा (1) और उपधारा (2) के साथ पठित धारा 3, धारा 4, धारा 5 की उपधारा (5) और उपधारा (6), धारा 6, धारा 7 की उपधारा (1) और उपधारा (2), धारा 8 की उपधारा (1) और उपधारा (2), धारा 11 की उपधारा (1) के खण्ड (क) और (ख), धारा 12 की उपधारा (2), उपधारा (3), उपधारा (4) और उपधारा (5) तथा धारा 13 की उपधारा (3), उपधारा (4) और उपधारा (5) के परन्तुक, धारा 14 की उपधारा (2), धारा 17 की उपधारा (1) और धारा 20 की उपधारा (1) और उपधारा (2) का प्रयोग करते हुए कंपनी (निगमन) नियम, 2014 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (निगमन) संशोधन नियम, 2015 है।

(2) यह नियम राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कंपनी (निगमन) नियम, 2014 में -

(क) नियम 5 का लोप किया जाएगा।

1942 GI/15—1A

(ख) नियम 6 में उपनियम (1) में "पचास लाख रुपए से अधिक हो या संगत अवधि के दौरान उसका औसत वार्षिक कारोबार" पद के स्थान पर "पचास लाख रुपए **और** उससे कम और संगत अवधि के दौरान उसका औसत वार्षिक कारोबार" शब्द रखे जाएंगे;

(ग) नियम 7 के उपनियम (1) में "समादत्त शेयर पूंजी पचास लाख रुपए या उससे कम हो या जिसका वार्षिक औसत कारोबार, संगत अवधि के दौरान" पद के स्थान पर "समादत्त शेयर पूंजी पचास लाख रुपए या उससे कम हो **और** वार्षिक औसत कारोबार, संगत अवधि के दौरान" शब्द रखे जाएंगे;

(घ) नियम 7 के पश्चात् निम्नलिखित नियम अंत:स्थापित किए जाएंगे, अर्थात् -

"**7क शास्ति.** यदि कोई एकल व्यक्ति कंपनी या ऐसी कंपनी का कोई अधिकारी इन नियमों के किसी उपबंध का उल्लंघन करता है तो ऐसी एकल व्यक्ति कंपनी या ऐसी कंपनी का वह अधिकारी जुर्माने के साथ दंड का पात्र होगा जो पांच हजार रुपए तक हो सकता है और ऐसे उल्लंघन के जारी रहने के लिए प्रथम अपराध के दिन से प्रतिदिन पांच सौ रुपए तक का और जुर्माना लगाया जा सकता है"।

(ङ) नियम 8 के उपनियम (2) के खंड (ख) के उपखंड (xi) के परंतुक में "अधिनियम की धारा 248 के अंतर्गत" शब्दों और अंकों के के पश्चात् "या कंपनी अधिनियम, 1956 (1956 का 1) की धारा 560 के अंतर्गत" शब्द, अंक और कोष्ठक अंत:स्थापित किए जाएंगे;

(च) नियम 16 के उपनियम (1) के खंड (थ) के स्थान पर निम्नलिखित रखा जाएगा -

"(थ) प्रवर्तक या प्रथम निदेशक का स्वप्रमाणित नमूना हस्ताक्षर और नवीनतम फोटोग्राफ निर्धारित प्ररूप संख्या आई.एन.सी.-10 में होगा"।

(छ) नियम 35 के पश्चात् निम्नलिखित नियम अंत:स्थापित किया जाएगा, अर्थात् -

"**36. निगमन के लिए एकीकृत प्रक्रिया** - (1) कंपनी के निगमन के लिए प्ररूप भरने के सरलीकरण के प्रयोजन के लिए इस नियम के उपबंध एकीकृत प्रक्रिया के संबंध में 1 मई, 2015 से लागू होंगे।

(2) उपनियम (1) के प्रयोजनों के लिए, एकीकृत प्रक्रिया के प्रयोजनार्थ तीन निदेशकों की निदेशक पहचान संख्या (डीआईएन) के आवंटन के लिए, नाम का आरक्षण, कंपनी के निगमन और प्रस्तावित कंपनी के निदेशकों की नियुक्ति के लिए आवेदन कंपनी (रजिस्ट्रीकरण कार्यालय और फीस) नियम, 2014 में यथाविनिर्दिष्ट रजिस्ट्रीकरण फीस के साथ दो हजार

रुपए के साथ कंपनी के रजिस्ट्रीकृत कार्यालय के प्रस्तावित स्थान के क्षेत्राधिकार वाले रजिस्ट्रार के पास एकीकृत **प्ररूप संख्या आईएनसी-29 (एकल व्यक्ति कंपनी, प्राइवेट कंपनी, पब्लिक कंपनी और उत्पादक कंपनी के लिए)** के माध्यम से किया जाएगा।

(3) एकीकृत निगमन प्ररूप फाइल करने के प्रयोजनों के लिए अधिकतम तीन निदेशकों की विशिष्टियां आईएनसी-29 में फाइल किए जाएँगे और यदि प्रस्तावित निदेशकों के पास अनुमोदित डीआईएन नहीं है तो आईएनसी-29 में अधिकतम तीन प्रस्तावित निदेशकों को डीआईएन के आवंटन की अनुज्ञा होगी।

(4) प्रस्तावित कंपनी के प्रवर्तक या आवेदक (आवेदकों) को ई-प्ररूप संख्या आईएनसी-29 में मात्र एक नाम का प्रस्ताव करने की अनुज्ञा होगी।

(5) प्रस्तावित कंपनी के प्रवर्तक या आवेदक आईएनसी-30 में दिए नमूने के अनुसार संगम-ज्ञापन तैयार कर सकते हैं और संगम-ज्ञापन और संगम अनुच्छेद तैयार करने के लिए नियम 13 के उपबंधों के अनुसार प्ररूप आईएनसी-31 में संगम अनुच्छेद के नमूने का विकल्प चुन सकते हैं।

(6) प्रवर्तक या आवेदक कारपोरेट कार्य मंत्रालय की वेबसाइट से डाउनलोड किए गए और पठनीय रूप से स्कैन किए गए प्ररूपों में संगम-ज्ञापन और संगम अनुच्छेद पर हस्ताक्षर और साक्षी करेगा और संगम-ज्ञापन और संगम अनुच्छेद तैयार करने के लिए नियम 13 के उपबंधों के अनुसार ई-प्ररूप आईएनसी-29 में संलग्न करेगा।

(7) प्ररूप आईएनसी-29 में निगमन के लिए एकीकृत आवेदन फाइल करने की सुविधा इन नियमों में यथाउपबंधित अनुसार निदेशक पहचान संख्या (डीआईएन) आवंटन, नाम आरक्षण और कंपनी के निगमन के लिए अलग आवेदनों की प्रक्रिया के विकल्प के रूप में उपलब्ध रहेगी।

(8) इस नियमों में उपबंधित अनुसार, निगमन के लिए एकीकृत प्रक्रिया का उपयोग करते हुए कोई आवेदन फाइल करने के लिए अधिनियम की धारा 4 की उपधारा (5) के उपखंड (i) और इन नियमों के नियम 9 के उपबंध लागू नहीं होंगे।

(9) इस नियम के उपबंधों का उपयोग करने वाली कोई कंपनी ई-प्ररूप आईएनसी-29 फाइल करके अधिनियम की धारा 12 की उपधारा (2) के अधीन उसके रजिस्ट्रीकृत कार्यालय का सत्यापन उपलब्ध कराने का विकल्प चुन सकती है, और ऐसे मामले में कंपनी (ऐसे ई-प्ररूप आईएनसी-29 के साथ) नियम 25 के उपनियम 2 में निर्दिष्ट कोई दस्तावेज संलग्न कर सकती है।

(10) ई-प्ररूप आईएनसी-22 को फाइल करने की अपेक्षा समाप्त कर दी जाएगी, यदि प्रस्तावित कंपनी दिए हुए पत्राचार पते पर उसका रजिस्ट्रीकृत कार्यालय रखती है।

(11) कंपनी के प्रस्तावित रजिस्ट्रीकृत कार्यालय के क्षेत्राधिकार वाला रजिस्ट्रार पहचान संख्या के आवंटन के लिए आवेदन (आवेदनों) सहित आईएनसी-29 पर प्रक्रिया करेगा।

(12)(क) जहां रजिस्ट्रार, ई-प्ररूप आईएनसी-29 की जांच पर, और अधिक सूचना मंगाना आवश्यक समझता है या किसी संबंध में ऐसे आवेदन या दस्तावेज को त्रुटिपूर्ण या अपूर्ण पाता है तो वह वहां आवेदक को त्रुटि का समाधान करने की सूचना देगा और रजिस्ट्रार द्वारा दी गई ऐसी सूचना की तारीख से पंद्रह दिनों के भीतर ई-प्ररूप पुन: जमा करने के लिए कहेगा।

(ख) दस्तावेज पुन: जमा किए जाने के पश्चात् भी यदि रजिस्ट्रार किसी मामले में दस्तावेज को त्रुटिपूर्ण या अपूर्ण पाता है, तो वह ऐसी त्रुटियों या कमियों को दूर करने के लिए पंद्रह दिन का एक और अवसर प्रदान करेगा।

(ग) यदि रजिस्ट्रार ऐसी दो अवसर देने के बाद भी किन्हीं मामलों में दस्तावेज त्रुटिपूर्ण या अपूर्ण पाता है तो प्रस्तावित ई-कंपनी का ई-प्ररूप आईएनसी-29 अस्वीकार कर दिया जाएगा।

(13) रजिस्ट्रार द्वारा निगमन सबूत-पत्र प्ररूप संख्या आईएनसी-11 में जारी किया जाएगा।

(ज) उपाबंध में, प्ररूप संख्या आईएनसी-11 में "और कंपनी (निगमन) नियम, 2014 के नियम 8" शब्दों, अंकों और कोष्ठकों के स्थान पर "और कंपनी (निगमन) नियम, 2014 के नियम 18" शब्द, अंक और कोष्ठक रखे जाएँगे।

(झ) उपाबंध में,--

(क) प्ररूप संख्या आईएनसी-7, आईएनसी-10, आईएनसी-11, आईएनसी-22 के लिए क्रमशः निम्नलिखित 22 रखे जाएंगे, अर्थात् -

अभिदायियों के नाम, पते, विवरण और उपजीविकाएं	साक्षी (नाम, पता, विवरण तथा उपजीविका के साथ)
क,ख ..... का वणिक	मेरे समक्ष हस्ताक्षरित हस्ताक्षर
ग,घ ..... का वणिक	मेरे समक्ष हस्ताक्षरित हस्ताक्षर
ङ,च ..... का वणिक	मेरे समक्ष हस्ताक्षरित हस्ताक्षर
छ,ज ..... का वणिक	मेरे समक्ष हस्ताक्षरित हस्ताक्षर
झ,ञ ..... का वणिक	मेरे समक्ष हस्ताक्षरित हस्ताक्षर
ट,ठ ..... का वणिक	मेरे समक्ष हस्ताक्षरित हस्ताक्षर
ड,ढ ..... का वणिक	मेरे समक्ष हस्ताक्षरित हस्ताक्षर

तारीख ..... मास ..... 20 .....

स्थान .....

[फा. सं. 1/13/2013/सीएल-V(पार्ट-I)]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण – मूल नियम सा.का.नि. 250(अ) तारीख 31 मार्च, 2014 द्वारा भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (i) में प्रकाशित किए गए थे ।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 1st May, 2015

G.S.R. 349(E).—In exercise of the powers conferred by section 3, section 4, sub-sections (5) and (6) of section 5, section 6, sub-section (1) and (2) of section 7, sub-sections (1) and (2) of section 8, clauses (a) and (b) of sub-section (1) of section11, sub-sections (2), (3), (4) and (5) of section 12, sub-sections (3), (4) and the proviso to sub-section (5) of section 13, sub-section (2) of section 14, sub-section (1) of section 17, sub-sections (1) and (2) of section 20 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following amendments to the Companies (Incorporation) Rules, 2014, namely: -

1. (1) These rules may be called the Companies (Incorporation) Amendment Rules, 2015.

   (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Incorporation) Rules, 2014,-

   (a) rule 5 shall be omitted;

   (b) in rule 6, in sub-rule (1), for the words "exceeds fifty lakh rupees or its average annual turnover during the relevant period", the words "exceeds fifty lakh rupees **and** its average annual turnover during the relevant period" shall be substituted;

   (c) in rule 7, in sub-rule (1), for the words "having paid up share capital of fifty lakhs rupees or less or average annual turnover, during the relevant period", the words "having paid up share capital of fifty lakhs rupees or less **and** average annual turnover during the relevant period" shall be substituted;

   (d) after rule 7, the following rules shall be inserted; namely:-

"7A. **Penalty.-** If a One Person Company or any officer of such company contravenes any of the provisions of these rules, the One Person Company or any officer of the such Company shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to five hundred rupees for every day after the first offence during which such contravention continues";

(e) in rule 8, in sub-rule (2), in clause (b), in sub-clause (xi), in the proviso, after the words and figures "under section 248 of the Act", the words, figures and brackets "or under section 560 of the Companies Act, 1956 (1 of 1956)" shall be inserted;

(f) in rule 16, in sub-rule (1), for clause (q), the following shall be substituted, namely:-

"(q) the promoter or first director shall self attest his signature and latest photograph in Form No.INC.10".

(g) after rule 35, the following rule shall be inserted, namely: -

"36. **Integrated Process for Incorporation**.-(1) For the purpose of simplifying the filing of forms for incorporation of a company, the integrated process shall apply with effect from **01/05/2015**.

(2) For the purposes of sub-rule (1), the application for allotment of Director Identification Number upto three Directors, reservation of a name, incorporation of company and appointment of Directors of the proposed company shall be filed in Integrated **Form No. INC-29,for One Person Company, private company, public company and Producer Company**, with the Registrar within whose jurisdiction the registered office of the company is proposed to be situated, along with the fee of rupees two thousand in addition to the registration fee as specified in Companies (Registration of Offices and Fees) Rules, 2014.

(3) For the purposes of filing Integrated Incorporation form, the particulars of maximum of three directors shall be allowed to be filled in INC-29 and allotment of Director Identification Number of maximum of three proposed directors shall be permitted in Form INC-29 in case of proposed directors not having approved Director Identification Number.

(4)The promoter or applicant of the proposed company shall propose only one name in e-form No. INC-29.

(5) The promoter or applicant of the proposed company may prepare Memorandum of Association as per templates in Form INC-30 and may opt for templates of Articles of Association in Form INC-31 in accordance with the provisions of rule 13 for preparation of Memorandum of Association and Article of Association.

(6) The promoter or the applicant shall sign and witness, the Memorandum of Association and Articles of Association in the forms downloaded from the portal of the Ministry of Corporate Affairs and scanned legibly and attach to e-form INC-29 in accordance with the provisions of rule 13 for preparation of Memorandum of Association and Articles of Association.

(7) The facility to file Integrated application for incorporation in Form INC-29 is available as an option to the process for separate applications for allotment of Director Identification Number, reservation of name and Incorporation of a company as provided in these rules.

(8) For an application filed using the Integrated process of incorporation as provided in this rule, the provisions of sub-clause (i) of sub-section (5) of section 4 of the Act and rule 9 of these rules shall not apply.

(9) A company using the provisions of this rule may furnish verification of its registered office under sub-section (2) of section 12 of the Act by filing e-Form INC-29 in which case the company shall attach along with such e-Form INC-29, any of the documents referred to in sub-rule (2) of rule 25.

(10) The requirement of filing e-form INC-22 may be dispensed with if, the proposed company maintains its registered office at the given correspondence address.

(11) The Registrar within whose jurisdiction the registered office of the company is proposed to be situated shall process INC-29 including application for allotment of Director Identification Number.

(12) (a) Where the Registrar, on examining e-form INC-29, finds that it is necessary to call for further information or finds such application or document to be defective or incomplete in any respect, he shall give intimation to the applicant to remove the defects and re-submit the e-form within fifteen days from the date of such intimation given by the Registrar.

(b) After the resubmission of the document, if the registrar still finds that the document is defective or incomplete in any respect, he shall give one more opportunity of fifteen days to remove such defects or deficiencies.

(c) In case, the Registrar is of the opinion that the document is defective or incomplete in any respect after giving such two opportunities, the e-form INC-29 of the proposed company shall be rejected.

(13) The Certificate of Incorporation shall be issued by the Registrar in Form No. INC-11".

(h) in Annexure, in Form No. INC-11, for the words, figures and brackets "and rule 8 of the Companies (Incorporation) Rules, 2014", the words, figures and brackets "and rule 18 of the Companies (Incorporation) Rules, 2014", shall be substituted.

(i) in Annexure,-

(a) for Form No. INC-7, INC-10, INC-11 and INC-22, the following form shall, respectively be substituted, namely:-

FORM NO. INC-7

[Pursuant to Section 7(1) of the Companies Act, 2013 and pursuant to Rule 10, 12, 14, and 15 of the Companies (Incorporation) Rules, 2014]

सत्यमेव जयते

Application for Incorporation of Company (Other than OPC)

Form language o English o Hindi

Refer the instruction kit for filing the form.

1. *Service Request Number (SRN) of Form INC-1 [ ] Pre-Fill

2. (a) Name of the company

(b) Type of Company is (c) Class of Company

(d) Category (e) Sub category

(f) Section 8 license number

*(g) Company is O Having share capital O Not having share capital

3. (a) Name of the state/Union territory in which the company is to be registered

(b) Name of the office of the Registrar of Companies in which the company is to be registered

(c) *Whether the address for correspondence will be the address of Registered office of the Company

o Yes o No

(d) Address for correspondence till the registered office of the company is established

*Line I

Line II

*City

*State/Union Territory

*District *Pin code

ISO Country code

Country

*Phone (With STD code) 91 - -

Fax

*email ID of the company

4. I. *Capital structure of the company

(a) Authorized capital of the company (in Rs.)

(i) No. of classes of equity shares Total number of equity shares

Total amount of equity shares (in Rs.)

Number of equity shares	Nominal amount per equity share	Total amount of equity shares

(i) No. of classes of equity shares [ ] Total number of preference shares [ ]

Total amount of preference shares (in Rs.) [ ]

Number of equity shares	Nominal amount per equity share	Total amount of equity shares

(b) Subscribed capital of the company (in Rs.) [ ]

(i) No. of classes of equity shares [ ] Total number of equity shares [ ]

Total amount of equity shares (in Rs.) [ ]

Number of equity shares	Nominal amount per equity share	Total amount of equity shares

(i) No. of classes of equity shares [ ] Total number of preference shares [ ]

Total amount of preference shares (in Rs.) [ ]

Number of equity shares	Nominal amount per equity share	Total amount of equity shares

II. *Details of number of members

(a) Enter the maximum number of members [ ]

(b) Maximum number of members excluding proposed employees [ ]

(c) Number of members [ ]

(d) Number of members excluding proposed employee(s) [ ]

5. *Main division of industrial activity of the company [ ]

Description of the main division [ ]

6. *(a) Whether the proposed company shall be conducting any activities which require approval from any sectoral regulator (Like RBI in case of NBFI and Banking activities) to commence such activities

o Yes o No

(b) If yes, please enter the name of such Regulatory authority and proposed activity. [ ]

7. *Enter the number of promoters (first subscribers to the Memorandum of Association (MOA)) [ ]

Particulars of Promoters (first subscribers to the MOA)

*Category

* Director Identification number(DIN) or Income -tax permanent account number (Income- tax PAN) or passport number or corporate identity number(CIN) Or foreign company registration number(FCRN) or any other registration number

Pre-Fill | Verify Details

*First Name

Middle Name

*Surname

Family Name

*o Father's Name o Mother's Name o Spouse's name

*Nationality *Date of Birth

*Gender ◻ Male ◻ Female ◻ Transgender

*Place of Birth (District & State)

*Occupation type ◻Self Employed ◻Professional ◻Homemaker ◻Student ◻Serviceman

*Area of Occupation

*Educational qualification

*Name of the entity

Income tax permanent Account Number (PAN)

Permanent Address/Registered address/Principal place of business

*Line I

Line II

*City

*State /Union Territory *Pin code

*ISO Country code

Country

*Phone (With STD/ISD code) -

Mobile

Fax

*email id

*Whether present address is same as the permanent address ◻ Yes ◻ No

Present Address

*Line I

Line II

*City

*State/Union Territory *Pin code

*ISO Country code

Country

*Phone(With STD/ISD code).

Mobile

Fax

*Duration of stay at present address Years Months

If Duration of stay at present address is less than one year then address of previous residence

*Proof of Identity

*Residential Proof

If already a director or promoter of a company(s), specify details of such company(s) (In case director or promoter in more than three companies, attach seperate sheet as an optional attachment)

Director ☐ Promoter ☐ CIN

Name of the company

Director ☐ Promoter ☐ CIN

Name of the company

Director ☐ Promoter ☐ CIN Pre-fill all

Name of the company

* Number of shares subscribed * Total amount of shares subscribed (in Rs.)

* Particulars of authorised person

a) Name of the authorised person

b) o Father's Name o Mother's Name o Spouse's name

c) Gender o Male o Female o Transgender

d) Nationality f) Date of Birth

f) Phone (With STD/ISD code) -

g) email ID

8. (a) *Whether the Articles are entrenched or not o Yes o No

(If yes, entrenched Articles should be annexed thereto)

(b) Number of Articles to which provisions of entrenchment shall be applicable

Details of Articles to which provisions of entrenchment shall be applicable

Sr. No.	Article Number	Content

9. **Particulars of payment of stamp duty**

(a) State or Union territory in respect of which stamp duty is paid or to be paid | Pre-Fill

(b) *Whether stamp duty is to be paid electronically through MCA21 system ◯ Yes ◯ No ◯ Not applicable

(i) Details of stamp duty to be paid

Type of document/ Particulars	Form INC-7	Memorandum of association	Articles of association
Amount of stamp duty to be paid (in Rs.)			

(ii) Provide details of stamp duty already paid

Type of document/ Particulars	Form INC-7	Memorandum of association	Articles of association	Others
Total amount of stamp duty paid (in Rs.)				
Mode of payment of stamp duty				
Name of vendor or Treasury or Authority or any other competent agency authorised to collect stamp duty or to sell stamp papers or to emboss the documents or to dispense stamp vouchers on behalf of the Government				
Serial number of embossing or stamps or stamp paper or treasury challan number				
Registration number of vendor				
Date of purchase of stamps or stamp paper or payment of stamp duty (DD/MM/YYYY)				
Place of purchase of stamps or stamp paper or payment of stamp duty				

10. Additional Information for applying Permanent Account Number (PAN) and Tax Deduction Account Number (TAN)**

Information specific to PAN

Area code			AO type		Range code			AO No.			

Information specific to TAN

Area code	AO type	Range code	AO No.

Source of Income

□ Income from Business/profession □ Capital Gains □ Income from house property

□ Income from other source □ No Income

Business/Profession code

11. Additional Information for Employer registration under Employee State Insurance Corporation (ESIC)

Type of Unit □ Factory □ Establishment

Exact nature of Work/ Business carried on: Drop Down

Work Sub category: Drop Down

**** This information is mandatorily required to be filled in case of applicants desirous of applying for PAN and or TAN at the time of incorporation of a company. This facility is available at the e-Biz portal only as per separate procedure prescribed by e-Biz portal.**

Attachments

1)	*Memorandum of association	Attach
2)	*Articles of association	Attach
3)	*Declaration in Form No. INC-8	Attach
4)	*Affidavit from each of the subscriber to the memorandum in Form No. INC-9	Attach
5)	*Proof of residential address	Attach
6)	Specimen Signature in Form INC-10	Attach
7)	Proof of identity	Attach
8)	Entrenched Articles of association	Attach
9)	Copy of In-principle approval granted by sectoral regulator if already taken	Attach
10)	NOC in case there is change in the promoters (first subscribers to Memorandum of Association)	Attach
11)	Proof of nationality (in case the subscriber is a foreign national)	Attach
12)	PAN card (in case of Indian national)	Attach
13)	Copy of certificate of incorporation of the foreign body corporate and registered office address	Attach
14)	Copy of resolution/consent by all the partners or board resolution authorizing to subscribe to MOA	Attach
15)	Optional attachment, if any	Attach

Declaration

I * a person named in the articles as a declare that all the requirements of the Companies Act, 2013 and the rules made thereunder in respect to the registration of the company and matters precedent or incidental thereto have been complied with. I am authorized by other promoters subscribing to the Memorandum of

Association and Articles of Association and the first directors to give this declaration and to sign and submit this Form. It is further declared and verified that:

1. Whatever is stated in this form and in the attachments thereto is true, correct and complete and no information material to the subject matter of this form has been suppressed or concealed and is as per the original records maintained by the promoters subscribing to the Memorandum of Association and Articles of Association.
2. I have opened all the attachments to this Form and have verified these to be as per requirements, complete and legible.
3. I, _____ *a/an* _____ having Membership number _____ and/or certificate of practice number _____ has been engaged to give declaration under section 7(1) (b) and such declaration is attached.

I, _____, the applicant, in the capacity of _____ do hereby declare that what is stated above is true to the best of my information and belief.

***To be digitally signed by** DSC BOX

Designation _____

*DIN of the director, or DIN or Income tax PAN of the manager or Membership number of the company secretary _____

Note: Attention is drawn to provisions of section 7(5) and 7(6) which, *inter-alia*, provides that furnishing of any false or incorrect particulars of any information or suppression of any material information shall attract punishment for fraud under Section 447. Attention is also drawn to provisions of section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively.

Modify | Check Form | Prescrutiny | Submit

For office use only:

Attach filing details

eForm Service request number (SRN) _____ eForm filing date _____ (DD/MM/YYYY)

This e-Form is hereby registered

Digital signature of the authorising officer _____ Confirm submission

Date of signing _____ (DD/MM/YYYY)

Form No. INC – 10

Form for verification of signature of subscribers
[Pursuant to rule 16 (1) (q) of Companies (Incorporation) Rules, 2014]

Size 4'*4' (passport size)

1. Names, Father's name and address of subscribers/first directors:

2. Two Specimen signatures:

(i)

(ii)

Attestation
(To be self-attested with address)

Note:
1. In point no. 1 above, strike off whichever is not applicable.
2. Person who is attesting should indicate his/her name, address and ID number,

Form No. INC-11

Certificate of Incorporation

[Pursuant to sub- section (2) of section7 of the Companies Act, 2013 and rule 18 and sub-rule (13) of rule 36 of the Companies (Incorporation) Rules, 2014]

I hereby certify that .....(name of the company) is incorporated on this ..... day of ..... two thousand ..... under the Companies Act, 2013 and that the company is limited by shares / limited by guarantee/ unlimited company.

The CIN of the company is .....

Given under my hand at ..... this ..... day of ..... two thousand .....

SEAL: .....

Registrar of Companies
.....
(State)

FORM NO. INC-22

[Pursuant to section 12(2) & (4) of The Companies Act, 2013 and Rule 25 and 27 of The Companies (Incorporation) Rules 2014]

सत्यमेव जयते

Notice of situation or change of situation of registered office

Form language o English o Hindi
Refer the instruction kit for filing the form.

1. *This Form is for o New company o Existing company

2. *(a) Corporate identity number (CIN) of company or SRN of Form No. INC-1 [ ] Pre-fill
   (b) Global location number (GLN) of company [ ]

3. (a) Name of the company [ ]
   (b) Address of the registered office of the company
   [ ]
   (c) Name of the office of existing Registrar of Companies (RoC) [ ]
   (d) *Purpose of the form
   - ☐ Change within local limits of city, town or village
   - ☐ Change outside local limits of city, town or village, within the same RoC and state
   - ☐ Change in RoC within the same state
   - ☐ Change in state within the jurisdiction of same RoC
   - ☐ Change in state outside the jurisdiction of existing RoC

4. Notice is hereby given that
   *(a) The address of the registered office of the company with effect from
   o [ ] (DD/MM/YYYY) is
   o The date of incorporation of company is
   *Address Line I [ ]
   Line II [ ]
   * City [ ]
   * District [ ]
   * State/Union Territory [ ]
   Country [ ]
   *Pin code [ ]
   *Phone (with STD Code) 91 - [ ] [ ]
   *email ID [ ]

   (b) *Registered office is
   o Owned by company o Owned by director (Not taken on lease by company)

o Taken on lease by company o Owned by any other entity/Person(Not taken on lease by company)

(c) *Name of office of proposed RoC or new RoC

(d) Full address of the police station under whose jurisdiction the registered office is situated

*Name

*Address Line I

Address Line II

*City

State/Union Territory

*Pin code

(e) *Particulars of the Utility Services Bill depicting the address of the registered office (not older than two months)

5. (a) *SRN of Form MGT-14

(b) *SRN of Form No. INC-28

(c) *Date of order of the Central Government (DD/MM/YY)

Attachments

(1) *Proof of Registered Office address (Conveyance/ Lease deed/Rent Agreement along with the rent receipts) etc.; Attach

(2) *Copies of the utility bills as mentioned above (not older than two months); Attach

(3) *A proof that the Company is permitted to use the address as the registered office of the Company if the same is owned by any other entity/ Person (not taken on lease by company); Attach

(4) *Copy of order of competent authority; Attach

(5) List of all the companies (specifying their CIN) having the same registered office address, if any; Attach

(6) Optional attachment, if any.

List of Attachments

Remove attachment

Declaration

I *

☐ A person named in the articles as a (Drop down: director / manager / Company Secretary) of the company

☐ have been authorized by the Board of Directors of the company vide resolution number dated

to sign this form and declare that

☐ *all the requirements of The Companies Act, 2013 and the rules made thereunder in respect of the subject matter of this form and matters incidental thereto have been complied with.

☐ *I also declare that all the information given herein above is true, correct and complete including the attachments to this form and nothing material has been suppressed.

☐ It is hereby further certified that (Small description box), a (Drop down) {Values: Chartered Accountant/ Company Secretary/ Cost Accountant} having Membership number and certificate of practice number certifying this form has been duly engaged for this purpose.

*To be digitally signed by DSC BOX

*Designation

*Director Identification number of the director; or DIN or PAN of the manager or CEO or CFO; or Membership number of the Company secretary

Certificate by practicing professional

I declare that I have been duly engaged for the purpose of certification of this form. It is hereby certified that I have gone through the provisions of The Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original records maintained by the company which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that:

1. The said records have been properly prepared, signed by the required officers of the company and maintained as per the relevant provisions of The Companies Act, 2013 and were found to be in order;
2. I have opened all the attachments to this Form and have verified these to be as per requirements, complete and legible;
3. I further declare that I have personally visited the registered office given in the form at the address mentioned herein above and verified that the said registered office of the company is functioning for the business purposes of the company.

To be digitally signed by DSC BOX

◯ Chartered accountant (in whole-time practice) or ◯ Cost accountant (in whole-time practice) or

◯ Company secretary (in whole-time practice)

Whether associate or fellow ◯ Associate ◯ Fellow

Membership number

Certificate of practice number

Note: Attention is drawn to provisions of Section 448 and 449 which provide for punishment for false statement / certificate and punishment for false evidence respectively.

Modify | Check Form | Presorutiny | Submit

For office use only:

Affixing details

eForm Service request number (SRN) eForm filing date (DD/MM/YYYY)

Digital signature of the authorising officer

This e-Form is hereby registered Confirm submission

Date of signing (DD/MM/YYYY)

OR

This eForm has been taken on file maintained by the registrar of companies through electronic mode and on the basis of statement of correctness given by the filing company

(b) after Form No. INC-28, the following forms shall be inserted, namely:-

FORM NO. INC-29 — Integrated Incorporation Form

(Pursuant to sections 4,7,12, 152 and 153 of the Companies Act, 2013 read with rules made thereunder)

Form language o English o Hindi

Refer the instruction kit for filing the form.

1. (a) *State the type of company
   (b) *State the class of company o Public o Private o One Person Company
   (c) *State the category of company
   (d) *State the sub-category of company
   (e) *Company is ☐ Having share capital ☐ Not having share capital
2. (a) *Main division of industrial activity of the company
   Description of the main division
   (b) *Whether standard template of Memorandum of Association (MoA) as prescribed under schedule I to the Companies Act, 2013 is opted for adoption o Yes o No
   (c) (i) *Whether standard template of Articles of Association (AoA) as prescribed under schedule I to the Companies Act, 2013 is opted for adoption o Yes o No
   (ii) Whether Articles of Association is entrenched o Yes o No
   (iii) Number of Articles to which provisions of entrenchment shall be applicable
   Details of such articles

Sr. No.	Article Number	Short description on entrenchment of the clause

3. (i) *Capital structure of the company
   Total authorized share capital (in Rupees)

Authorized share capital	Equity	Preference	Unidentified
Number of shares			
Nominal amount per share (in Rupees)			
Total amount (in Rupees)			

Total subscribed share capital (in Rupees)

Subscribed share capital	Equity	Preference
Number of shares		
Nominal amount per share (in Rupees)		
Total amount (in Rupees)		

(ii) *Details of number of members

(a) Enter the maximum number of members	
(b) Maximum number of members excluding proposed employees	
(c) Number of members	
(d) Number of members excluding proposed employee(s)	

4. (a) *Correspondence address

*Line I

Line II

*City

*State/Union Territory * Pin code

*District

*Phone (with STD code) -

Fax

*email ID of the company

(b) *Whether the address for correspondence is the address of registered office of the company o Yes o No

(c) *Name of the office of the Registrar of Companies in which the proposed company is to be registered

5. *Particulars of the proposed name

(a)

Proposed name	
Significance of abbreviated or coined word in the proposed name	
State the name of the vernacular language(s) if used in the proposed name and meaning thereof	

(b)

(i) *Whether the promoters are carrying on any Partnership firm, sole proprietary or unregistered entity in the name as applied for If yes, whether the business of such entity shall be acquired	o Yes o No o Yes o No
(ii) *Whether the proposed name contains name of any person other than the promoter(s) or their close blood relative(s)	o Yes o No
(iii) *Whether the proposed name includes the name of relative(s)	o Yes o No
(iv) *Whether approval from any sectoral regulator is required	o Yes o No

(v) Whether the name is similar to o Existing Indian Company o Foreign body corporate
[Attach the copy of No Objection Certificate by way of Board resolution (duly attested by a director of that company)]

Provide CIN Pre-fill

Name of the Company

(c) (i) *Whether the proposed name is based on a registered trademark or is subject matter of an application pending for registration under the Trade Marks Act o Yes o No

(ii) *Specify the class(s) of trade mark (refer the instruction kit for details)

(iii) *Furnish the particulars of application and the approval of the applicant or owner of the trade mark

6. (a) *Number of first subscriber(s) to MOA and directors of the company

	Having valid DIN	Not having valid DIN
Total number of directors (including subscriber cum director)		
Number of individual first subscriber(s) cum director(s)		
Number of individual first subscriber(s) other than subscriber cum director		
Number of non-individual first subscriber(s)		

(b) *Particulars of directors (other than first subscribers)

I

*Director Identification number (DIN) Pre-Fill

*Name

*Gender *Date of Birth *Nationality

*Designation *Category

Whether ☐ Chairman ☐ Executive director ☐ Non-executive director

*Name of the company or institution whose nominee the appointee is

*email ID

Number of entities in which director have interest (Need not to mention if such entity is having CIN/FCRN/LLPIN)

*Registration number		
*Name		
*Address		
Nature of interest	*Designation	
	Percentage of Shareholding	Amount
	Others (specify)	

1

*First Name

Middle Name

*Surname

*Father's first name

Father's middle name

*Father's surname

*Gender | *Date of Birth | *Nationality

*Place of Birth

*Whether citizen of India o Yes o No *Whether resident in India o Yes o No

*Occupation type o Self Employed o Professional o Homemaker o Student o Serviceman

*Area of Occupation

If 'Others' selected, please specify

*Educational Qualification

* □ PAN □ Passport number

*Designation *Category

Whether □ Chairman □ Executive director □ Non-executive director

*Name of the company or institution whose nominee the appointee is

*email ID

Permanent Address

*Line I

Line II

*City

* State/ Union Territory *Pin code

*ISO Country code Country

*Phone (with STD/ISD code) -

*Whether present residential address same as permanent residential address o Yes o No

Present address

*Line I

Line II

*City

*State/ Union Territory *Pin code

*ISO Country code Country

*Phone (with STD/ISD code) -

*Duration of stay at present address Years Months

If Duration of stay at present address is less than one year then address of previous residence

*Proof of Identity *Residential Proof

Voter's identity card number

Driving license number

Aadhaar Number

Submit the proof of identity and proof of address under attachments.

Number of entities in which director have interest

*Registration number	
*Name	
*Address	
Nature of interest	*Designation
	Percentage of Shareholding / Amount
	Others (specify)

(c) *Particulars of individual first subscriber(s) cum directors

I

*Director Identification number (DIN) Pre-Fill

*Name

*Gender *Date of Birth *Nationality

*Designation *Category

Whether ☐ Chairman ☐ Executive director ☐ Non-executive director

*Name of the company or institution whose nominee the appointee is

*email ID

Kind of shares subscribed	Number of subscribed shares	Amount of shares subscribed
Equity shares		
Preference shares		

Number of entities in which director have interest (Need not to mention if such entity is having CIN/FCRN/LLPIN)

*Registration number	
*Name	
*Address	
Nature of interest	*Designation
	Percentage of Shareholding / Amount
	Others (specify)

I

*First Name

Middle Name

*Surname

*Father's first name

Father's middle name

*Father's surname

*Gender *Date of Birth *Nationality

*Place of Birth

*Whether citizen of India o Yes o No *Whether resident in India o Yes o No

*Occupation type o Self Employed o Professional o Homemaker o Student o Serviceman

*Area of Occupation

If 'Others' selected, please specify

*Educational Qualification

* □ PAN □ Passport number

*Designation *Category

Whether □ Chairman □ Executive director □ Non-executive director

*Name of the company or institution whose nominee the appointee is

*email ID

Permanent Address

*Line I

Line II

*City

* State/ Union Territory *Pin code

*ISO Country code Country

*Phone (with STD/ISD code) -

*Whether present residential address same as permanent residential address o Yes o No

Present address

*Line I

Line II

*City

*State/ Union Territory *Pin code

*ISO Country code Country

*Phone (with STD/ISD code

*Duration of stay at present address Years Months

If Duration of stay at present address is less than one year then address of previous residence

*Proof of identity *Residential Proof

Voter's Identity card number	
Driving license number	
Aadhaar Number	

Submit the proof of identity and proof of address under attachments.

Kind of shares subscribed	Number of subscribed shares	Amount of shares subscribed
Equity shares		
Preference shares		

Number of entities in which director have interest

*Registration number	
*Name	
*Address	
Nature of interest	*Designation
	Percentage of Shareholding / Amount
	Others (specify)

(d) *Particulars of individual first subscriber(s) (other than subscriber cum director)

I

*Director Identification number (DIN) Pre-Fill

*Name

Kind of shares subscribed	Number of subscribed shares	Amount of shares subscribed
Equity shares		
Preference shares		

I

*First Name	
Middle Name	
*Surname	
*Father's first name	
Father's middle name	
*Father's surname	
*Gender / *Date of Birth / *Nationality	
*Place of Birth	

*Occupation type o Self Employed o Professional o Homemaker o Student o Serviceman

*Area of Occupation

If 'Others' selected, please specify

*Educational Qualification

* □ PAN □ Passport number

*email ID

Permanent Address

*Line I

Line II

*City

* State/ Union Territory *Pin code

*ISO Country code Country

*Phone (with STD/ISD code) -

*Whether present residential address same as permanent residential address o Yes o No

Present address

*Line I

Line II

*City

*State/ Union Territory *Pin code

*ISO Country code Country

*Phone (with STD/ISD code

*Duration of stay at present address Years Months

If Duration of stay at present address is less than one year then address of previous residence

*Proof of identity *Residential Proof

Submit the proof of identity and proof of address under attachments.

Kind of shares subscribed	Number of subscribed shares	Amount of shares subscribed
Equity shares		
Preference shares		

(e) *Particulars of non-individual first subscriber(s)

*Category

*Corporate identity number(CIN) or foreign company registration number(FCRN) or any other registration number Pre-Fill

*Name of the body corporate

Registered office address or Principal place of business in India or Principal place of business outside India

*Line I

Line II

*City

*State /Union Territory *Pin code

*ISO Country code

Country

*Phone (With STD/ISD code) -

Fax

*email Id

Particulars of the authorised person

*First Name

Middle Name

*Surname

*Father's First Name

Father's Middle Name

*Father's Surname

* Gender *Date of Birth *Nationality

*Income tax PAN Verify Details

*Place of Birth (District & State)

*Occupation type

*Area of Occupation

*Educational qualification

Present Address

*Line I

Line II

*City

*State /Union Territory *Pin code

ISO Country code

Country

*Phone (With STD/ISD code) -

Mobile

Fax

*email Id

Kind of shares subscribed	Number of subscribed shares	Amount of shares subscribed
Equity shares		
Preference shares		

7. (a) ***Nomination**

I *

the subscriber to the memorandum of association of

do hereby nominate *

who shall become the member of the company in the event of my death or incapacity to contract. I declare that the nominee is eligible for nomination within the meaning of Rule 3 of the Companies (Incorporation) Rules, 2014.

(b) *Particulars of the Nominee

Director Identification number(DIN) Pre-Fill

*First Name

Middle Name

*Surname

*Father's First Name

Father's Middle Name

*Father's Surname

*Gender *Date of Birth Nationality

*Income- tax PAN Verify Details

*Place of Birth (District & State)

*Occupation type

*Area of Occupation

*Educational qualification

Permanent Address

*Line I

Line II

*City

*State /Union Territory *Pin code

*ISO Country code

Country

*Phone (With STD/ISD code) -

Mobile

Fax

*email id

*Whether present address is same as the permanent address ☐ Yes ☐ No

Present Address

*Line I

Line II

*City

*State/Union Territory *Pin code

*ISO Country code

Country

Phone (With STD/ISD code)

Mobile

Fax

*Duration of stay at present address Years Months

If Duration of stay at present address is less than one year then address of previous residence

*Proof of identity *Residential Proof

8. Particulars of payment of stamp duty

(a) State or Union territory in respect of which stamp duty is paid or to be paid | Pre-Fill

(b) *Whether stamp duty is to be paid electronically through MCA21 system ◯ Yes ◯ No ◯ Not applicable

(i) Details of stamp duty to be paid

Type of document/ Particulars	Form	Memorandum of association	Articles of association
Amount of stamp duty to be paid (in Rs.)			

(ii) Provide details of stamp duty already paid

Type of document/ Particulars	Form	Memorandum of association	Articles of association	Others
Total amount of stamp duty paid (in Rs.)				
Mode of payment of stamp duty				
Name of vendor or Treasury or Authority or any other competent agency authorised to collect stamp duty or to sell stamp papers or to emboss the documents or to dispense stamp vouchers on behalf of the Government				
Serial number of embossing or stamps or stamp paper or treasury challan number				
Registration number of vendor				
Date of purchase of stamps or stamp paper or payment of stamp duty (DD/MM/YYYY)				
Place of purchase of stamps or stamp paper or payment of stamp duty				

9. Additional Information for applying Permanent Account Number (PAN) and Tax Deduction Account Number (TAN)**

Information specific to PAN

Area code	AO type	Range code	AO No.

Information specific to TAN

Area code	AO type	Range code	AO No.

Source of Income

□ Income from Business/profession □ Capital Gains □ Income from house property

□ Income from other source □ No Income

Business/Profession code

10. Additional Information for Employer registration under Employee State Insurance Corporation (ESIC)

Type of Unit □ Factory □ Establishment

Exact nature of Work/ Business carried on - Work Sub category

****This information is mandatorily required to be filled in case of applicants desirous of applying for PAN and/ or TAN at the time of incorporation of a company. This facility is available at the e-Biz portal only as per separate procedure prescribed by e-Biz portal.**

Attachments

1.	*Memorandum of association;	Attach
2.	*Articles of Association;	Attach
3.	*Affidavit and declaration by first subscriber(s) and director(s);	Attach
4.	Proof of Office address (Conveyance/ Lease deed/Rent Agreement etc. along with rent receipts);	Attach
5.	Copy of the utility bills (not older than two months);	Attach
6.	Approval of the owner of the trademark or the applicant of such application for registration of Trademark;	Attach
7.	Proof of relation;	Attach
8.	NOC from the sole proprietor/partners/other associates/ existing company;	Attach
9.	NOC from any other person;	Attach
10.	Copy of certificate of incorporation of the foreign body corporate and resolution passed;	Attach
11.	Resolution passed by promoter company;	Attach
12.	NOC from existing Indian company;	Attach
13.	Interest of first director(s) in other entities;	Attach
14.	Consent of Nominee;	Attach
15.	Proof of identity & residential address of subscribers;	Attach
16.	Proof of identity & residential address of nominee;	Attach
17.	Proof of identity and address of Applicant I;	Attach
18.	Proof of identity and address of Applicant II;	Attach

19. Proof of identity and address of Applicant III; Attach
20. Optional attachment(s), (if any) Attach

Remove attachment

Declaration

- ☐ *I have gone through the provisions of the Companies Act, 2013, the rules thereunder and prescribed guidelines framed thereunder in respect of reservation of name, understood the meaning thereof and the proposed name is in conformity thereof.
- ☐ *I have used the search facilities available on the portal of the Ministry of Corporate Affairs (MCA) for checking the resemblance of the proposed name with the companies and Limited Liability partnerships (LLPs) respectively already registered or the names already approved. I have also used the search facility for checking the resemblances of the proposed name with registered trademarks and trade mark subject of an application under the Trade Marks Act, 1999 and other relevant search for checking the resemblance of the proposed name to satisfy myself with the compliance of the provisions of the Act for resemblance of name and Rules thereof.
- ☐ *The proposed name is not in violation of the provisions of Emblems and Names (Prevention of Improper Use) Act, 1950 as amended from time to time.
- ☐ *The proposed name is not offensive to any section of people, e.g. proposed name does not contain profanity or words or phrases that are generally considered a slur against an ethnic group, religion, gender or heredity.
- ☐ *The proposed name is not such that its use by the company will constitute an offence under any law for the time being in force.
- ☐ *I undertake to be fully responsible for the consequences in case the name is subsequently found to be in contravention of the provisions of section 4(2) and section 4(4) of the Companies Act, 2013 and rules thereto and I have also gone through and understood the provisions of section 4(5) (ii) (a) and (b) of the Companies Act, 2013 and rules thereunder and fully declare myself responsible for the consequences thereof.
- ☐ *I _____, a person named in the articles as a director of the company has been duly authorized by the promoters of the company to sign this form and declare that all the requirements of the Companies Act, 2013 and the rules made thereunder in respect of Director Identification Number (DIN), registration of the company and matters precedent or incidental thereto have been complied with.
- ☐ I am authorized by the promoter subscribing to the Memorandum of Association and Articles of Association and the first director(s) to give this declaration and to sign and submit this Form.
- ☐ *I am authorised by each subscriber to declare that company shall not commence its business, unless each subscriber has paid the value of the shares agreed to be taken by him at the time of subscribing to the Memorandum of Association;
- ☐ I further declare that, company shall not commence its business, unless all the required approval from the sectoral Regulators such as RBI, SEBI etc. have been obtained;
- ☐ I on behalf of the promoters and the first directors, hereby declare that the registered office is capable of receiving and acknowledging all communications and notices addressed to the proposed company on incorporation , shall be maintained at the given address at item no. 4 of this form;
- ☐ *I, on behalf of all the first director(s) named in the Articles of Association of the proposed company, solemnly declare, that the declaration given herein as stated above are true to the best of my knowledge and belief, the information given in this integrated application form for incorporation and attachments thereto are correct and complete, and nothing relevant to this form has been suppressed. All the required attachments have been completely, correctly and legibly attached to this form and are as per the original records maintained by the promoters subscribing to the Memorandum of Association and Articles of Association.
- ☐ I, on behalf of the proposed Directors whose particulars for allotment of DIN are filled as above, hereby confirm and declare that they are not restrained, disqualified, removed for being appointed as Director of a company under the provisions of the Companies Act, 2013 including sections 164 and 169, and have not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court, and not been already allotted a Director Identification Number (DIN) under section 154 of the Companies Act, 2013,

and I further declare that I have read and understood the provisions of Sections 154, 155, 447 and 448 read with Sections 449, 450 and 451 of the Companies Act, 2013.

☐ *

having Membership number and/or certificate of practice number has been engaged to give declaration under section 7(1) (b) and such declaration is attached.

Note: Attention is drawn to the provisions of sections 7(5) and 7(6) which, *inter-alia*, provides that furnishing of any false or incorrect particulars of any information or suppression of any material information shall attract punishment for fraud under section 447. Attention is also drawn to provisions of section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively.

***To be digitally signed by director** DSC BOX

***DIN / PAN**

Declaration and Certification by Professional

I

member of

having office at *

Who is engaged in the formation of the company declare that I have been duly engaged for the purpose of certification of this form. It is hereby also certified that I have gone through the provisions of the Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original/certified records maintained by the applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that;

(i) the draft memorandum and articles of association have been drawn up in conformity with the provisions of sections 4 and 5 and rules made thereunder; and

(ii) all the requirements of Companies Act, 2013 and the rules made thereunder relating to registration of the company under section 7 of the Act and matters precedent or incidental thereto have been complied with. The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order;

(iii) I have opened all the attachments to this form and have verified these to be as per requirements, complete and legible;

(iv) I further declare that I have personally visited the proposed registered office given in the form at the address mentioned herein above and verified that the said proposed registered office of the company is functioning for the business purposes of the company (wherever applicable in respect of the proposed registered office has been given).

(v) It is understood that I shall be liable for action under Section 448 of the Companies Act, 2013 for wrong certification, if any found at any stage.

*◯ Chartered accountant (in whole-time practice) or ◯ Cost accountant (in whole-time practice) or

◯ Company secretary (in whole-time practice) ◯ Advocate

*Whether associate or fellow ◯ Associate ◯ Fellow

* Membership number

Certificate of practice number

*Income-tax PAN

Modify | Check Form | Prescrutiny | Submit

For office use only: Affix filing details

eForm Service request number (SRN) eForm filing date (DD/MM/YYYY)

This e-Form is hereby registered

Digital signature of the authorising officer Confirm submission

Date of signing (DD/MM/YYYY)

FORM NO. INC-30

Memorandum of Association

[Pursuant to Schedule I (see sections 4 and 5) to the Companies Act, 2013]

Form language O English O Hindi
Refer the instruction kit for filing the form.

***Select the appropriate table applicable to company as notified under schedule I of the companies Act, 2013**

Table A- MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

1st The name of the company is ".....Limited / Private Limited".

2nd The registered office of the company will be situated in the State of.....

3rd (a) The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are

4th The liability of the member(s) is limited and this liability is limited to the amount unpaid, if any, on the shares held by them.

5th The share capital of the company is.....rupees, divided into.....shares of..... .rupees each.

6th We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscriber	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.
A.B. of.....Merchant	.....		Signed before me: Signature.....
Total shares taken	.....		

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Names, addresses, descriptions and occupations of subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.

8th Shri/Smt....., son/daughter of ....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated.....the day of.....

Table B - MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

1st The name of the company is ".....Limited/Private Limited".

2nd The registered office of the company will be situated in the State of.....

3rd (a) The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—

4th The liability of the member(s) is limited.

5th Every member of the company undertakes to contribute:

(i) 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; and

(ii) to 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.....rupees.

6th We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.
ABC of ...merchant		Signed before me .... Signature....

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):—

Names, addresses, descriptions and occupations of subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.
ABC of ...merchant		Signed before me .... Signature....

8th Shri/Smt....., son/ daugther of ....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of.....

Table C- MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

1st The name of the company is "..... Limited/Private Limited".

2nd The registered office of the company will be situated in the State of.....

3rd (a) The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—

4th The liability of the member(s) is limited.

5th Every member of the company undertakes to contribute:

(i) 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; and

(ii) to 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.....rupees.

6th The share capital of the company is.....rupees, divided into.....shares of.....rupees each

7th We, the several persons, whose names, addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscriber	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.
A.B. of.....Merchant	.....		Signed before me: Signature.....

8th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Names, addresses, descriptions and occupations of subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.
ABC of ...merchant		Signed before me .... Signature....

9th Shri/Smt....., son/daughter of ....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of.....

Table D- MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY AND NOT HAVING SHARE CAPITAL

1st The name of the company is ".....Company".

2nd The registered office of the company will be situated in the State of.....

3rd (a) The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—

4th The liability of the member(s) is unlimited.

5th We, the several persons, whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.
ABC of ...merchant		Signed before me .... Signature....

6th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):—

Names, addresses, descriptions and occupations of subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.
ABC of ...merchant		Signed before me .... Signature....

7th Shri/Smt....., son/daughter of ....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of.....

Table E- MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY AND HAVING SHARE CAPITAL

1st The name of the company is "……Company".

2nd The registered office of the company will be situated in the State of……

3rd (a) The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—

4th The liability of the member(s) is unlimited.

5th The share capital of the company is……rupees, divided into……shares of……rupees each.

6th We, the several persons, whose names, and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscriber	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.
A.B. of……Merchant	…… :		Signed before me: Signature……

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Names, addresses, descriptions and occupations of subscriber	Signature of subscriber	Signature, names, addresses, description and occupations of witnesses.
ABC of …merchant		Signed before me …. Signature….

8th Shri/Smt……, son/daughter of ……, resident of…… aged……years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated…… the day of……

FORM NO. INC-31

Articles of Association

[Pursuant to Schedule I (see Sections 4 and 5) to the Companies Act, 2013)]

Form language O English O Hindi

Refer the instruction kit for filing the form.

1. ***Select the appropriate table applicable to company as notified under schedule I of the companies Act, 2013**

Table F- ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY SHARES		
Article No.	**Description**	**Applicable Y/N**
	Interpretation	
I	(1) In these regulations— (a) "the Act" means the Companies Act, 2013, (b) "the seal" means the common seal of the company. (2) Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.	o Yes o No
	Share capital and variation of rights	
II 1	Subject to the provisions of the Act and these Articles, the shares in the capital of the company shall be under the control of the Directors who may issue, allot or otherwise dispose of the same or any of them to such persons, in such proportion and on such terms and conditions and either at a premium or at par and at such time as they may from time to time think fit.	o Yes o No

2	(i) Every person whose name is entered as a member in the register of members shall be entitled to receive within two months after incorporation, in case of subscribers to the memorandum or after allotment or within one month after the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided,— (a) one certificate for all his shares without payment of any charges; or (b) several certificates, each for one or more of his shares, upon payment of twenty rupees for each certificate after the first. (ii) Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid-up thereon. (iii) In respect of any share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders	o Yes o No
3	(i) If any share certificate be worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the company and on execution of such indemnity as the company deem adequate, a new certificate in lieu thereof shall be given. Every certificate under this Article shall be issued on payment of twenty rupees for each certificate. (ii) The provisions of Articles (2) and (3) shall mutatis mutandis apply to debentures of the company.	o Yes o No
4	Except as required by law, no person shall be recognised by the company as holding any share upon any trust, and the company shall not be bound by, or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.	o Yes o No
5	(i) The company may exercise the powers of paying commissions conferred by sub-section (6) of section 40, provided that the rate per cent or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made thereunder. (ii) The rate or amount of the commission shall not exceed the rate or amount prescribed in rules made under sub-section (6) of section 40. (iii) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in the one way and partly in the other.	o Yes o No

6	(i) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of section 48, and whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class. (ii) To every such separate meeting, the provisions of these regulations relating to general meetings shall mutatis mutandis apply, but so that the necessary quorum shall be at least two persons holding at least one-third of the issued shares of the class in question.	o Yes o No
7	The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu therewith.	o Yes o No
8	Subject to the provisions of section 55, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are to be redeemed on such terms and in such manner as the company before the issue of the shares may, by special resolution, determine.	o Yes o No
	Lien	
9	(i) The company shall have a first and paramount lien— (a) on every share (not being a fully paid share), for all monies (whether presently payable or not) called, or payable at a fixed time, in respect of that share; and (b) on all shares (not being fully paid shares) standing registered in the name of a single person, for all monies presently payable by him or his estate to the company: Provided that the Board of directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. (ii) The company's lien, if any, on a share shall extend to all dividends payable and bonuses declared from time to time in respect of such shares.	o Yes o No
10	The company may sell, in such manner as the Board thinks fit, any shares on which the company has a lien: Provided that no sale shall be made— (a) unless a sum in respect of which the lien exists is presently payable; or (b) until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or insolvency.	o Yes o No

11	(i) To give effect to any such sale, the Board may authorise some person to transfer the shares sold to the purchaser thereof (ii) The purchaser shall be registered as the holder of the shares comprised in any such transfer. (iii) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.	o Yes o No
12	(i) The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable. (ii) The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.	o Yes o No
	Calls on shares	
13	(i) The Board may, from time to time, make calls upon the members in respect of any monies unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times: Provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call. (ii) Each member shall, subject to receiving at least fourteen days' notice specifying the time or times and place of payment, pay to the company, at the time or times and place so specified, the amount called on his shares. (iii) A call may be revoked or postponed at the discretion of the Board.	o Yes o No
14	A call shall be deemed to have been made at the time when the resolution of the Board authorizing the call was passed and may be required to be paid by instalments.	o Yes o No
15	The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.	o Yes o No
16	(i) If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at ten per cent per annum or at such lower rate, if any, as the Board may determine. (ii) The Board shall be at liberty to waive payment of any such interest wholly or in part.	o Yes o No

17	(i) Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall, for the purposes of these regulations, be deemed to be a call duly made and payable on the date on which by the terms of issue such sum becomes payable. (ii) In case of non-payment of such sum, all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.	o Yes o No
18	The Board— (a) may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him; and (b) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate not exceeding, unless the company in general meeting shall otherwise direct, twelve per cent per annum, as may be agreed upon between the Board and the member paying the sum in advance.	o Yes o No
	Transfer of shares	
19	(i) The instrument of transfer of any share in the company shall be executed by or on behalf of both the transferor and transferee. (ii) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.	o Yes o No
20	The Board may, subject to the right of appeal conferred by section 58 decline to register— (a) the transfer of a share, not being a fully paid share, to a person of whom they do not approve; or (b) any transfer of shares on which the company has a lien.	o Yes o No
21	The Board may decline to recognise any instrument of transfer unless— (a) the instrument of transfer is in the form as prescribed in rules made under sub-section (1) of section 56; (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and (c) the instrument of transfer is in respect of only one class of shares.	o Yes o No
22	On giving not less than seven days' previous notice in accordance with section 91 and rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine: Provided that such registration shall not be suspended for more than thirty days at any one time or for more than forty-five days in the aggregate in any year.	o Yes o No
	Transmission of shares	

23	(i) On the death of a member, the survivor or survivors where the member was a joint holder, and his nominee or nominees or legal representatives where he was a sole holder, shall be the only persons recognised by the company as having any title to his interest in the shares (ii) Nothing in clause (i) shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.	o Yes o No
24	(i) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either— (a) to be registered himself as holder of the share; or (b) to make such transfer of the share as the deceased or insolvent member could have made. (ii) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent member had transferred the share before his death or insolvency.	o Yes o No
25	(i) If the person so becoming entitled shall elect to be registered as holder of the share himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects. (ii) If the person aforesaid shall elect to transfer the share, he shall testify his election by executing a transfer of the share. (iii) All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or insolvency of the member had not occurred and the notice or transfer were a transfer signed by that member.	o Yes o No
26	A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company: Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share, until the requirements of the notice have been complied with.	o Yes o No

27	In case of a One Person Company— (i) on the death of the sole member, the person nominated by such member shall be the person recognised by the company as having title to all the shares of the member; (ii) the nominee on becoming entitled to such shares in case of the member's death shall be informed of such event by the Board of the company; (iii) such nominee shall be entitled to the same dividends and other rights and liabilities to which such sole member of the company was entitled or liable; (iv) on becoming member, such nominee shall nominate any other person with the prior written consent of such person who, shall in the event of the death of the member, become the member of the company.	o Yes o No
	Forfeiture of shares	
28	If a member fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.	o Yes o No
29	The notice aforesaid shall— (a) name a further day (not being earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made; and (b) state that, in the event of non-payment on or before the day so named, the shares in respect of which the call was made shall be liable to be forfeited.	o Yes o No
30	If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.	o Yes o No
31	(i) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. (ii) At any time before a sale or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.	o Yes o No
32	(i) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares. (ii) The liability of such person shall cease if and when the company shall have received payment in full of all such monies in respect of the shares.	o Yes o No
33	(i) A duly verified declaration in writing that the declarant is a director, the manager or the secretary, of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share; (ii) The company may receive the consideration, if any, given for the share on any sale or disposal thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of; (iii) The transferee shall thereupon be registered as the holder of the share; and	o Yes o No

	(iv) The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.	
34	The provisions of these regulations as to forfeiture shall apply in the case of nonpayment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.	o Yes o No
	Alteration of capital	
35	The company may, from time to time, by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as may be specified in the resolution.	o Yes o No
36	Subject to the provisions of section 61, the company may, by ordinary resolution,— (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares; (b) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination; (c) sub-divide its existing shares or any of them into shares of smaller amount than is fixed by the memorandum; (d) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.	o Yes o No
37	Where shares are converted into stock,— (a) the holders of stock may transfer the same or any part thereof in the same manner as, and subject to the same regulations under which, the shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit: Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so, however, that such minimum shall not exceed the nominal amount of the shares from which the stock arose. (b) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage. (c) such of the regulations of the company as are applicable to paid-up shares shall apply to stock and the words "share" and "shareholder" in those regulations shall include "stock" and "stock-holder" respectively.	o Yes o No
38	The company may, by special resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law,— (a) its share capital; (b) any capital redemption reserve account; or (c) any share premium account.	o Yes o No

	Capitalisation of profits	
39	(i) The company in general meeting may, upon the recommendation of the Board, resolve— (a) that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts, or to the credit of the, profit and loss account, or otherwise available for distribution; and (b) that such sum be accordingly set free for distribution in the manner specified in clause (ii) amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions. (ii) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause (iii), either in or towards— (A) paying up any amounts for the time being unpaid on any shares held by such members respectively; (B) paying up in full, unissued shares of the company to be allotted and distributed, credited as fully paid-up, to and amongst such members in the proportions aforesaid; (C) partly in the way specified in sub-clause (A) and partly in that specified in sub-clause (B); (D) A securities premium account and a capital redemption reserve account may, for the purposes of this regulation, be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares; (E) The Board shall give effect to the resolution passed by the company in pursuance of this regulation.	o Yes o No
40	(i) Whenever such a resolution as aforesaid shall have been passed, the Board shall— (a) make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares if any; and (b) generally do all acts and things required to give effect thereto. (ii) The Board shall have power— (a) to make such provisions, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, for the case of shares becoming distributable in fractions; and (b) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the company providing for the allotment to them respectively, credited as fully paid-up, of any further shares to which they may be entitled upon such capitalisation, or as the case may require, for the payment by the company on their behalf, by the application thereto of their respective proportions of profits resolved to be capitalised, of the amount or any part of the amounts remaining unpaid on their existing shares; (iii) Any agreement made under such authority shall be effective and binding on such members.	o Yes o No

	Buy-back of shares	
41	Notwithstanding anything contained in these articles but subject to the provisions of sections 68 to 70 and any other applicable provision of the Act or any other law for the time being in force, the company may purchase its own shares or other specified securities.	o Yes o No
	General meetings	
42	All general meetings other than annual general meeting shall be called extraordinary general meeting.	o Yes o No
43	(i) The Board may, whenever it thinks fit, call an extraordinary general meeting. (ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.	o Yes o No
	Proceedings at general meetings	
44	(i) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. (ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.	o Yes o No
45	The chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.	o Yes o No
46	If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.	o Yes o No
47	If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.	o Yes o No
48	In case of a One Person Company— (i) the resolution required to be passed at the general meetings of the company shall be deemed to have been passed if the resolution is agreed upon by the sole member and communicated to the company and entered in the minutes book maintained under section 118; (ii) such minutes book shall be signed and dated by the member; (iii) the resolution shall become effective from the date of signing such minutes by the sole member.	o Yes o No

	Adjournment of meeting	
49	(i) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place. (ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. (iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. (iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.	o Yes o No
	Voting rights	
50	Subject to any rights or restrictions for the time being attached to any class or classes of shares,— (a) on a show of hands, every member present in person shall have one vote; and (b) on a poll, the voting rights of members shall be in proportion to his share in the paid-up equity share capital of the company.	o Yes o No
51	A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.	o Yes o No
52	(i) In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders. (ii) For this purpose, seniority shall be determined by the order in which the names stand in the register of members.	o Yes o No
53	A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.	o Yes o No
54	Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.	o Yes o No
55	No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid	
56	(i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. (ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.	o Yes o No

	Proxy	
57	The instrument appointing a proxy and the power-of-attorney or other authority, if any, under which it is signed or a notarised copy of that power or authority, shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll; and in default the instrument of proxy shall not be treated as valid.	o Yes o No
58	An instrument appointing a proxy shall be in the form as prescribed in the rules made under section 105	o Yes o No
59	A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given: Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.	o Yes o No
	Board of Directors	
60	The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.	o Yes o No
61	(i) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day. (ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them— (a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or (b) in connection with the business of the company.	o Yes o No
62	The Board may pay all expenses incurred in getting up and registering the company.	o Yes o No
63	The company may exercise the powers conferred on it by section 88 with regard to the keeping of a foreign register; and the Board may (subject to the provisions of that section) make and vary such regulations as it may thinks fit respecting the keeping of any such register.	o Yes o No
64	All cheques, promissory notes, drafts, hundis, bills of exchange and other negotiable instruments, and all receipts for monies paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by such person and in such manner as the Board shall from time to time by resolution determine	o Yes o No
65	Every director present at any meeting of the Board or of a committee thereof shall sign his name in a book to be kept for that purpose.	o Yes o No

66	(i) Subject to the provisions of section 149, the Board shall have power at any time, and from time to time, to appoint a person as an additional director, provided the number of the directors and additional directors together shall not at any time exceed the maximum strength fixed for the Board by the articles. (ii) Such person shall hold office only up to the date of the next annual general meeting of the company but shall be eligible for appointment by the company as a director at that meeting subject to the provisions of the Act.	o Yes o No
	Proceedings of the Board	
67	(i) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit. (ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.	o Yes o No
68	(i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes. (ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.	o Yes o No
69	The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.	o Yes o No
70	(i) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office. (ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be Chairperson of the meeting.	o Yes o No
71	(i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit. (ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.	o Yes o No
72	(i) A committee may elect a Chairperson of its meetings. (ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.	o Yes o No
73	(i) A committee may meet and adjourn as it thinks fit. (ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairperson shall have a second or casting vote.	o Yes o No

74	All acts done in any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.	o Yes o No
75	Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.	o Yes o No
76	In case of a One Person Company— (i) where the company is having only one director, all the businesses to be transacted at the meeting of the Board shall be entered into minutes book maintained under section 118; (ii) such minutes book shall be signed and dated by the director; (iii) the resolution shall become effective from the date of signing such minutes by the director.	o Yes o No
	Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer	
77	Subject to the provisions of the Act,— (i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it may thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board; (ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer	o Yes o No
78	A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.	o Yes o No
	The Seal	
79	(i) The Board shall provide for the safe custody of the seal. (ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.	o Yes o No
	Dividends and Reserve	
80	The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.	o Yes o No

81	Subject to the provisions of section 123, the Board may from time to time pay to the members such interim dividends as appear to it to be justified by the profits of the company.	o Yes o No
82	(i) The Board may, before recommending any dividend, set aside out of the profits of the company such sums as it thinks fit as a reserve or reserves which shall, at the discretion of the Board, be applicable for any purpose to which the profits of the company may be properly applied, including provision for meeting contingencies or for equalizing dividends; and pending such application, may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the Board may, from time to time, thinks fit. (ii) The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve	o Yes o No
83	(i) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. (ii) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share. (iii) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.	o Yes o No
84	The Board may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.	o Yes o No
85	(i) Any dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members, or to such person and to such address as the holder or joint holders may in writing direct. (ii) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.	o Yes o No
86	Any one of two or more joint holders of a share may give effective receipts for any dividends, bonuses or other monies payable in respect of such share.	o Yes o No
87	Notice of any dividend that may have been declared shall be given to the persons entitled to share therein in the manner mentioned in the Act.	o Yes o No
88	No dividend shall bear interest against the company.	o Yes o No
	Accounts	

89	(i) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the company, or any of them, shall be open to the inspection of members not being directors. (ii) No member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the Board or by the company in general meeting.	o Yes o No
	Winding up	
90	Subject to the provisions of Chapter XX of the Act and rules made thereunder— (i) If the company shall be wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the company, whether they shall consist of property of the same kind or not. (ii) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members. (iii) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories if he considers necessary, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.	o Yes o No
	Indemnity	
91	Every officer of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in which relief is granted to him by the court or the Tribunal. Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address, description and occupation, if any, and such signatures shall be in form specified below.	o Yes o No

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
ABC of ..... merchant	Signed before me... Signature.....

Dated the.....day of .....20.....

Place: .....

Table G-ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL		
Article No.	**Description**	**Applicable Y/N**
1	The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.	o Yes o No
2	All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.	o Yes o No
Table F- ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY SHARES		
	Interpretation	
I	(1) In these regulations— (a) "the Act" means the Companies Act, 2013, (b) "the seal" means the common seal of the company. (2) Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.	o Yes o No
	Share capital and variation of rights	
II 1	Subject to the provisions of the Act and these Articles, the shares in the capital of the company shall be under the control of the Directors who may issue, allot or otherwise dispose of the same or any of them to such persons, in such proportion and on such terms and conditions and either at a premium or at par and at such time as they may from time to time think fit.	o Yes o No
2	(i) Every person whose name is entered as a member in the register of members shall be entitled to receive within two months after incorporation, in case of subscribers to the memorandum or after allotment or within one month after the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided,— (a) one certificate for all his shares without payment of any charges; or (b) several certificates, each for one or more of his shares, upon payment of twenty rupees for each certificate after the first. (ii) Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid-up thereon. (iii) In respect of any share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.	o Yes o No

3	(i) If any share certificate be worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the company and on execution of such indemnity as the company deem adequate, a new certificate in lieu thereof shall be given. Every certificate under this Article shall be issued on payment of twenty rupees for each certificate. (ii) The provisions of Articles (2) and (3) shall mutatis mutandis apply to debentures of the company.	o Yes o No
4	Except as required by law, no person shall be recognised by the company as holding any share upon any trust, and the company shall not be bound by, or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.	o Yes o No
5	(i) The company may exercise the powers of paying commissions conferred by sub-section (6) of section 40, provided that the rate per cent or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made thereunder. (ii) The rate or amount of the commission shall not exceed the rate or amount prescribed in rules made under sub-section (6) of section 40. (iii) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in the one way and partly in the other.	o Yes o No
6	(i) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of section 48, and whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class. (ii) To every such separate meeting, the provisions of these regulations relating to general meetings shall mutatis mutandis apply, but so that the necessary quorum shall be at least two persons holding at least one-third of the issued shares of the class in question.	o Yes o No
7	The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu therewith.	o Yes o No
8	Subject to the provisions of section 55, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are to be redeemed on such terms and in such manner as the company before the issue of the shares may, by special resolution, determine.	o Yes o No
	Lien	

9	(i) The company shall have a first and paramount lien— (a) on every share (not being a fully paid share), for all monies (whether presently payable or not) called, or payable at a fixed time, in respect of that share; and (b) on all shares (not being fully paid shares) standing registered in the name of a single person, for all monies presently payable by him or his estate to the company: Provided that the Board of directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. (ii) The company's lien, if any, on a share shall extend to all dividends payable and bonuses declared from time to time in respect of such shares.	o Yes o No
10	The company may sell, in such manner as the Board thinks fit, any shares on which the company has a lien: Provided that no sale shall be made— (a) unless a sum in respect of which the lien exists is presently payable; or (b) until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or insolvency.	o Yes o No
11	(i) To give effect to any such sale, the Board may authorise some person to transfer the shares sold to the purchaser thereof (ii) The purchaser shall be registered as the holder of the shares comprised in any such transfer. (iii) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.	o Yes o No
12	(i) The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable. (ii) The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.	o Yes o No
	Calls on shares	
13	(i) The Board may, from time to time, make calls upon the members in respect of any monies unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times: Provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call. (ii) Each member shall, subject to receiving at least fourteen days' notice specifying the time or times and place of payment, pay to the company, at the time or times and place so specified, the amount called on his shares. (iii) A call may be revoked or postponed at the discretion of the Board.	o Yes o No

14	A call shall be deemed to have been made at the time when the resolution of the Board authorizing the call was passed and may be required to be paid by instalments.	o Yes o No
15	The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.	o Yes o No
16	(i) If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at ten per cent per annum or at such lower rate, if any, as the Board may determine. (ii) The Board shall be at liberty to waive payment of any such interest wholly or in part.	o Yes o No
17	(i) Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall, for the purposes of these regulations, be deemed to be a call duly made and payable on the date on which by the terms of issue such sum becomes payable. (ii) In case of non-payment of such sum, all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.	o Yes o No
18	The Board— (a) may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him; and (b) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate not exceeding, unless the company in general meeting shall otherwise direct, twelve per cent per annum, as may be agreed upon between the Board and the member paying the sum in advance.	o Yes o No
	Transfer of shares	
19	(i) The instrument of transfer of any share in the company shall be executed by or on behalf of both the transferor and transferee. (ii) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.	o Yes o No
20	The Board may, subject to the right of appeal conferred by section 58 decline to register— (a) the transfer of a share, not being a fully paid share, to a person of whom they do not approve; or (b) any transfer of shares on which the company has a lien.	o Yes o No

21	The Board may decline to recognise any instrument of transfer unless— (a) the instrument of transfer is in the form as prescribed in rules made under sub-section (1) of section 56; (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and (c) the instrument of transfer is in respect of only one class of shares.	o Yes o No
22	On giving not less than seven days' previous notice in accordance with section 91 and rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine: Provided that such registration shall not be suspended for more than thirty days at any one time or for more than forty-five days in the aggregate in any year.	o Yes o No
	Transmission of shares	
23	(i) On the death of a member, the survivor or survivors where the member was a joint holder, and his nominee or nominees or legal representatives where he was a sole holder, shall be the only persons recognised by the company as having any title to his interest in the shares (ii) Nothing in clause (i) shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.	o Yes o No
24	(i) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either— (a) to be registered himself as holder of the share; or (b) to make such transfer of the share as the deceased or insolvent member could have made. (ii) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent member had transferred the share before his death or insolvency.	o Yes o No
25	(i) If the person so becoming entitled shall elect to be registered as holder of the share himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects. (ii) If the person aforesaid shall elect to transfer the share, he shall testify his election by executing a transfer of the share. (iii) All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or insolvency of the member had not occurred and the notice or transfer were a transfer signed by that member.	o Yes o No

26	A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company: Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share, until the requirements of the notice have been complied with.	o Yes o No
27	In case of a One Person Company— (i) on the death of the sole member, the person nominated by such member shall be the person recognised by the company as having title to all the shares of the member; (ii) the nominee on becoming entitled to such shares in case of the member's death shall be informed of such event by the Board of the company; (iii) such nominee shall be entitled to the same dividends and other rights and liabilities to which such sole member of the company was entitled or liable; (iv) on becoming member, such nominee shall nominate any other person with the prior written consent of such person who, shall in the event of the death of the member, become the member of the company.	o Yes o No
	Forfeiture of shares	
28	If a member fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.	o Yes o No
29	The notice aforesaid shall— (a) name a further day (not being earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made; and (b) state that, in the event of non-payment on or before the day so named, the shares in respect of which the call was made shall be liable to be forfeited.	o Yes o No
30	If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.	o Yes o No
31	(i) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. (ii) At any time before a sale or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.	o Yes o No

32	(i) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares. (ii) The liability of such person shall cease if and when the company shall have received payment in full of all such monies in respect of the shares.	o Yes o No
33	(i) A duly verified declaration in writing that the declarant is a director, the manager or the secretary, of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share; (ii) The company may receive the consideration, if any, given for the share on any sale or disposal thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of; (iii) The transferee shall thereupon be registered as the holder of the share; and (iv) The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.	o Yes o No
34	The provisions of these regulations as to forfeiture shall apply in the case of nonpayment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.	o Yes o No
	Alteration of capital	
35	The company may, from time to time, by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as may be specified in the resolution.	o Yes o No
36	Subject to the provisions of section 61, the company may, by ordinary resolution,— (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares; (b) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination; (c) sub-divide its existing shares or any of them into shares of smaller amount than is fixed by the memorandum; (d) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.	o Yes o No

37	Where shares are converted into stock,— (a) the holders of stock may transfer the same or any part thereof in the same manner as, and subject to the same regulations under which, the shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit: Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so, however, that such minimum shall not exceed the nominal amount of the shares from which the stock arose. (b) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage. (c) such of the regulations of the company as are applicable to paid-up shares shall apply to stock and the words "share" and "shareholder" in those regulations shall include "stock" and "stock-holder" respectively.	o Yes o No
38	The company may, by special resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law,— (a) its share capital; (b) any capital redemption reserve account; or (c) any share premium account.	o Yes o No
	Capitalisation of profits	
39	(i) The company in general meeting may, upon the recommendation of the Board, resolve— (a) that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts, or to the credit of the, profit and loss account, or otherwise available for distribution; and (b) that such sum be accordingly set free for distribution in the manner specified in clause (ii) amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions. (ii) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause (iii), either in or towards— (A) paying up any amounts for the time being unpaid on any shares held by such members respectively; (B) paying up in full, unissued shares of the company to be allotted and distributed, credited as fully paid-up, to and amongst such members in the proportions aforesaid; (C) partly in the way specified in sub-clause (A) and partly in that specified in sub-clause (B); (D) A securities premium account and a capital redemption reserve account may, for the purposes of this regulation, be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares; (E) The Board shall give effect to the resolution passed by the company in pursuance of this regulation.	o Yes o No

40	(i) Whenever such a resolution as aforesaid shall have been passed, the Board shall— (a) make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares if any; and (b) generally do all acts and things required to give effect thereto. (ii) The Board shall have power— (a) to make such provisions, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, for the case of shares becoming distributable in fractions; and (b) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the company providing for the allotment to them respectively, credited as fully paid-up, of any further shares to which they may be entitled upon such capitalisation, or as the case may require, for the payment by the company on their behalf, by the application thereto of their respective proportions of profits resolved to be capitalised, of the amount or any part of the amounts remaining unpaid on their existing shares; (iii) Any agreement made under such authority shall be effective and binding on such members.	o Yes o No
	Buy-back of shares	
41	Notwithstanding anything contained in these articles but subject to the provisions of sections 68 to 70 and any other applicable provision of the Act or any other law for the time being in force, the company may purchase its own shares or other specified securities.	o Yes o No
	General meetings	
42	All general meetings other than annual general meeting shall be called extraordinary general meeting.	o Yes o No
43	(i) The Board may, whenever it thinks fit, call an extraordinary general meeting. (ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.	o Yes o No
	Proceedings at general meetings	
44	(i) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. (ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.	o Yes o No
45	The chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.	o Yes o No
46	If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.	o Yes o No
47	If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.	o Yes o No

48	In case of a One Person Company— (i) the resolution required to be passed at the general meetings of the company shall be deemed to have been passed if the resolution is agreed upon by the sole member and communicated to the company and entered in the minutes book maintained under section 118; (ii) such minutes book shall be signed and dated by the member; (iii) the resolution shall become effective from the date of signing such minutes by the sole member.	o Yes o No
	Adjournment of meeting	
49	(i) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place. (ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. (iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. (iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.	o Yes o No
	Voting rights	
50	Subject to any rights or restrictions for the time being attached to any class or classes of shares,— (a) on a show of hands, every member present in person shall have one vote; and (b) on a poll, the voting rights of members shall be in proportion to his share in the paid-up equity share capital of the company.	o Yes o No
51	A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.	o Yes o No
52	(i) In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders. (ii) For this purpose, seniority shall be determined by the order in which the names stand in the register of members.	o Yes o No
53	A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.	o Yes o No
54	Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.	o Yes o No
55	No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid	
56	(i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. (ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.	o Yes o No

	Proxy	
57	The instrument appointing a proxy and the power-of-attorney or other authority, if any, under which it is signed or a notarised copy of that power or authority, shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll; and in default the instrument of proxy shall not be treated as valid.	o Yes o No
58	An instrument appointing a proxy shall be in the form as prescribed in the rules made under section 105	o Yes o No
59	A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given: Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.	o Yes o No
	Board of Directors	
60	The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.	o Yes o No
61	(i) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day. (ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them— (a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or (b) in connection with the business of the company.	o Yes o No
62	The Board may pay all expenses incurred in getting up and registering the company.	o Yes o No
63	The company may exercise the powers conferred on it by section 88 with regard to the keeping of a foreign register; and the Board may (subject to the provisions of that section) make and vary such regulations as it may thinks fit respecting the keeping of any such register.	o Yes o No
64	All cheques, promissory notes, drafts, hundis, bills of exchange and other negotiable instruments, and all receipts for monies paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by such person and in such manner as the Board shall from time to time by resolution determine	o Yes o No
65	Every director present at any meeting of the Board or of a committee thereof shall sign his name in a book to be kept for that purpose.	o Yes o No

66	(i) Subject to the provisions of section 149, the Board shall have power at any time, and from time to time, to appoint a person as an additional director, provided the number of the directors and additional directors together shall not at any time exceed the maximum strength fixed for the Board by the articles. (ii) Such person shall hold office only up to the date of the next annual general meeting of the company but shall be eligible for appointment by the company as a director at that meeting subject to the provisions of the Act.	o Yes o No
	Proceedings of the Board	
67	(i) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit. (ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.	o Yes o No
68	(i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes. (ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.	o Yes o No
69	The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.	o Yes o No
70	(i) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office. (ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be Chairperson of the meeting.	o Yes o No
71	(i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit. (ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.	o Yes o No
72	(i) A committee may elect a Chairperson of its meetings. (ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.	o Yes o No
73	(i) A committee may meet and adjourn as it thinks fit. (ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairperson shall have a second or casting vote.	o Yes o No

74	All acts done in any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.	o Yes o No
75	Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.	o Yes o No
76	In case of a One Person Company— (i) where the company is having only one director, all the businesses to be transacted at the meeting of the Board shall be entered into minutes book maintained under section 118; (ii) such minutes book shall be signed and dated by the director; (iii) the resolution shall become effective from the date of signing such minutes by the director.	o Yes o No
	Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer	
77	Subject to the provisions of the Act,— (i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it may thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board; (ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.	o Yes o No
78	A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.	o Yes o No
	The Seal	
79	(i) The Board shall provide for the safe custody of the seal. (ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.	o Yes o No
	Dividends and Reserve	
80	**The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.**	**o Yes o No**

81	Subject to the provisions of section 123, the Board may from time to time pay to the members such interim dividends as appear to it to be justified by the profits of the company.	o Yes o No
82	(i) The Board may, before recommending any dividend, set aside out of the profits of the company such sums as it thinks fit as a reserve or reserves which shall, at the discretion of the Board, be applicable for any purpose to which the profits of the company may be properly applied, including provision for meeting contingencies or for equalizing dividends; and pending such application, may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the Board may, from time to time, thinks fit. (ii) The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve	o Yes o No
83	(i) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. (ii) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share. (iii) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.	o Yes o No
84	The Board may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.	o Yes o No
85	(i) Any dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members, or to such person and to such address as the holder or joint holders may in writing direct. (ii) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.	o Yes o No
86	Any one of two or more joint holders of a share may give effective receipts for any dividends, bonuses or other monies payable in respect of such share.	o Yes o No
87	Notice of any dividend that may have been declared shall be given to the persons entitled to share therein in the manner mentioned in the Act.	o Yes o No
88	No dividend shall bear interest against the company.	o Yes o No
	Accounts	

89	(i) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the company, or any of them, shall be open to the inspection of members not being directors. (ii) No member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the Board or by the company in general meeting.	o Yes o No
	Winding up	
90	Subject to the provisions of Chapter XX of the Act and rules made thereunder— (i) If the company shall be wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the company, whether they shall consist of property of the same kind or not. (ii) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members. (iii) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories if he considers necessary, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.	o Yes o No
	Indemnity	
91	Every officer of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in which relief is granted to him by the court or the Tribunal. Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address, description and occupation, if any, and such signatures shall be in form specified below:	o Yes o No

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
ABC of ..... merchant	Signed before me... Signature.....

Dated the.....day of .....20.....

Place: .....

Table H-ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING SHARE CAPITAL		
Article No	**Description**	**Applicability Y/N**
	Interpretation	
I	(1) In these regulations— (a) "the Act" means the Companies Act, 2013; (b) "the seal" means the common seal of the company. (2) Unless the context otherwise requires, words or expressions contained in these regulations shall have the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.	o Yes o No
	Members	
II 1	The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.	o Yes o No
2	The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.	o Yes o No
	General meetings	
3	All general meetings other than annual general meeting shall be called extraordinary general meeting.	o Yes o No
4	(i) The Board may, whenever it thinks fit, call an extraordinary general meeting. (ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.	o Yes o No
	Proceedings at general meetings	
5	(i) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. (ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.	o Yes o No
6	The Chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.	o Yes o No

7	If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.	o Yes o No
8	If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.	o Yes o No
	Adjournment of meeting	
9	(i) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place. (ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. (iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. (iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.	o Yes o No
	Voting rights	
10	Every member shall have one vote.	o Yes o No
11	A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.	o Yes o No
12	No member shall be entitled to vote at any general meeting unless all sums presently payable by him to the company have been paid.	o Yes o No
13	(i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. (ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.	o Yes o No
14	A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given: Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.	o Yes o No

15	A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.	o Yes o No
16	Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.	o Yes o No
	Board of Directors	
17	The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.	o Yes o No
18	(i) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day. (ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them— (a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or (b) in connection with the business of the company	o Yes o No
	Proceedings of the Board	
19	(i) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit. (ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.	o Yes o No
20	(i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes. (ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.	o Yes o No
21	The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.	o Yes o No
22	(i) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office. (ii) If no such chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their members to be Chairperson of the meeting.	o Yes o No
23	(i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit. (ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.	o Yes o No

24	(i) A committee may elect a Chairperson of its meetings. (ii) If no such Chairperson is elected, or if at any meeting the chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.	o Yes o No
25	(i) A committee may meet and adjourn as it thinks proper. (ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the chairman shall have a second or casting vote.	o Yes o No
26	All acts done by any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.	o Yes o No
27	Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be as valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.	o Yes o No
	Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer	
28	Subject to the provisions of the Act,— (i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board. (ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.	o Yes o No
29	A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.	o Yes o No
	The Seal	

30	(i) The Board shall provide for the safe custody of the seal. (ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence. Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address, description and occupation, if any, and such signatures shall be in form specified below:	o Yes o No

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
ABC of ..... merchant	Signed before me... Signature.....

Dated the.....day of .....20.....

Place: .....

TABLE – I- ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY AND HAVING A SHARE CAPITAL		
Article No	**Description**	**Applicability Y/N**
1	The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.	o Yes o No
2	All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.	o Yes o No
Table F- ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY SHARES		
	Interpretation	

I		(1) In these regulations— (a) "the Act" means the Companies Act, 2013, (b) "the seal" means the common seal of the company. (2) Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.	o Yes o No
		Share capital and variation of rights	
II	1	Subject to the provisions of the Act and these Articles, the shares in the capital of the company shall be under the control of the Directors who may issue, allot or otherwise dispose of the same or any of them to such persons, in such proportion and on such terms and conditions and either at a premium or at par and at such time as they may from time to time think fit.	o Yes o No
	2	(i) Every person whose name is entered as a member in the register of members shall be entitled to receive within two months after incorporation, in case of subscribers to the memorandum or after allotment or within one month after the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided,— (a) one certificate for all his shares without payment of any charges; or (b) several certificates, each for one or more of his shares, upon payment of twenty rupees for each certificate after the first. (ii) Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid-up thereon. (iii) In respect of any share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.	o Yes o No
	3	(i) If any share certificate be worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the company and on execution of such indemnity as the company deem adequate, a new certificate in lieu thereof shall be given. Every certificate under this Article shall be issued on payment of twenty rupees for each certificate. (ii) The provisions of Articles (2) and (3) shall mutatis mutandis apply to debentures of the company.	o Yes o No
	4	Except as required by law, no person shall be recognised by the company as holding any share upon any trust, and the company shall not be bound by, or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.	o Yes o No

5	(i) The company may exercise the powers of paying commissions conferred by sub-section (6) of section 40, provided that the rate per cent or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made thereunder. (ii) The rate or amount of the commission shall not exceed the rate or amount prescribed in rules made under sub-section (6) of section 40. (iii) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in the one way and partly in the other.	o Yes o No
6	(i) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of section 48, and whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class. (ii) To every such separate meeting, the provisions of these regulations relating to general meetings shall mutatis mutandis apply, but so that the necessary quorum shall be at least two persons holding at least one-third of the issued shares of the class in question.	o Yes o No
7	The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu therewith.	o Yes o No
8	Subject to the provisions of section 55, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are to be redeemed on such terms and in such manner as the company before the issue of the shares may, by special resolution, determine.	o Yes o No
	Lien	
9	(i) The company shall have a first and paramount lien— (a) on every share (not being a fully paid share), for all monies (whether presently payable or not) called, or payable at a fixed time, in respect of that share; and (b) on all shares (not being fully paid shares) standing registered in the name of a single person, for all monies presently payable by him or his estate to the company: Provided that the Board of directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. (ii) The company's lien, if any, on a share shall extend to all dividends payable and bonuses declared from time to time in respect of such shares.	o Yes o No

10	The company may sell, in such manner as the Board thinks fit, any shares on which the company has a lien: Provided that no sale shall be made— (a) unless a sum in respect of which the lien exists is presently payable; or (b) until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or insolvency.	o Yes o No
11	(i) To give effect to any such sale, the Board may authorise some person to transfer the shares sold to the purchaser thereof (ii) The purchaser shall be registered as the holder of the shares comprised in any such transfer. (iii) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.	o Yes o No
12	(i) The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable. (ii) The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.	o Yes o No
	Calls on shares	
13	(i) The Board may, from time to time, make calls upon the members in respect of any monies unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times: Provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call. (ii) Each member shall, subject to receiving at least fourteen days' notice specifying the time or times and place of payment, pay to the company, at the time or times and place so specified, the amount called on his shares. (iii) A call may be revoked or postponed at the discretion of the Board.	o Yes o No
14	A call shall be deemed to have been made at the time when the resolution of the Board authorizing the call was passed and may be required to be paid by instalments.	o Yes o No
15	The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.	o Yes o No
16	(i) If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at ten per cent per annum or at such lower rate, if any, as the Board may determine. (ii) The Board shall be at liberty to waive payment of any such interest wholly or in part.	o Yes o No

17	(i) Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall, for the purposes of these regulations, be deemed to be a call duly made and payable on the date on which by the terms of issue such sum becomes payable. (ii) In case of non-payment of such sum, all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.	o Yes o No
18	The Board— (a) may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him; and (b) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate not exceeding, unless the company in general meeting shall otherwise direct, twelve per cent per annum, as may be agreed upon between the Board and the member paying the sum in advance.	o Yes o No
	Transfer of shares	
19	(i) The instrument of transfer of any share in the company shall be executed by or on behalf of both the transferor and transferee. (ii) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.	o Yes o No
20	The Board may, subject to the right of appeal conferred by section 58 decline to register— (a) the transfer of a share, not being a fully paid share, to a person of whom they do not approve; or (b) any transfer of shares on which the company has a lien.	o Yes o No
21	The Board may decline to recognise any instrument of transfer unless— (a) the instrument of transfer is in the form as prescribed in rules made under sub-section (1) of section 56; (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and (c) the instrument of transfer is in respect of only one class of shares.	o Yes o No
22	On giving not less than seven days' previous notice in accordance with section 91 and rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine: Provided that such registration shall not be suspended for more than thirty days at any one time or for more than forty-five days in the aggregate in any year.	o Yes o No
	Transmission of shares	

23	(i) On the death of a member, the survivor or survivors where the member was a joint holder, and his nominee or nominees or legal representatives where he was a sole holder, shall be the only persons recognised by the company as having any title to his interest in the shares (ii) Nothing in clause (i) shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.	o Yes o No
24	(i) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either— (a) to be registered himself as holder of the share; or (b) to make such transfer of the share as the deceased or insolvent member could have made. (ii) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent member had transferred the share before his death or insolvency.	o Yes o No
25	(i) If the person so becoming entitled shall elect to be registered as holder of the share himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects. (ii) If the person aforesaid shall elect to transfer the share, he shall testify his election by executing a transfer of the share. (iii) All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or insolvency of the member had not occurred and the notice or transfer were a transfer signed by that member.	o Yes o No
26	A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company: Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share, until the requirements of the notice have been complied with.	o Yes o No

27	In case of a One Person Company— (i) on the death of the sole member, the person nominated by such member shall be the person recognised by the company as having title to all the shares of the member; (ii) the nominee on becoming entitled to such shares in case of the member's death shall be informed of such event by the Board of the company; (iii) such nominee shall be entitled to the same dividends and other rights and liabilities to which such sole member of the company was entitled or liable; (iv) on becoming member, such nominee shall nominate any other person with the prior written consent of such person who, shall in the event of the death of the member, become the member of the company.	o Yes o No
	Forfeiture of shares	
28	If a member fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.	o Yes o No
29	The notice aforesaid shall— (a) name a further day (not being earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made; and (b) state that, in the event of non-payment on or before the day so named, the shares in respect of which the call was made shall be liable to be forfeited.	o Yes o No
30	If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.	o Yes o No
31	(i) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. (ii) At any time before a sale or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.	o Yes o No
32	(i) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares. (ii) The liability of such person shall cease if and when the company shall have received payment in full of all such monies in respect of the shares.	o Yes o No
33	(i) A duly verified declaration in writing that the declarant is a director, the manager or the secretary, of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share; (ii) The company may receive the consideration, if any, given for the share on any sale or disposal thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of; (iii) The transferee shall thereupon be registered as the holder of the share; and (iv) The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any	o Yes o No

	irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.	
34	The provisions of these regulations as to forfeiture shall apply in the case of nonpayment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.	o Yes o No
	Alteration of capital	
35	The company may, from time to time, by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as may be specified in the resolution.	o Yes o No
36	Subject to the provisions of section 61, the company may, by ordinary resolution,— (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares; (b) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination; (c) sub-divide its existing shares or any of them into shares of smaller amount than is fixed by the memorandum; (d) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.	o Yes o No
37	Where shares are converted into stock,— (a) the holders of stock may transfer the same or any part thereof in the same manner as, and subject to the same regulations under which, the shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit: Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so, however, that such minimum shall not exceed the nominal amount of the shares from which the stock arose. (b) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage. (c) such of the regulations of the company as are applicable to paid-up shares shall apply to stock and the words "share" and "shareholder" in those regulations shall include "stock" and "stock-holder" respectively.	o Yes o No
38	The company may, by special resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law,— (a) its share capital; (b) any capital redemption reserve account; or (c) any share premium account.	o Yes o No
	Capitalisation of profits	

39	(i) The company in general meeting may, upon the recommendation of the Board, resolve— (a) that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts, or to the credit of the, profit and loss account, or otherwise available for distribution; and (b) that such sum be accordingly set free for distribution in the manner specified in clause (ii) amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions. (ii) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause (iii), either in or towards— (A) paying up any amounts for the time being unpaid on any shares held by such members respectively; (B) paying up in full, unissued shares of the company to be allotted and distributed, credited as fully paid-up, to and amongst such members in the proportions aforesaid; (C) partly in the way specified in sub-clause (A) and partly in that specified in sub-clause (B); (D) A securities premium account and a capital redemption reserve account may, for the purposes of this regulation, be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares; (E) The Board shall give effect to the resolution passed by the company in pursuance of this regulation.	o Yes o No
40	(i) Whenever such a resolution as aforesaid shall have been passed, the Board shall— (a) make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares if any; and (b) generally do all acts and things required to give effect thereto. (ii) The Board shall have power— (a) to make such provisions, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, for the case of shares becoming distributable in fractions; and (b) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the company providing for the allotment to them respectively, credited as fully paid-up, of any further shares to which they may be entitled upon such capitalisation, or as the case may require, for the payment by the company on their behalf, by the application thereto of their respective proportions of profits resolved to be capitalised, of the amount or any part of the amounts remaining unpaid on their existing shares; (iii) Any agreement made under such authority shall be effective and binding on such members.	o Yes o No
	Buy-back of shares	

41	Notwithstanding anything contained in these articles but subject to the provisions of sections 68 to 70 and any other applicable provision of the Act or any other law for the time being in force, the company may purchase its own shares or other specified securities.	o Yes o No
	General meetings	
42	All general meetings other than annual general meeting shall be called extraordinary general meeting.	o Yes o No
43	(i) The Board may, whenever it thinks fit, call an extraordinary general meeting. (ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.	o Yes o No
	Proceedings at general meetings	
44	(i) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. (ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.	o Yes o No
45	The chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.	o Yes o No
46	If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.	o Yes o No
47	If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.	o Yes o No
48	In case of a One Person Company— (i) the resolution required to be passed at the general meetings of the company shall be deemed to have been passed if the resolution is agreed upon by the sole member and communicated to the company and entered in the minutes book maintained under section 118; (ii) such minutes book shall be signed and dated by the member; (iii) the resolution shall become effective from the date of signing such minutes by the sole member.	o Yes o No
	Adjournment of meeting	

49	(i) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place. (ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. (iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. (iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.	o Yes o No
	Voting rights	
50	Subject to any rights or restrictions for the time being attached to any class or classes of shares,— (a) on a show of hands, every member present in person shall have one vote; and (b) on a poll, the voting rights of members shall be in proportion to his share in the paid-up equity share capital of the company.	o Yes o No
51	A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.	o Yes o No
52	(i) In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders. (ii) For this purpose, seniority shall be determined by the order in which the names stand in the register of members.	o Yes o No
53	A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.	o Yes o No
54	Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.	o Yes o No
55	No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid	
56	(i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. (ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.	o Yes o No
	Proxy	

57	The instrument appointing a proxy and the power-of-attorney or other authority, if any, under which it is signed or a notarised copy of that power or authority, shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll; and in default the instrument of proxy shall not be treated as valid.	o Yes o No
58	An instrument appointing a proxy shall be in the form as prescribed in the rules made under section 105	o Yes o No
59	A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given: Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.	o Yes o No
	Board of Directors	
60	The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.	o Yes o No
61	(i) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day. (ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them— (a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or (b) in connection with the business of the company.	o Yes o No
62	The Board may pay all expenses incurred in getting up and registering the company.	o Yes o No
63	The company may exercise the powers conferred on it by section 88 with regard to the keeping of a foreign register; and the Board may (subject to the provisions of that section) make and vary such regulations as it may thinks fit respecting the keeping of any such register.	o Yes o No
64	All cheques, promissory notes, drafts, hundis, bills of exchange and other negotiable instruments, and all receipts for monies paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by such person and in such manner as the Board shall from time to time by resolution determine	o Yes o No
65	Every director present at any meeting of the Board or of a committee thereof shall sign his name in a book to be kept for that purpose.	o Yes o No

66	(i) Subject to the provisions of section 149, the Board shall have power at any time, and from time to time, to appoint a person as an additional director, provided the number of the directors and additional directors together shall not at any time exceed the maximum strength fixed for the Board by the articles. (ii) Such person shall hold office only up to the date of the next annual general meeting of the company but shall be eligible for appointment by the company as a director at that meeting subject to the provisions of the Act.	o Yes o No
	Proceedings of the Board	
67	(i) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit. (ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.	o Yes o No
68	(i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes. (ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.	o Yes o No
69	The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.	o Yes o No
70	(i) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office. (ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be Chairperson of the meeting.	o Yes o No
71	(i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit. (ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.	o Yes o No
72	(i) A committee may elect a Chairperson of its meetings. (ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.	o Yes o No
73	(i) A committee may meet and adjourn as it thinks fit. (ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairperson shall have a second or casting vote.	o Yes o No

74	All acts done in any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.	o Yes o No
75	Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.	o Yes o No
76	In case of a One Person Company— (i) where the company is having only one director, all the businesses to be transacted at the meeting of the Board shall be entered into minutes book maintained under section 118; (ii) such minutes book shall be signed and dated by the director; (iii) the resolution shall become effective from the date of signing such minutes by the director.	o Yes o No
	Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer	
77	Subject to the provisions of the Act,— (i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it may thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board; (ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer	o Yes o No
78	A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.	o Yes o No
	The Seal	
79	(i) The Board shall provide for the safe custody of the seal. (ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.	o Yes o No
	Dividends and Reserve	
80	The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.	o Yes o No

81	Subject to the provisions of section 123, the Board may from time to time pay to the members such interim dividends as appear to it to be justified by the profits of the company.	o Yes o No
82	(i) The Board may, before recommending any dividend, set aside out of the profits of the company such sums as it thinks fit as a reserve or reserves which shall, at the discretion of the Board, be applicable for any purpose to which the profits of the company may be properly applied, including provision for meeting contingencies or for equalizing dividends; and pending such application, may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the Board may, from time to time, thinks fit. (ii) The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve	o Yes o No
83	(i) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. (ii) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share. (iii) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.	o Yes o No
84	The Board may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.	o Yes o No
85	(i) Any dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members, or to such person and to such address as the holder or joint holders may in writing direct. (ii) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.	o Yes o No
86	Any one of two or more joint holders of a share may give effective receipts for any dividends, bonuses or other monies payable in respect of such share.	o Yes o No
87	Notice of any dividend that may have been declared shall be given to the persons entitled to share therein in the manner mentioned in the Act.	o Yes o No
88	No dividend shall bear interest against the company.	o Yes o No
	Accounts	

89	(i) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the company, or any of them, shall be open to the inspection of members not being directors. (ii) No member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the Board or by the company in general meeting.	o Yes o No
	Winding up	
90	Subject to the provisions of Chapter XX of the Act and rules made thereunder— (i) If the company shall be wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the company, whether they shall consist of property of the same kind or not. (ii) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members. (iii) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories if he considers necessary, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.	o Yes o No
	Indemnity	
91	Every officer of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in which relief is granted to him by the court or the Tribunal. Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address, description and occupation, if any, and such signatures shall be in form specified below:	o Yes o No

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
ABC of ..... merchant	Signed before me... Signature.....

Dated the.....day of .....20.....

Place: .....

TABLE – J - ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY AND NOT HAVING SHARE CAPITAL		
Article No	**Description**	**Applicability Y/N**
1	The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.	o Yes o No
2	The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.	o Yes o No
3	All the articles of Table H in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company	o Yes o No
Table H-ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING SHARE CAPITAL		
	Interpretation	
I	(1) In these regulations— (a) "the Act" means the Companies Act, 2013; (b) "the seal" means the common seal of the company. (2) Unless the context otherwise requires, words or expressions contained in these regulations shall have the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.	o Yes o No
	Members	
II 1	The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.	o Yes o No
2	The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.	o Yes o No
	General meetings	
3	All general meetings other than annual general meeting shall be called extraordinary general meeting.	o Yes o No
4	(i) The Board may, whenever it thinks fit, call an extraordinary general meeting. (ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.	o Yes o No
	Proceedings at general meetings	

5	(i) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. (ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.	o Yes o No
6	The Chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.	o Yes o No
7	If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.	o Yes o No
8	If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.	o Yes o No
	Adjournment of meeting	
9	(i) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place. (ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. (iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. (iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.	o Yes o No
	Voting rights	
10	Every member shall have one vote.	o Yes o No
11	A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.	o Yes o No
12	No member shall be entitled to vote at any general meeting unless all sums presently payable by him to the company have been paid.	o Yes o No
13	(i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. (ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.	o Yes o No

14	A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given: Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.	o Yes o No
15	A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.	o Yes o No
16	Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.	o Yes o No
	Board of Directors	
17	The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.	o Yes o No
18	(i) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day. (ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them— (a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or (b) in connection with the business of the company	o Yes o No
	Proceedings of the Board	
19	(i) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit. (ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.	o Yes o No
20	(i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes. (ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote	o Yes o No
21	The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.	o Yes o No

22	(i) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office. (ii) If no such chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their members to be Chairperson of the meeting	o Yes o No
23	(i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit. (ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.	o Yes o No
24	(i) A committee may elect a Chairperson of its meetings. (ii) If no such Chairperson is elected, or if at any meeting the chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.	o Yes o No
25	(i) A committee may meet and adjourn as it thinks proper. (ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the chairman shall have a second or casting vote.	o Yes o No
26	All acts done by any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.	o Yes o No
27	Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be as valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.	o Yes o No
	Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer	
28	Subject to the provisions of the Act,— (i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board. (ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.	o Yes o No

29	A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.	o Yes o No
	The Seal	
30	(i) The Board shall provide for the safe custody of the seal. (ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence. Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address, description and occupation, if any, and such signatures shall be in form specified below:	o Yes o No

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
ABC of ..... merchant	Signed before me... Signature.....

Dated the.....day of .....20.....

Place: .....

{F. No. 01/13/2013-CL-V (Part-I)]
AMARDEEP SINGH BHATIA, Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 250(E), dated the 31st March, 2014.

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MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 9th June, 2014

G.S.R. 390(E).—In exercise of the powers conferred by sub-section (1) of Section 203 of the Companies Act, 2013 (18 of 2013) read with clause (51) of Section 2 and Section 469 of the said Act, the Central Government hereby makes the following rules to amend the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 after rule 8, the following rule shall be inserted, namely:—

"8A. Appointment of Company Secretaries in companies not covered under rule 8.—A company other than a company covered under rule 8 which has a paid up share capital of five crore rupees or more shall have a whole-time company secretary."

[F. No. 1/11/2013-CL-V]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note : The principal rules were published in the Gazette of India vide notification number G.S.R. 249(E), dated the 31st March, 2014.

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रजिस्ट्री सं० डी० एल०-33004/99 REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)
प्राधिकार से प्रकाशित
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सं. 317] नई दिल्ली, मंगलवार, मई 19, 2015/वैशाख 29, 1937
No. 317] NEW DELHI, TUESDAY, MAY 19, 2015/VAISAKHA 29, 1937

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 18 मई, 2015

सा.का.नि. 395(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 के साथ पठित धारा 133 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के कारपोरेट कार्य मंत्रालय की अधिसूचना सं.सा.का.नि. 179(अ) तारीख 3 मार्च, 2011 और सा.का.नि.650(अ) तारीख 29 अगस्त, 2011 द्वारा भारत के राजपत्र, भाग II, उपंखड (i) में अधिसूचनाओं को, उन बातों के सिवाय अधिक्रांत करते हुए, जिन्हें ऐसे अधिक्रमण से पहले किया गया है या करने का लोप किया गया है, तत्काल प्रभाव से विखंडित करती है।

[फा. सं. 01/01/2009 सीएल-V]

अमरदीप सिंह भाटिया, संयुक्त सचिव

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, 18th May, 2015

G.S.R. 395(E).—In exercise of the powers conferred by section 133 read with section 469 of the Companies Act, 2013 (18 of 2013) , the Central Government hereby rescinds the notifications of the Government of India in the Ministry of Corporate Affairs, published in the Gazette of India, Extraordinary, Part II, Section (3), Sub-Section (i), vide number G.S.R 179 (E), dated the 3rd March, 2011 and G.S.R 650 (E), dated the 29th August, 2011, with immediate effect, except as respects things done or omitted to be done before such rescission.

[F. No. 01/01/2009 CL-V]

AMARDEEP SINGH BHATIA, Jt. Secy.

2210 GI/2015

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सं. 349] नई दिल्ली, शनिवार, मई 30, 2015/ज्येष्ठ 9, 1937
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कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 29 मई, 2015

सा.का.नि. 438(अ).—केंद्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 की उप-धारा (1) और उप-धारा (2) के साथ पठित धारा 399 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (रजिस्ट्रीकरण कार्यालय और फीस) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

1. (1) इन नियमों का नाम कंपनी (रजिस्ट्रीकरण कार्यालय और फीस) दूसरा संशोधन नियम, 2015 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कंपनी (रजिस्ट्रीकरण कार्यालय और फीस) नियम, 2014 के नियम 15 में निम्नलिखित परंतुक अंत:स्थापित किया जाएगा:

"परंतु कोई भी व्यक्ति अधिनियम की धारा 399 के अधीन धारा 117 की उप-धारा (3) के खंड (छ) में निर्दिष्ट संकल्पों का निरीक्षण करने या उसकी प्रतियां अभिप्राप्त करने का हकदार नहीं होगा"।

[फा. सं. 1/16/2013- सीएल-V]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पणी : मूल नियम भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उपखंड (i) में अधिसूचना संख्यांक सा.का.नि. सं. 268(अ), तारीख 31 मार्च, 2014 द्वारा प्रकाशित किए गए थे और अधिसूचना संख्यांक सा.का.नि. 122(अ), तारीख 24 फरवरी, 2015 द्वारा उनका अंतिम संशोधन किया गया था ।

MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION
New Delhi, the 29th May, 2015

G.S.R. 438(E).—In exercise of the powers conferred by section 399 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Registration Offices and Fees) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Registration Offices and Fees) Second Amendment Rules, 2015.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Companies (Registration Offices and Fees) Rules, 2014, in rule 15, the following proviso shall be inserted:

"Provided that no person shall be entitled under section 399 to inspect or obtain copies of resolutions referred to in clause (g) of sub-section (3) of Section117of the Act.".

[F. No. 1/16/2013-CL.V]
AMARDEEP SINGH BHATIA, Jt. Secy.

Note:—The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), vide number. G.S.R. 268(E), dated the 31st March, 2014 and was last amended by notification vide number G.S.R 122(E), dated the 24th February, 2015.

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असाधारण
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कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 29 मई, 2015

सा.का.नि. 439(अ).— केंद्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 की उप-धारा (1) और उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (शेयरपूंजी और डिबेंचर) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्: —

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (शेयरपूंजी और डिबेंचर) दूसरा संशोधन नियम, 2015 है।

(2) ये राजपत्र में उनके प्रकाशन की तरीख़ को प्रवृत्त होंगे।

2. कंपनी (शेयरपूंजी और डिबेंचर) नियम, 2014 के नियम 5 के उपनियम (3) में,-

(i) "कंपनी की मुहर से जारी" शब्दों के स्थान पर "कंपनी की मुहर; यदि कोई हो, से जारी" शब्द रखें जाएंगे;

(ii) खंड (ख) के स्थान पर निम्नलिखित खंड (ख) रखा जाएगा, अर्थात्:-

"(ख) सचिव या इस प्रयोजन के लिए बोर्ड द्वारा प्राधिकृत अन्य कोई व्यक्ति:-

परंतु यदि किसी कंपनी की सामान्य मुहर नहीं है तो शेयर प्रमाणपत्र पर दो निदेशकों अथवा एक निदेशक और कंपनी सचिव, यदि कंपनी ने कोई कंपनी सचिव नियुक्त किया हैं, द्वारा हस्ताक्षर किए जाएंगे:

परंतु यह और कि यदि बोर्ड की संरचना में इस बात की अनुज्ञा हो तो पूर्वोक्त दो निदेशकों में से कम से कम एक निदेशक प्रबंध निदेशक या पूर्णकालिक निदेशक से भिन्न कोई व्यक्ति होगा:

परंतु यह भी कि एक व्यक्ति कंपनी के मामले में, प्रत्येक शेयर प्रमाणपत्र कंपनी की मुहर, यदि कोई हो, से जारी किया जाएगा जो एक निदेशक या कंपनी के निदेशक बोर्ड द्वारा इस प्रयोजन के लिए प्राधिकृत किसी व्यक्ति और कंपनी सचिव या बोर्ड द्वारा इस प्रयोजन के लिए प्राधिकृत किसी अन्य व्यक्ति की उपस्थिति में लगाई जाएगी और उनके द्वारा उन पर हस्ताक्षर किए जाएंगे और यदि एक व्यक्ति कंपनी की सामान्य मुहर न हो तो शेयर प्रमाणपत्र पर उन व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे जिनकी उपस्थिति में इस परंतुक में मुहर लगाई जानी अपेक्षित है।"।

[फा. सं. 01/04/2013-सीएल-V]

अमरदीप सिंह भाटिया, संयुक्त सचिव,

टिप्पणी:- मूल नियम भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उपखंड (i) में तारीख 31 मार्च, 2014 की अधिसूचना सं. सा.का.नि. 265(अ) द्वारा प्रकाशित किए गए थे और इनमें अंतिम संशोधन 18 मार्च, 2015 की अधिसूचना सं. सा.का.नि. 210(अ) द्वारा किया गया था।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 29th May, 2015

G.S.R. 439 (E).—In exercise of the powers conferred by sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Share Capital and Debentures) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Share Capital and Debentures) Second Amendment Rules, 2015.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Companies (Share Capital and Debentures) Rules, 2014, in rule 5, in sub-rule (3), —

(i) for the words "issued under the seal of the company", the words "issued under the seal, if any, of the company" shall be substituted;

(ii) for clause (b), the following clause (b) shall be substituted, namely: —

"(b) the secretary or any person authorised by the Board for the purpose:

Provided that in case a company does not have a common seal, the share certificate shall be signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary:

Provided further that, if the composition of the Board permits of it, at least one of the aforesaid two directors shall be a person other than a managing director or a whole-time director:

Provided also that, in case of a One Person Company, every share certificate shall be issued under the seal, if any, of the company, which shall be affixed in the presence of and signed by one director or a person authorised by the Board of Directors of the company for the purpose and the Company Secretary, or any other person authorised by the Board for the purpose, and in case the One Person Company does not have a common seal, the share certificate shall be signed by the persons in the presence of whom the seal is required to be affixed in this proviso.".

[F. No. 1/4/2013 CL-V]

AMARDEEP SINGH BHATIA, Jt. Secy.

te: — The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, sub-section (i), *vide* nber G.S.R. 265(E), dated the 31st March, 2014 and was last amended by notification *vide* number G.S.R 210 (E), dated 18th March, 2015.

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कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 29 मई, 2015

सा.का.नि. 440 (अ).— केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 की उपधारा (1) और उपधारा (2) के साथ पठित धारा 77, धारा 78 और धारा 79 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कंपनी (प्रभारों का रजिस्ट्रीकरण) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (प्रभारों का रजिस्ट्रीकरण) संशोधन नियम, 2015 है।

(2) ये नियम राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कंपनी (प्रभारों का रजिस्ट्रीकरण) नियम, 2014 के नियम 3 के उपनियम (4) के खंड (क) में "कंपनी की मुहर द्वारा" शब्दों के स्थान पर "कंपनी की मुहर, यदि कोई हो तो, द्वारा" शब्द रखे जाएंगे।

[फा. सं. 1/10/2013- सीएल V]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण : मूल नियम भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उपखंड (i) में संख्याक सा.का.नि. 248 (अ), तारीख 31 मार्च, 2014 द्वारा प्रकाशित किए गए थे।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 29th May, 2015

G.S.R. 440(E).—In exercise of the powers conferred by sections 77, 78 and 79 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Registration of Charges) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Registration of Charges) Amendment Rules, 2015.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Companies (Registration of Charges) Rules, 2014, in rule 3, in sub-rule (4), in clause (a), for the words "under the seal of the company", the words "under the seal, if any, of the company" shall be substituted;

[F. No. 1/10/2013-CL.V]
AMARDEEP SINGH BHATIA, Jt. Secy.

Note:— The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, sub section (i), vide number. G.S.R. 248(E), dated the 31st March, 2014.

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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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सं. 352] नई दिल्ली, शनिवार, मई 30, 2015/ज्येष्ठ 9,1937

No. 352] NEW DELHI, SATURDAY, MAY 30, 2015/JYAISTHA 9, 1937

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 29 मई, 2015

सा.का.नि. 441(अ).— केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 के साथ पठित धारा 123 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कंपनी (लाभांश की घोषणा और अदायगी) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (लाभांश की घोषणा और अदायगी) दूसरा संशोधन नियम, 2015 है।

   (2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कंपनी (लाभांश की घोषणा और अदायगी) नियम, 2014 के नियम 3 के उपनियम (5) का लोप किया जाएगा।

[फा. सं. 1/31/2013-सीएल V-पार्ट]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पणी : मूल नियम भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उपखंड (i) में सा.का.नि. 241 (अ), तारीख 31 मार्च, 2014 द्वारा प्रकाशित किए गए थे और तत्पश्चात् अधिसूचना संख्याक सा.का. नि. 397 (अ), तारीख 12 जून, 2014 और संख्याक सा.का.नि 121 (अ), तारीख 24 फरवरी, 2015 द्वारा उनका संशोधन किया गया था।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 29th May, 2015

G.S.R. 441(E).—In exercise of the powers conferred under sub-section (1) of section 123 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Declaration and Payment of Dividend) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Declaration and Payment of Dividend) Second Amendment Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Declaration and Payment of Dividend) Rules, 2014, in rule 3, sub-rule (5) shall be omitted.

[F. No. 1/31/2013-CL.V-Part]
AMARDEEP SINGH BHATIA, Jt. Secy.

Note:— The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), *vide* number G.S.R. 241(E), dated the 31st March, 2014 and was subsequently amended by notification number G.S.R. 397(E), dated the 12th June, 2014 and number G.S.R. 121(E), dated the 24th February, 2015.

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The Gazette of India

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कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 29 मई, 2015

सा.का.नि. 442(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 की उपधारा (1) और उप-धारा (2) के साथ पठित धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कंपनी (निगमन) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (निगमन) दूसरा संशोधन नियम, 2015 है।

(2) ये राजपत्र में प्रकाशन की तारीख से प्रवृत्त होंगे।

2. कंपनी (निगमन) नियम, 2014 में –

(क) नियम 12 में, निम्नलिखित परंतुक अंतःस्थापित किया जाएगा, अर्थात् –

"परंतुक यह कि जहां किसी कंपनी के किसी उद्देश्य की प्राप्ति के मामले मे भारतीय रिजर्व बैंक, प्रतिभूति विनिमय बोर्ड जैसे क्षेत्रीय विनियामकों से रजिस्ट्रीकरण या अनुमोदन अपेक्षित है तो ऐसे भी विनियामक से कंपनी द्वारा ऐसे उद्देश्यों की प्राप्ति से पहले, यथास्थिति रजिस्ट्रीकरण या अनुमोदन प्राप्त किया जाएगा और कंपनी के निगमन के समय इस निमित्त घोषणा प्रस्तुत की जाएगी।";

(ख) नियम 24 का लोप किया जाएगा;

(ग) उपाबंध में,-

(i) प्ररूप संख्या आईएनसी-13 और आईएनसी-16 के स्थान पर क्रमशः निम्नलिखित प्ररूप आईएनसी-13 और आईएनसी-16 रखे जाएंगे, अर्थात् -

"फॉर्म सं. आईएनसी-13

संगम ज्ञापन

[कम्पनी (निगमन) नियम, 2014 के नियम 19(2) देखें]

1. कम्पनी का नाम है "....."।
2. कम्पनी का रजिस्ट्रीकृत कार्यालय ..... राज्य में स्थित होगा ।
3. कम्पनी जिन उद्देश्यों के लिए स्थापित की गई है वे निम्नलिखित हैं :

.....

.....

उपर्युक्त उद्देश्यों को अग्रसर करने के लिए आवश्यक समझे जाने वाले ऐसे सभी विधिपूर्ण कार्य करना :

परंतु यह कि कम्पनी अपनी निधि से अथवा प्रयासों से किसी ऐसे विनियम अथवा प्रतिबंध को इसके सदस्यों अथवा अन्यों पर अधिरोपित करने अथवा उनके द्वारा उपारत किए जाने का प्रबंध करने का समर्थन नहीं करेगी जो कम्पनी के एक उद्देश्य के रूप में इसे एक ट्रेड यूनियन बना दे ।

4. कम्पनी का उद्देश्य ..... की विस्तार तक हैं ।

[यहां राज्य अथवा राज्यों और देश अथवा देशों के नाम प्रविष्ट करें]

5. (i) कम्पनी को कोई लाभ, यदि कोई हो, अथवा अन्य आय और सम्पत्ति, जब भी प्राप्त हो, केवल इस ज्ञापन-पत्र में बताए गए उद्देश्यों के संवर्धन के लिए प्रयोग की जाएगी ।

(ii) उपर्युक्त लाभ, अन्य आय अथवा सम्पत्ति का कोई हिस्सा किसी भी समय कम्पनी के सदस्य रह चुके व्यक्तियों अथवा किसी एक अथवा एक से अधिक व्यक्तियों को अथवा किसी एक अथवा एक से अधिक व्यक्तियों के माध्यम से दावा करने वाले किन्हीं व्यक्तियों को लाभांश, बोनस अथवा लाभ के माध्यम से अन्यथा प्रत्यक्ष अथवा अप्रत्यक्ष रूप से संदत्त अथवा अंतरित नहीं किया जाएगा ।

(iii) कम्पनी द्वारा इसके किसी सदस्य, चाहे वह कम्पनी का अधिकारी अथवा सदस्य हो अथवा नहीं, को जेबी खर्च, उधार ली गई राशि पर तर्कसंगत और उचित ब्याज, अथवा कम्पनी द्वारा किराये पर लिए गए भवनों के लिए तर्कसंगत और उचित किराये को छोड़ कर रुपये-पैसे अथवा रुपये-पैसे के मूल्य में कोई पारिश्रमिक अथवा अन्य लाभ नहीं दिया जाएगा ।

(iv) इस खंड में कि कोई बात कम्पनी को वास्तव में दी गई किन्हीं सेवाओं के बदले कम्पनी द्वारा इसके किसी अधिकारियों अथवा कर्मचारियों (सदस्य न रहते हुए) अथवा किसी अन्य व्यक्ति (सदस्य न रहते हुए) को सदभावना में विवेकपूर्ण पारिश्रमिक देने से नहीं रोकेगा ।

(v) खंड (iii) और (iv) में कि कोई बात कम्पनी के किसी सदस्य द्वारा कम्पनी को वास्तव में दी गई किन्हीं सेवाओं (जो एक सदस्य द्वारा दी जाने वाली अपेक्षित सेवाएं वस्तु के रूप में न हों) के बदले कम्पनी द्वारा सद्भावना से विवेकपूर्ण पारिश्रमिक देने से नहीं रोकेगी ।

6. इस संबद्धता के ज्ञापन में अथवा तत्समय प्रवृत्त कम्पनी की संबद्धता के अनुच्छेदों में कोई परिवर्तन नहीं किया जाएगा जब तक कि यह परिवर्तन पूर्व में रजिस्ट्रार को प्रस्तुत न किया गया हो और रजिस्ट्रार द्वारा अनुमोदित न किया गया हो ।

7. सदस्यों का दायित्व सीमित है ।

8. [गारंटी द्वारा लिमिटेड कम्पनियों के लिए]

प्रत्येक सदस्य, सदस्य रहते हुए अथवा उसके बाद एक वर्ष के अंदर कम्पनी के परिसमापन की स्थिति में उसके सदस्य रहते हुए कम्पनी द्वारा किए गए करारों के संबंध में ऋण अथवा दायित्वों के संदाय और

(8) यह कि तत्समय प्रवृत्त किसी विधि के अधीन किसी कार्यवाही पर प्रतिकूल प्रभाव डाले बिना इस अनुज्ञप्ति का तब प्रतिसंहरण किया जाएगा जब कंपनी निम्न में से कार्रवाई करती है।

(क) जब वह अधिनियम की धारा 8 की किन्हीं अपेक्षाओं या उसके अधीन बनाए गए नियमों या अनुज्ञप्ति जारी करने संबंधी किसी शर्त, जिसके अधीन अनुज्ञप्ति जारी किया गया है, का उल्लंघन करती है,

(ख) यदि कम्पनी के कार्य कपटपूर्ण रीति से या ऐसी रीति से जो कंपनी के उद्देश्यों के अतिक्रमण में है या लोकहित के प्रतिकूल है संचालित किया जा रहा है।

.....

पंजीयक

तारीख : ..... 20.....

*टिप्पण: धारा 8 कंपनी जो आयकर अधिनियम, 1961 की धारा 2(22ककक) के साथ पठित ईलेक्टोरल ट्रस्ट स्कीम, 2013 के अनुसार ईलेक्टोरल ट्रस्ट कंपनी है, ईलेक्टोरल ट्रस्ट के उद्देश्य वाली किसी अन्य धारा 8 कंपनी के साथ समामेलन कर सकती है या स्कीम के अधीन अपने सभी फंड वितरित करने के बाद परिसमापन या विघटन कर सकती है।";

(iii) प्ररूप आईएनसी 21 का लोप किया जाएगा।

[फा. सं. 1/13/2013-सीएल-V]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण - मूल नियम सा.का.नि. 250(अ) तारीख 31 मार्च, 2014 द्वारा भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उप-खंड (i) में प्रकाशित किए गए थे इसमें सा.का.नि. (अ) तारीख 01 मई, 2015 द्वारा पश्चातवर्ती संशोधन किया गया था।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 29th May, 2015

G.S.R. 442(E).—In exercise of the powers conferred by section 7 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Incorporation) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Incorporation) Second Amendment Rules, 2015.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Companies (Incorporation) Rules, 2014,-

(a) in rule 12, the following proviso shall be inserted, namely:-

"Provided that in case pursuing of any of the objects of a company requires registration or approval from sectoral regulators such as Reserve Bank of India, Securities and Exchange Board, registration or approval, as the case may be, from such regulator shall be obtained by the company before pursuing such objects and a declaration in this behalf shall be submitted at the stage of incorporation of the company.";

(b) rule 24 shall be omitted;

(c) in the Annexure, -

(i) for the existing Form INC-13 and Form INC-16, the following Form INC-13 and Form INC-16 shall respectively be substituted, namely:-

2404 GI/15-2

"Form No. INC-13

Memorandum of Association

[See rule 19(2) the Companies (Incorporation) Rules, 2014].

1. The name of the company is ".....".

2. The registered office of the company will be situated in the State of.....

3. The objects for which the company is established are:

.....

.....

the doing of all such other lawful things as considered necessary for the furtherance of the above objects :

Provided that the company shall not support with its funds, or endeavour to impose on, or procure to be observed by its members or others, any regulation or restriction which, as an object of the company, would make it a trade union.

4. The objects of the company extend to the .....

[Here enter the name of the State or States, and Country or Countries]

5. (i) The profits, if any, or other income and property of the company, whensoever derived, shall be applied, solely for the promotion of its objects as set forth in this memorandum.

(ii) No portion of the profits, other income or property aforesaid shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to persons who, at any time are, or have been, members of the company or to any one or more of them or to any persons claiming through any one or more of them.

(iii) No remuneration or other benefit in money or money's worth shall be given by the company to any of its members, whether officers or members of the company or not, except payment of out-of-pocket expenses, reasonable and proper interest on money lent, or reasonable and proper rent on premises let to the company.

(iv) Nothing in this clause shall prevent the payment by the company in good faith of prudent remuneration to any of its officers or servants (not being members) or to any other person (not being member), in return for any services actually rendered to the company.

(v) Nothing in clauses (iii) and (iv) shall prevent the payment by the company in good faith of prudent remuneration to any of its members in return for any services (not being services of a kind which are required to be rendered by a member), actually rendered to the company;

6. No alteration shall be made to this memorandum of association or to the articles of association of the company which are for the time being in force, unless the alteration has been previously submitted to and approved by the Registrar.

7. The liability of the members is limited.

8. [FOR COMPANIES LIMITED BY GUARANTEE]

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 afterwards, for payment of the debts or liabilities of the company contracted before he ceases to be a member and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves such amount as may be required not exceeding a sum of Rs. .....

[FOR COMPANIES LIMITED BY SHARES]

The share capital of the company will consist of Rs. ..... divided into ..... shares of ..... rupees each.

9. (1) True accounts shall be kept of all sums of money received and expended by the company and the matters in respect of which such receipts and expenditure take place, and of the property, credits and liabilities of the company; and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the regulations of the company for the time being in force, the accounts shall be open to the inspection of the members.

(2) Once at least in every year, the accounts of the company shall be examined and the correctness of the balance-sheet and the income and expenditure account ascertained by one or more properly qualified auditor or auditors.

**10. If upon a winding up or dissolution of the company, there remains, after the satisfaction of all the debts and liabilities, any property whatsoever, the same shall not be distributed amongst the members of the company but

shall be given or transferred to such other company having objects similar to the objects of this company, subject to such conditions as the Tribunal may impose, or may be sold and proceeds thereof credited to the Rehabilitation and Insolvency Fund formed under section 269 of the Act.

**11. The Company can be amalgamated only with another company registered under section 8 of the Act and having similar objects.

12. We, the several persons whose names, addresses, descriptions and occupations are hereunto subscribed are desirous of being formed into a company not for profit, in pursuance of this Memorandum of Association:

Names, addresses, descriptions and occupations of subscribers:

1.....of.....*

2.....of.....*

3.....of.....*

4.....of.....*

5.....of.....*

6.....of.....*

7.....of.....*

Witnesses to the above signatures of:

1.....

2.....

Dated the..... day of.....20....

*If the association is a company limited by shares, here enter "number of shares" taken by each subscriber.

** Note: Section 8 company which is an Electoral Trust as per the Electoral Trusts Scheme, 2013 read with section 2(22AAA) of the Income-tax Act, 1961 may amalgamate with another section 8 company having the object of an Electoral Trust or may wind up or dissolve only after disbursing all its funds as per the scheme.";

"Form No. INC-16

Licence under section 8 (1) of the Companies Act, 2013

[See rule 20 the Companies (Incorporation) Rules, 2014]

WHEREAS it has been proved to my satisfaction that ....., a person or an association of persons to be registered as a company under the Companies Act, 2013, for promoting objects of the nature specified in clause (a) of sub-section (1) of section 8 of the said Act, and that it intends to apply its profits, if any, or other income and property in promoting its objects and to prohibit the payment of any dividend to its members;

NOW, THEREFORE, in exercise of the powers conferred by section 8 of the said Act, I, the Registrar at ....., hereby grant, this Licence, directing that the said person or association or persons be registered as a company with limited liability without the addition of the word "Limited", or as the case may be, the words "Private Limited" to its name, subject to the following conditions, namely:-

(1) that the said company shall in all respects be subject to and governed by the conditions and provisions contained in its memorandum of association;

(2) that the profits, if any or other income and property of the said company, whensoever derived, shall be applied solely for the promotion of the object as set forth in its memorandum of association and that no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus, or otherwise by way of profit, to persons who at any time are or have been members of the said company or to any of them or to any person claiming through any one or more of them;

(3) that no remuneration or other benefit in money or money's worth shall be given by the company to any of its members except payment of out-of-pocket expenses, reasonable and proper interest on money lent, or reasonable and proper rent on premises let to the company;

(4) that nothing in this clause shall prevent the payment by the company in good faith of prudent remuneration to any of its officers or servants (not being members) or to any other person (not being member), in return for any services actually rendered to the company;

(5) that nothing in clauses (3), (4) and (5) shall prevent the payment by the company in good faith of prudent remuneration to any of its members in return for any services (not being services of a kind which are required to be rendered by a member), actually rendered to the company;

(6) that no alteration shall be made to the memorandum of association or to the articles of association of the company, which are for the time being in force, unless the alteration has been previously submitted to and approved by the Registrar ;

*(7) The Company can be amalgamated only with another company registered under section 8 of the Act and having similar objects; and

(8) that, without prejudice to action under any law for the time being in force, this Licence shall be liable to be revoked, if the company:

(a) contravenes any of the requirements of section 8 of the Act or the rules made thereunder or any of the conditions subject to which a Licence is issued;

(b) if the affairs of the company are conducted fraudulently or in a manner violative of the objects of the company or prejudicial to public interest.

.....

Registrar

Dated this..... day of.....20.....

* Note: Section 8 company which is an Electoral Trust as per the Electoral Trusts Scheme, 2013 read with section 2(22AAA) of the Income-tax Act, 1961 may amalgamate with another section 8 company having the object of an Electoral Trust or may wind up or dissolve only after disbursing all its funds as per the Scheme."

(ii) Form INC-21 shall be omitted.

[F. No. 1/13/2013-CL-V]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note:- The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), vide number G.S.R. 250 (E) dated the 31st March, 2014 and subsequently amended vide number G.S.R. ..... dated the 1st May, 2015.

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Companies Act

रजिस्ट्री सं० डी० एल०-33004/99 REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)
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कारपोरेट कार्य मंत्रालय

आदेश

नई दिल्ली, 13 फरवरी, 2015

का.आ. 504(अ).—कंपनी अधिनियम, 2013 (2013 का 18) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) को 29 अगस्त, 2013 को राष्ट्रपति की सम्मति प्राप्त हुई थी;

और उक्त अधिनियम की धारा 2 का खंड (85) "लघु कंपनी" के निवंधन की परिभाषा करता है;

और उक्त अधिनियम की धारा 186 की उपधारा (11) का खंड (ख), यह उपबंध करता है कि धारा 186 के उपवंधों की अपेक्षाएं [उक्त धारा की उपधारा (1) के सिवाय] भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) के अध्याय-3ख के अधीन रजिस्ट्रीकृत किसी गैर-बैंककारी वित्तीय कंपनी और किसी अन्य कंपनी, जिसका मूल कारोबार प्रतिभूतियों का अर्जन है, द्वारा किए गए किसी अधिग्रहण पर लागू नहीं होगा;

और उक्त अधिनियम की धारा 2 के खंड (85) और धारा 186 के उक्त उपबंध 1 अप्रैल, 2014 से प्रवृत्त हो गए थे;

और उक्त अधिनियम के पूर्वोक्त उपबंधों को प्रभावी करने में निम्नलिखित कठिनाइयां उत्पन्न हुई हैं –

(क) धारा 2 के खंड (85) के अनुसार, कोई कंपनी 'लघु कंपनी' मानी जा सकेगी, यदि वह उसमें अनुबंधित शर्तों में से किसी एक शर्त को पूरा करती है जिससे दूसरी सीमा प्रतिबंधित या अप्रमाणिक बन जाती है। इस संबंध में कठिनाइयां उत्पन्न हो गई हैं चूंकि कंपनियां यद्यपि जो किसी एक मानदंड को पूरा करती हैं किंतु दूसरे मानदंड की बाबत धनीय सीमा से अधिक हो जाती हैं, भी 'लघु कंपनी' के रूप में वर्गीकृत की जाती हैं; और

(ख) धारा 186 की उपधारा (11) के खंड (ख) में किसी बैंककारी कंपनी अथवा बीमा कंपनी अथवा आवास वित्त कंपनी को अपने कारोबार के साधारण क्रम में प्रतिभूति अर्जन करने से छूट देने का उपबंध न होने के कारण यह कठिनाई उत्पन्न हुई है कि इस प्रकार की कंपनियां अपने कारोबार के साधारण क्रम में प्रतिभूतियों का अर्जन नहीं कर सकतीं;

अत:, अब केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 470 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ऊपर पूर्वोक्त कठिनाइयों को दूर करने के लिए निम्नलिखित आदेश करती है, अर्थात् :-

1. **संक्षिप्त नाम और प्रारंभ**–(1) इस आदेश का नाम कंपनी (कठिनाइयों को दूर करना) आदेश, 2015 है।

(2) यह राजपत्र में प्रकाशन की तारीख को प्रवृत्त होगा।

2. कंपनी अधिनियम, 2013 (जिसे इसके पश्चात् उक्त अधिनियम कहा गया है), में -

(क) धारा 2 के खंड (85) के उपखंड (i) में अंत में आने वाले "या" शब्द के स्थान पर "और" शब्द रखा जाएगा; और

(ख) उक्त अधिनियम की धारा 186 की उपधारा (11) के खंड (ख) में मद (iii) के पश्चात् निम्नलिखित मद अंत:स्थापित की जाएगी, अर्थात् :-

"(iv) किसी बैंककारी कंपनी या किसी बीमा कंपनी या आवास वित्त कंपनी द्वारा कारोबार के साधारण क्रम में प्रतिभूतियों का अर्जन करके किए गए"।

[फा. सं. 1/13/2013-सीएल-V(भाग)]

अमरदीप सिंह भाटिया, संयुक्त सचिव

MINISTRY OF CORPORATE AFFAIRS

ORDER

New Delhi, the 13th February, 2015

S.O. 504(E).—Whereas, the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on the 29th August, 2013;

And whereas, clause (85) of section 2 of the said Act provides for definition of the term "small company";

And whereas, clause (b) of sub-section (11) of section 186 of the said Act provides that the requirements of provisions of section 186 [except sub-section (1) of the said section] shall not apply to any acquisition made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 (2 of 1934) and any other company whose principal business is acquisition of securities;

And whereas, such provisions of clause (85) of section 2 and section 186 of the said Act had come into force on the 1st day of April, 2014;

And whereas, the following difficulties have arisen in giving effect to the above provisions of the said Act:—

(a) According to clause (85) of section 2, a company may be treated as a 'small company' if it meets either of the conditions provided therein thereby making the second limit unrestricted or inconsequential. Difficulties have arisen in this regard as companies which, though, meet one of the criteria but exceed the monetary limit in respect of second criteria excessively are also getting classified as 'small companies'; and

(b) in clause (b) of sub-section (11) of section 186, in the absence of provisions for exemption to a banking company or an insurance company or a housing finance company making acquisition of securities in its ordinary course of business, a difficulty has arisen that such companies cannot make any acquisition of securities in their ordinary course of business;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:-

(1) **Short title and commencement.**—(1) This Order may be called the Companies (Removal of Difficulties) Order, 2015.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Companies Act, 2013 (hereinafter referred to as the said Act),—

(a) in section 2, in clause (85), in sub-clause (i), for the word "or" occurring at the end, the word "and" shall be substituted; and

(b) in section 186 of the said Act, in sub-section (11), in clause (b), after item (iii), the following item shall be inserted, namely :—

"(iv) made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business.".

[F. No. 1/13/2013-CL.V-Part]

AMARDEEP SINGH BHATIA, Jt. Secy.

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The Gazette of India

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सं. 426] नई दिल्ली, बृहस्पतिवार अगस्त, 14, 2014/श्रावण 23, 1936
No. 426] NEW DELHI, THURSDAY, AUGUST 14, 2014/SHRAVANA 23, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 14 अगस्त, 2014

सा.का.नि. 590(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 के साथ पठित धारा 173, 175, 177, 178, 179, 184, 185, 186, 187, 188, 189 और धारा 191 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कंपनी (बोर्ड की बैठकें और शक्तियां) नियम, 2014 में संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :-

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (बोर्ड की बैठकें और उसकी शक्तियां) दूसरा संशोधन नियम, 2014 है।

(2) ये नियम राजपत्र में प्रकाशन की तारीख से प्रवृत्त होंगे।

2. कंपनी (बोर्ड की बैठकें और उसकी शक्तियां) नियम, 2014 में

(1) नियम 3 के उपनियम (6) में, "जो भारत में होगा," शब्दों व अल्पविराम का लोप किया जाएगा।

(2) नियम 4 में,

(क) उपनियम (1) में "(1) वीडियों" कोष्ठक संख्या और शब्द के स्थान पर, "वीडियों" शब्द रखा जाएगा;

(ख) खंड (iv) में, निम्नलिखित खंड रखा जाएगा अर्थात् :-

"वित्तीय विवरणी जिसके अंतर्गत समेकित वित्तीय विवरणी भी हैं, यदि कोई हो, अधिनियम की धारा 134 की उपधारा (1) के अधीन बोर्ड द्वारा अनुमोदित होगी, के विचार के लिए लेखापरीक्षा समिति की बैठकें; और"

(3) नियम 15 के उपनियम (3) के स्थान पर, निम्नलिखित उपनियम रखा जाएगा, अर्थात् :-

"(3) धारा 188 की उपधारा (1) के पहले परंतुक के प्रयोजन के लिए, किसी विशेष संकल्प द्वारा कंपनी के पूर्व अनुमोदन के सिवाय, कंपनी कोई संव्यवहार नहीं करेगी जहां किसी वित्तीय वर्ष के दौरान पूर्व संव्यवहारों के साथ या तो वैयक्तिक या उसके साथ संव्यवहार किया गया हो, –

(क) धारा 188 की उपधारा (1) के खंडों (क) से (ड.) के संबंध में, नीचे यथाउल्लिखित के अनुसार मानकों के साथ संविदाओं या करारों के रूप में हो -

(i) धारा 188 की उपधारा (1) के खंड (क) और खंड (ड.) में यथाउल्लिखित, कंपनी का व्यापारावर्त के दस प्रतिशत अथवा एक सौ करोड़ रुपए, जो भी कम हो, से अधिक की किसी वस्तु या सामग्री की प्रत्यक्ष या अभिकर्ता की नियुक्ति के माध्यम से बिक्रय, क्रय अथवा प्रदाय करना;

(ii) धारा 188 की उपधारा (1) के खंड (ख) और खंड (ड.) में यथाउल्लिखित, कंपनी के निवल मूल्य के दस प्रतिशत अथवा एक सौ करोड़ रुपए, जो भी कम हो, से अधिक की किसी प्रकार की संपत्ति की प्रत्यक्ष या अभिकर्ता की नियुक्ति के माध्यम से निपटान या क्रय करना;

(iii) धारा 188 की उपधारा (1) के खंड (ग) में यथाउल्लिखित कंपनी के निवल मूल्य के दस प्रतिशत या कंपनी के व्यापारावर्त के दस प्रतिशत या एक सौ करोड़ रुपए, जो भी कम हो, से अधिक की किसी प्रकार की संपत्ति को पट्टे पर देना;

(iv) धारा 188 की उपधारा (1) के खंड (घ) में यथाउल्लिखित कंपनी के वार्षिक व्यापारावर्त के दस प्रतिशत अथवा पचास करोड़ रुपए, जो भी कम हो, से अधिक की कोई सेवा, प्रत्यक्ष या अभिकर्ता की नियुक्ति के माध्यम से लेना या प्रदान करना;

स्पष्टीकरण.- यह स्पष्ट किया जाता है कि उपखंड (i) से उपखंड (iv) में विनिर्दिष्ट सीमाएं किसी वित्त वर्ष के दौरान किए जाने वाले संव्यवहार अथवा संव्यवहारों पर वैयक्तिक रूप में अथवा पिछले संव्यवहार के साथ लागू होंगे।

(ख) धारा 188 की उपधारा (1) के खंड (च) में यथाउल्लिखित दो लाख पचास हजार रुपए से अधिक के मासिक पारिश्रमिक पर कंपनी, इसकी अनुषंगी कंपनी अथवा सहयोगी कंपनी में किसी पद अथवा लाभ के स्थान पर नियुक्ति; अथवा

(ग) धारा 188 की उपधारा (1) के खंड (छ) में यथाउल्लिखित कंपनी के निवल मूल्य के एक प्रतिशत से अधिक की किसी प्रतिभूति अथवा व्युत्पन्नों के अभिदान के हामीदारी के लिए पारिश्रमिक।

स्पष्टीकरण – (1) उपर्युक्त उपनियमों में उल्लिखित व्यापारावर्त या निवल मूल्य की गणना पिछले वित्तीय वर्ष के लेखापरीक्षित वित्तीय विवरणी के आधार पर की जाएगी।

(2) पूर्ण स्वामित्व वाली अनुषंगी कंपनी की दशा में, नियंत्री कंपनी द्वारा पारित विशेष संकल्प पूर्ण स्वामित्व वाली अनुषंगी कंपनी और नियंत्री कंपनी के बीच संव्यवहार के प्रयोजन के लिए पर्याप्त होगा।

(3) धारा 101 के अनुसरण में आयोजित साधारण बैठक की सूचना के साथ संलग्न किए जाने वाले स्पष्टीकरण विवरण में निम्नलिखित विशिष्टियां होंगी, अर्थात् :-

(क) संबंधित पक्ष का नाम;

(ख) निदेशक या प्रमुख प्रबंधकीय कार्मिक, जो संबंधित है, यदि कोई हो, का नाम;

(ग) संबंध की प्रकृति;

(घ) संविदा या करार की प्रकृति, सारत: शर्तें, धनीय मूल्य और अन्य विष्टियां;

(ड.) प्रस्तावित संकल्प पर किसी विनिश्चिय को लेने के लिए सदस्यों के लिए कोई अन्य संगत या महत्वपूर्ण कोई अन्य जानकारी।"

[फा.सं.1/32/2013-सीएल-V-पार्ट]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण: मूल अधिसूचना भारत के राजपत्र में, संख्या सा.का.नि.240(अ.) तारीख 31.03.2014 द्वारा प्रकाशित की गई थी और अधिसूचना संख्या सा.का.नि.398(अ.) तारीख 12.06.2014 द्वारा इसमें संशोधन किया गया था।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 14th August, 2014

G.S.R. 590(E).—In exercise of the powers conferred under sections 173, 175, 177, 178, 179, 184, 185, 186, 187, 188, 189 and section 191 read with section 469 of the Companies Act, 2013 (18 of 2013), the,Central Government hereby makes the following rules to amend the Companies (Meetings of Board and its Powers) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Meetings of Board and its Powers) Rules, 2014, -

(1) in rule 3, in sub-rule (6), the words and commas ",which shall be in India," shall be omitted.

(2) in rule 4,—

(a) in sub-rule (1), for the brackets, figure and word "(1) The", the word "The" shall be substituted;

(b) in clause (iv), for the words "consideration of accounts", the words "consideration of financial statement including consolidated financial statement, if any, to be approved by the Board under sub-section (1) of section 134 of the Act" shall be substituted.

(3) in rule 15, for sub-rule (3), the following sub-rule shall be substituted, namely:—

"(3) For the purposes of first proviso to sub-section (1) of section 188, except with the prior approval of the company by a special resolution, a company shall not enter into a transaction or transactions, where the transaction or transactions to be entered into,—

(a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of section 188, with criteria as mentioned below -

(i) sale, purchase or supply of any goods or materials, directly or through appointment of agent, exceeding ten per cent. of the turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (a) and clause (e) respectively of sub-section (1) of section 188;

(ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, exceeding ten per cent. of net worth of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (b) and clause (e) respectively of sub-section (1) of section 188;

(iii) leasing of property of any kind exceeding ten per cent. of the net worth of the company or ten per cent. of turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (c) of sub-section (1) of section 188;

(iv) availing or rendering of any services, directly or through appointment of agent, exceeding ten per cent. of the turnover of the company or rupees fifty crore, whichever is lower, as mentioned in clause (d) and clause (e) respectively of sub-section (1) of section 188:

Explanation.—It is hereby clarified that the limits specified in sub-clauses (i) to (iv) shall apply for transaction or transactions to be entered into either individually or taken together with the previous transactions during a financial year.

(b) is for appointment to any office or place of profit in the company, its subsidiary company or associate company at a monthly remuneration exceeding two and half lakh rupees as mentioned in clause (f) of sub-section (1) of section 188; or

(c) is for remuneration for underwriting the subscription of any securities or derivatives thereof, of the company exceeding one per cent. of the net worth as mentioned in clause (g) of sub-section (1) of section 188.

Explanation.- (1) The Turnover or Net Worth referred in the above sub-rules shall be computed on the basis of the Audited Financial Statement of the preceding Financial year.

(2) In case of a wholly owned subsidiary, the special resolution passed by the holding company shall be sufficient for the purpose of entering into the transactions between the wholly owned subsidiary and the holding company.

(3) The explanatory statement to be annexed to the notice of a general meeting convened pursuant to section 101 shall contain the following particulars, namely:—

(a) name of the related party ;

(b) name of the director or key managerial personnel who is related, if any;

(c) nature of relationship;

(d) nature, material terms, monetary value and particulars of the contract or arrangement;

(e) any other information relevant or important for the members to take a decision on the proposed resolution."

[F. No. 1/32/2013-CL-V-Part]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note : The principal notification was published in the Gazette of India *vide* No. G.S.R. 240(E), dated 31.03.2014 and was amended vide notification number G.S.R. 398(E), dated 12.06.2014.

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असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 456] नई दिल्ली, शुक्रवार, अगस्त 29, 2014/भाद्र 7, 1936
No. 456] NEW DELHI, FRIDAY, AUGUST 29, 2014/BHADRA 7, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 29 अगस्त, 2014

सा.का.नि. 627(अ).— केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 467 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम की अनुसूची-2 का इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से संशोधन करने के लिए निम्नलिखित संशोधन करती है, अर्थात्:—

1. कंपनी अधिनियम, 2013 की अनुसूची-2 में.—

(क) भाग 'क', पैरा 3 के उप-पैरा (i) के स्थान पर निम्नलिखित उप-पैरा रखा जाएगा, अर्थात्:—

"(i) किसी आस्ति का उपयोगी जीवन साधारणतया भाग 'ग' में विनिर्दिष्ट उपयोगी जीवन से भिन्न नहीं होगा और किसी आस्ति की अवशिष्ट मूल्य लागत के पांच प्रतिशत से अधिक नहीं हो :

परंतु जहां कोई कंपनी भाग ग में विनिर्दिष्ट से भिन्न उपयोगी जीवन अपनाती है या उपर्युक्त विनिर्दिष्ट सीमा से भिन्न अवशिष्ट मूल्य का उपयोग करती है वहां अपने वित्तीय विवरण में ऐसी भिन्नता को प्रकट करना होगा और इस निमित्त तकनीकी सलाह द्वारा सम्यक् रूप से समर्थित औचित्य उपलब्ध कराना होगा" ;

(ख) भाग 'ग' के पश्चात् शीर्ष टिप्पणी में.—

(i) पैरा 4 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :—

"4(क) अनुसूची के भाग ग में विनिर्दिष्ट उपयोगी जीवन संपूर्ण आस्ति के लिए है और जहां आस्ति के किसी भाग की लागत आस्ति की कुल लागत की तुलना में महत्वपूर्ण है और उस भाग का उपयोगी जीवन शेष आस्ति के उपयोगी जीवन से भिन्न है वहां उस महत्वपूर्ण भाग का उपयोगी जीवन पृथक रूप से आधारित किया जाएगा ।

(ख) 01 अप्रैल, 2014 को या उसके पश्चात् आरंभ होने वाले वित्तीय वर्ष के संबंध में उप-पैरा (क) के अधीन अपेक्षा स्वैच्छिक होगी तथा 01 अप्रैल, 2015 को या उसके पश्चात् आरंभ होने वाले वित्त वर्ष की बाबत वित्तीय विवरणों के लिए अनिवार्य होगी ।"

(ग) पैरा 7 के उप-पैरा (ख) में "में मान्य होगी" शब्दों के स्थान पर "मान्यता दी जा सकेगी" शब्द रखे जाएंगे ।

[फा. सं. 17/60/2012-सीएल-V]]

अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पणी: कंपनी अधिनियम, 2013 की अनुसूची-2 तारीख 01 अप्रैल, 2014 से प्रवृत्त होगी और उसे अधिसूचना संख्या का.आ. 237(अ), तारीख 31 मार्च, 2014 द्वारा (01 अप्रैल, 2014 से प्रभावी) संशोधित किया गया था ।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 29th August, 2014

G.S.R. 627(E).— In exercise of the powers conferred by sub section (1) of Section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following amendments further to amend Schedule II of the said Act with effect from the date of publication of this notification in the Official Gazette, namely:—

1. In Schedule II of the Companies Act, 2013,—

(a) in Part 'A', in paragraph 3, for sub-paragraph (i), the following sub-paragraph shall be substituted, namely:—

"(i) The useful life of an asset shall not ordinarily be different from the useful life specified in Part C and the residual value of an asset shall not be more than five per cent. of the original cost of the asset:

Provided that where a company adopts a useful life different from what is specified in Part C or uses a residual value different from the limit specified above, the financial statements shall disclose such difference and provide justification in this behalf duly supported by technical advice",.

(b) after Part 'C', under the heading Notes,—

(i) for paragraph 4 the following paragraph shall be substituted namely:—

"4(a) Useful life specified in Part C of the Schedule is for whole of the asset and where cost of a part of the asset is significant to total cost of the asset and useful life of that part is different from the useful life of the remaining asset, useful life of that significant part shall be determined separately.

(b) The requirement under sub-paragraph (a) shall be voluntary in respect of the financial year commencing on or after the 1st April, 2014 and mandatory for financial statements in respect of financial years commencing on or after the 1st April, 2015."

(c) in paragraph 7, in sub-paragraph (b) for the words "shall be recognized", the words "may be recognized" shall be substituted.

[F. No. A-17/60/2012-CL-V]

AMARDEEP S. BHATIA, Jt. Secy.

Note: Schedule II of the Companies Act, 2013 came into force with effect from the 1st April, 2014 and was amended (with effect from 1st April, 2014) *vide* notification number S. O. 237(E), dated the 31st March, 2014.

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सं. 484] नई दिल्ली, बृहस्पतिवार, सितम्बर 18, 2014/भाद्र 27, 1936
No. 484] NEW DELHI, THURSDAY, SEPTEMBER 18, 2014/BHADRA 27, 1936

कारपोरेट कार्य मंत्रालय
अधिसूचना
नई दिल्ली, 18 सितंबर, 2014

सा.का.नि. 671(अ).— केंद्रीय सरकार, कंपनी अधिनियम, 2013 की धारा 469 के साथ पठित उक्त अधिनियम की धारा 149 की उपधारा (1) के दूसरे और उपधारा (4), उपधारा (6) के खंड (च), धारा 150 की उपधारा (3) और उपधारा (4), धारा 151, धारा 152 की उपधारा (5), धारा 153, धारा 154, धारा 157, धारा 160, धारा 168 की उपधारा (1) और धारा 170 के दवारा प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (निदेशकों की नियुक्ति और अर्हताएं) नियम, 2014 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

1. संक्षिप्त नाम और प्रारंभ –

(1) इन नियमों का संक्षिप्त नाम कंपनी (निदेशकों की नियुक्ति और अर्हताएं) संशोधन नियम, 2014 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कंपनी (निदेशकों की नियुक्ति और अर्हताएं) नियम, 2014 में-

(1) नियम 6 में-

(क) उपनियम (2) में-

(i) खंड (ग) का लोप किया जाएगा;

(ii) खंड (घ) में "तथा माता का नाम तथा पति/पत्नी का नाम (यदि विवाहित हो) शब्दों के स्थान पर" का नाम शब्द रखे जाएंगे;

(ख) उपनियम (4) में, "प्ररूप डीआईआर-1 में" शब्दों, अक्षरों और अंको का लोप किया जाएंगा;

(2) नियम 9 में, के उपनियम, (3) में, एन.पी. क(i) खंड (क) में "प्ररूप पर हस्ताक्षर करेगा" शब्दों के स्थान पर "तथा प्ररूप का सत्यापन और उस पर हस्ताक्षर करेगा" शब्दों से प्रतिस्थापित किया जाएगा;

(ii) उप-खंड (iv) का लोप किया जाएगा।

(ख) नियम 9 में, उपनियम (3) के बाद निम्नलिखित उपनियम अतःस्थापित किया जाएगा, अर्थात्:-

"(4) यदि किसी व्यक्ति के नाम में उसका अंतिम नहीं है तो प्ररूप संख्या **डीआईआर-3क** में घोषणापत्र के साथ उसके पिता अथवा पितामाह के उपनाम उल्लेख अंतिम नाम में किया जाएगा"।

(3) नियम 10 में,-

(क) उपनियम (1) में, "सिस्टम अंनतिम अस्थायी निदेशक पहचान संख्या जनित हो जाएगी जिसका तब तक उपयोग नहीं किया जाएगा जब तक केन्द्रीय सरकार द्वारा निदेशक पहचान संख्या की पृष्टि नहीं कर दी जाती है" शब्दों के स्थान पर "सिस्टम द्वारा स्वतः ही एक आवेदन संख्या जनित हो जाएगी" शब्द रखें जाएंगें;

(ख) उपनियम (2) में "अंनतिम निदेशक पहचान संख्या " शब्दों के स्थान पर "आवेदन संख्या" शब्द रखें जाएंगे।

(ग) उपनियम (4), में "सिस्टम द्वारा इस प्रकार आबंटित अंनतिम निदेशक पहचान संख्या स्वतः रद्द हो जाएगी तथा" शब्दों का लोप किया जाएगा।

(4) नियम 10 के पश्चात्, निम्नलिखित नियम अंतःस्थापित किया जाएगा, अर्थातः-

"10क. (1) प्रत्येक निदेशकों जो 30 जून, 2007 को या उससे पहले एक या अधिक कंपनियों में निदेशक के रूप में कार्य कर रहा है और जिसने ऐसी कंपनी अथवा कंपनियों को अपनी निदेशक पहचान संख्या अभी तक सूचित नहीं किया है, केन्द्रीय सरकार से निदेशक पहचान संख्या प्राप्त होने के एक मास के भीतर अपनी निदेशक पहचान संख्या प्ररूप डीआईआर-3ख के अनुसार कंपनी अथवा सभी कंपनियों को जिनमें वह निदेशक है, सूचित करेगा।

(2) अधिनियम की धारा 157 के अधीन कंपनी द्वारा उसके निदेशकों की निदेशक पहचान संख्या धारा 156 के अधीन सूचना प्राप्ति के पन्द्रह दिन के भीतर **डीआईआर-3ग** में दी जाएगी।

(5) नियम 11 में, "किसी व्यक्ति" से शब्दों के पश्चात् "कंपनी(रजिस्ट्रीकरण कार्यालय और फीस) नियम, 2014 में यथाविनिर्दिष्ट फीस सहित" शब्द अंतःस्थापित किए जाएंगे।

(6) नियम 12 के, उपनियम (1) के, उपखंड (i) के स्थान पर निम्नलिखित उपखंड रखा जाएगा, अर्थात्;

"(i) आवेदक पोर्टल से प्ररूप डीआईआर-6 डाउनलोड करेगा, उसके सुसंगत परिवर्तनों को भरेगा, प्ररूप का सत्यापन करेगा और परिवर्तित विशिष्टियों के सम्यक् रूप से स्कैन की गई सबूतों की दो प्रतिलिपि संलग्न करके इलेक्ट्रानिक रूप से जमा (सब्मिट) करेगा"।

(7) विद्यमान प्ररूप डीआईआर-1 लोप किया जाएगा;

(8) विद्यमान प्ररूप डीआईआर-3 के स्थान पर, निम्नलिखित प्ररूप रखा जाएगा, अर्थात्:-

"प्ररूप डीआईआर-3"

"प्ररूप डीआईआर-3" [कंपनी अधिनियम, 2013 की धारा 153, कंपनी (निदेशकों की नियुक्ति और अर्हता) नियम, 2014 के नियम 9(1) और सीमित दायित्व भागीदारी	सत्यमेव जयते	**निदेशक पहचान संख्या के आबंटन के लिए आवेदन**

(ii) कंपनी अधिनियम, 2013 के उपबंधों के अधीन, धारा 164 और 169 सहित, किसी कंपनी के निदेशक के रूप में नियुक्ति होने से मुझे प्रतिबंधित अयोग्य नहीं किया गया है, हटाया नहीं गया है, तथा

(iii) मुझे किसी आर्थिक अपराध न्यायालय अथवा न्यायिक मजिस्ट्रेट न्यायालय अथवा उच्च न्यायालय अथवा किसी अन्य न्यायालय द्वारा घोषित अपराधी करार नहीं किया गया है, तथा

(iv) मेरे पास कंपनी अधिनियम, 2013 की धारा 154 के अधीन परिवर्तन हेतु सूचित किए जा रहे डीआईएन के अतिरिक्त डीआईएन अथवा सीमित दायित्व भागिदारी अधिनियम, 2008 की धारा 7 के अधीन पदनामित भागीदार पहचान संख्या आबंटित नहीं है।

(v) और यदि इस आवेदन का कोई कथन गलत पाया जाता है अथवा कोई तथ्य छोड़ा गया पाया जाता है तो मैं अधिनियम की धारा 448 के अधीन और भारतीय दंड संहिता, 1860 के संगत उपबंधों और यथा लागू किसी अन्य कानून के अधीन उत्तरदायी होंऊंगा।

*आवेदक द्वारा डिजीटल हस्ताक्षर किया जाए डीएससी

प्रमाणपत्र

मैं घोषणा करता हूं कि मुझेइस प्ररूप के प्रमाणन/सत्यापन के प्रयोजनार्थ सम्यक रूप से नियुक्त किया गया है। यह प्रमाणित किया जाता है कि:

*मैंने संलग्न दस्तावेजों के मूल के परिशीलन के आधार पर आवेदक की पहचान के बारे में स्वयं का समाधान कर लिया है।

टिप्पणी: आवेदक के भारत के बाहर निवास करने की दशा में विशिष्टियों को यथा विहित प्रमाणन प्राधिकारी, द्वारा सम्यक रूप से की प्रमाणित दस्तावेजों से सत्यापित किया जाना होगा।

मैं उक्त व्यक्ति की अनुप्रमाणित फोटो का भी सत्यापन कर लिया है:

- जिसे व्यक्तिगत रूप से जानता हूं; या
- जो मुझसे अनुप्रमाणित दस्तावेज़ों के मूल दस्तावेज के साथ व्यक्तिगत रूप से मिला है।

*इस आवेदन के साथ सभी अपेक्षित दस्तावेज पूर्ण रूप से संलग्न किए गए हैं।

*मैंने इस प्ररूप की विषयवस्तु और उससे संबंधित मामलों के लिए कंपनी अधिनियम, 2013 और उसके अधीन बनाए गए नियमों का अध्ययन कर लिया है और उपर्युक्त विवरण (संलग्नकों सहित) का सत्यापन कंपनी/ आवेदक द्वारा रखे गए मूल अभिलेखों से किया है जो इस प्ररूप की विषयवस्तु है और उन्हें सत्य, सही और पूर्ण पाया है तथा इस प्ररूप में कोई महत्वपूर्ण जानकारी नहीं छिपाई गई है।

*मैं यह भी प्रमाणित करता हूं कि:

*सभी अपेक्षित संलग्नक पूर्ण और स्पष्ट रूप से प्ररूप के साथ संलग्न किए गए हैं।

*मैंने भावी संदर्भ के लिए प्ररूप और उसके संलग्नकों की प्रति रख ली है।

*यह समझ लिया है कि मुझ पर किसी भी प्रक्रम पर पाए गए गलत प्रमाणन के लिए कंपनी अधिनियम, 2013 की धारा 448 के अधीन कार्रवाई की जा सकती है।

*डिजीटल हस्ताक्षर करने के लिए (डीएससी बॉक्स)

*श्रेणी.....

*एसोसिएट या फैलो है ..... एसोसिएट ..... फैलो

*सदस्यता संख्या .....

*प्रैक्टिस संख्या का प्रमाणपत्र.....

संशोधित करें फॉर्म चेक करें पूर्व संवीक्षा प्रस्तुत

टिप्पण: धारा 448 तथा 449 की ओर भी ध्यान आकृष्ठ किया जाता है जिसमें मिथ्या विवरण के लिए दंड तथा मिथ्या साक्ष्य के लिए दंड का उपलब्ध है।

सिर्फ कार्यालय प्रयोग हेतु:

फाइल करने संबंधी विवरण संबद्ध करें

ई-प्ररूप सेवा अनुरोध सं.(एसआरएन)..... ई-प्ररूप जमा करने की तारीख ..... (दिन/मास/वर्ष)

प्राधिकृत करने वाले अधिकारी का डिजीटल हस्ताक्षर
इस ई-प्ररूप को अनुमोदित किया जाता है .....
इस ई-प्ररूप को अस्वीकृत किया जाता है ..... (जमा करने की पुष्टि करें)

हस्ताक्षर की तारीख.....(दिन/मास/वर्ष)

यह ई-प्ररूप इलेक्ट्रानिक रीति से तथा कंपनी द्वारा दिए गए यथातथ्यता के विवरण के आधार पर कंपनी रजिस्ट्रार द्वारा रखी गई फाइल में रख दिया गया है।
या
(12) प्ररूप डीआईआर-7 का लोप किया जाएगा।

[फा.सं.01/9/2013(भाग-II) सीएल-V]
अमरदीप सिंह भाटिया संयुक्त सचिव

टिप्पण: मूल नियम भारत के राजपत्र, भाग-2, खंड-3, उपखंड (i) में सा.का.नि.259(अ) तारीख 31 मार्च, 2014 द्वारा प्रकाशित किए गए थे।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, 18th September 2014

G.S.R. 671 (E).—In exercise of the powers conferred by second proviso to sub-section (1), sub-section (4) and clause (f) of sub-section (6) of section 149, sub-sections (3) and (4) of section 150, section 151, sub-section (5) of section 152, section 153, section 154, section 157, section 160, sub-section (1) of section 168 and section 170 read with section 469 of the Companies Act, 2013, the Central Government hereby makes the following rules to amend the Companies (Appointment and Qualification of Directors)Rules, 2014, namely:-

1. Short title and commencement.- (1) These rules may be called the Companies (Appointment and Qualification of Directors) Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Appointment and Qualification of Directors) Rules, 2014-

(1) in rule 6, -

(a) in sub-rule (2) -

(i) clause (c) shall be omitted;

(ii) in clause (d), the words "and mother's name and Spouse's name (if married)" shall be omitted;

(b) in sub-rule (4), the words letters and figure "in Form DIR-1" shall be omitted;

(2) in rule 9, in sub-rule (3),

(a)(i) in clause (a), for the words "therein and sign the form", the words "therein, verify and sign the form" shall be substituted;

(ii) sub-clause (iv) shall be omitted.

(b) after sub-rule (3), the following sub-rule shall be inserted, namely:-

"(4) In case the name of a person does not have a last name, then his or her father's or grandfather's surname shall be mentioned in the last name along with the declaration in Form No. **DIR-3A**.";

(3) in rule 10,-

(a) in sub-rule (1), for the words and letters "the provisional DIN shall be generated by the system automatically which shall not be utilised till the DIN is confirmed by the Central Government", the words "an application number shall be generated by the system automatically" and letters shall be substituted;

(b) in sub-rule (2), for the words and letters"the provisional DIN" the words "application number" shall be substituted;

(c) in sub-rule (4), the words and letters "the provisional DIN so allotted by the system shall get lapsed automatically and" shall be omitted;

(4) after rule 10, the following rule shall be inserted, namely:-

"10A.(1) Every director, functioning as a director in one or more companies on or before the 30th June, 2007 and who has not yet intimated his DIN to such company or companies shall, within one month of the receipt of Director Identification Number from the Central Government, intimate his Director Identification Number to the company or all companies wherein he is a director as per Form **DIR-3B**.

(2) The intimation by the company of Director Identification Number of its directors under section 157 of the Act shall be furnished in Form **DIR-3C** within fifteen days of receipt of intimation under section 156.";

(5) in rule 11, after the words "application received", the words "alongwith fee as specified in Companies (Registration Offices and Fees) Rules, 2014" shall be inserted ;

(6) in rule 12, in sub-rule (1), for sub-clause (i),the following sub-clause shall be substituted, namely:-

"(1) The applicant shall download Form DIR-6 from the portal, fill in the relevant changes, verify the Form and attach duly scanned copy of the proof of the changed particulars and submit electronically.";

(7) the existing Form DIR-1 shall be omitted;

(8) for the existing Forms DIR-3, the following Form shall be substituted, namely:-

FORM NO. DIR-3

[Pursuant to section 153 of The Companies Act, 2013 & Rule 9(1) of the Companies(Appointment and Qualification of Directors) Rules, 2014 & Rule 10 of Limited Liability Partnership Rules, 2009]

सत्यमेव जयते

Application for allotment of Director Identification Number

- All fields marked in * are to be mandatorily filled.

- Income-tax Permanent Account Name (Income-tax PAN) is mandatory in case of Indian nationals and in such case applicant details should be as per Income-tax PAN. In case the details as per Income-tax PAN are incorrect, applicant is advised to first correct the details in Income-tax PAN. Refer instruction kit for details.

- In case of foreign nationals, Passport number is mandatory.

1. **Applicant's name (Enter full name and do not use abbreviations)**

(a) First name

(b) Last name

(c) Middle name

2. **Father's name (Even married women must give father's name)**

(a) First name

(b) Last name

(c) Middle name

3. Whether a citizen of India ◯ Yes ◯ No

4. Nationality

Photograph

(Attach a latest passport size photograph by clicking on above box)

Remove Photograph

5. *Whether resident in India o Yes o No

6. (a) *Occupation Type o Self-employed o Professional o Homemaker o Student o Serviceman

Area of Occupation

If 'other' selected, please specify

(b) *Educational qualification

7. *Date of birth (DD/MM/YYYY)

8. * Gender o Male o Female o Transgender

9. Place of birth

10. Income-Tax permanent account number Verify Income-tax PAN details

11. Voter's identity card number

12. Passport number

13. Driving license number

14. Aadhaar number

15. Permanent residential address

*Line I
Line II
*City
*State
*Pin code
* ISO country code
*Country
*Phone
Mobile
Fax
*e-mail ID

16. *Whether present residential address is same as permanent residential address o Yes o No

17. Present residential address

Line I
Line II
City
State
Pin code
ISO country code
Country
Phone
Fax

Attachments

List of attachments

1. * Proof of identity of applicant — Attach
2. * Proof of residence of applicant — Attach
3. Optional attachment(s) - if any — Attach
Attach

Remove attachment

VERITICATION

I
Son*/ Daughter* of,
born on, r

hereby confirm and verify that the particulars given in this Form are true and also are in agreement with the documents being attached thereto.

I hereby confirm and declare that:

1. The photograph and documents being attached to the Form DIR-3 belong to me. I further confirm that all required documents have been duly certified by the respective government authority and are being attached to the said Form DIR-3, and

2. I am not restrained, disqualified, removed of, for being appointed as Director of a company under the provisions of the Companies Act, 2013 including sections 164 and 169, and

3. I have not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court, and

4. I have not been already allotted a Director Identification Number (DIN) under section 154 of the Companies Act, 2013, and

5. I further declare that I have read and understood the provisions of Sections 154, 155, 447 and 448 read with Sections 449, 450 and 451 of the Companies Act, 2013, and

6. I solemnly declare that the declaration given herein as stated above are true to the best of my knowledge and belief and that it conceals nothing and that no part of it is false.

***To be Digitally signed by Applicant** DSC BOX

Certification

I declare that I have been duly engaged for the purpose of certification/verification of this form. It is hereby certified that:

☐ *I have satisfied myself about the identity of the applicant based on the perusal of the original of the attached document

Note: In case where the applicant is residing outside India the particulars have to be verified from the documents duly attested by the attesting authority as prescribed.

☐ I also verify having attested the photograph of the said person:

- ☐ who is personally known to me; or
- ☐ who met me in person along with the original of the attested documents.

☐ *It is further certified that all required attachments have been completely attached to this application

☐ *I have gone through the provisions of the Companies Act, 2013 and Rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original records maintained by theCompany/applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed.

☐ *I further certify that:

- ☐ *All the required attachments have been completely and legibly attached to this form;
- ☐ *I have kept a copy of this form and attachments thereto, in my records for future reference.
- ☐ *It is understood that I shall be liable for action under Section 449 of the Companies Act, 2013 forwrong certification, if any found at any stage.

***To be digitally signed by** DSC BOX

*Category

In case of chartered accountant or company secretary or cost accountant (in whole time practice)

Membership Number

Certificate of Practice Number

Whether Associate or fellow o Associate o fellow

In case of company secretary (in whole time employment) or director of existing company in which the applicant is proposed to be director

DIN of the Director or membership number of Company Secretary

CIN of company with which secretary or director is associated and in which applicant is proposed to be a director Pre-fill

Name of company

Note: Attention is drawn to provisions of Section 448 and 449 which provide forpunishment for false statement / certificate and punishment for false evidence respectively.

Modify | Check Form | Prescrutiny | Submit

For office use only :

Affix filing details

eForm Service request number (SRN) eForm filing date (DD/MM/YYYY)

Digital signature of the authorising officer

This e-Form is hereby approved

This e-Form is hereby rejected

Confirm Submission

Date of signing (DD/MM/YYYY)

OR

This eForm has been taken on file maintained by the registrar of companies through electronic mode and on the basis of statement of correctness given by the company.

(9) after form DIR-3 as substituted, the forms DIR-3A, DIR-3B and DIR 3C shall be inserted, namely:-

"FORM. DIR-3A

Declaration

[Pursuant to rule 9(4) of the Companies (Appointment and Qualification of Directors) Rules, 2014]

If the name of a person does not have a last name, then his/her father's first name should be filled in the mandatory "last Name' field. In such a case, declaration should also be submitted along with DIN application, in the format given below:

Specimen/format of declaration:

(If ID proof has single name for applicant)

I..... (Applicant name as per ID proof) son/daughter of ..... (Name)..... (Surname) residing at ..... (Address as per address proof) do solemnly affirm and state as follows:

I do not use my Family Name/Surname as my last name. However, as this is a mandatory requirement for DIN application, I am using my father's surname as last name.

I solemnly declare that the statements given above are true to the best of my knowledge and belief and that it conceals nothing and that no part of it is false.

I further declare that I have read and understood the provisions of sections 153, 155, 156, 447 and 448 read with sections 449, 450 and 451 of the Companies Act, 2013.

(If ID proof has single name for applicant's father)

I..... and my father's name ....., as appearing on the enclosed ID proof, does not have the surname. My grandfather's name is ... (name)..... (Surname)..... For the purpose of the DIN application, I am mentioning my grandfather's surname "....." as my surname, as this is a mandatory requirement for applying DIN.

I solemnly declare that the statements given above are true to the best of my knowledge and belief and that it conceals nothing and that no part of it is false.

I further declare that I have read and understood the provisions of Sections 153, 447 and 448 read with Sections 449, 450 and 451 of the Companies Act, 2013.

Date Signature of the Applicant"

Place

FORM DIR-3B

Intimation of allotment of Director Identification Number (DIN) to the Company by the Director

[Pursuant to rule 10(A) of the Companies (Appointment and Qualification of Directors) Amendment Rules, 2014]

To

_____

_____

Date _____

Subject: Intimation of allotment of Director Identification Number (DIN) to the Company by the Director

Sir, Reference section 156 of the Companies Act, 2013 and the Rules made thereunder, I am submitting the information regarding DIN allotted to me along with additional information as prescribed:

Sr. No.	Subject	Particulars
1	Director Identification Number (DIN)	
2	Name	
3	Father's Name	
4	Present residential address	
5	e-mail ID	
6	Designation (Director or Managing Director or Alternate director or Additional Director or Director appointed in casual vacancy or Nominee Director or Whole-time director) (please specify)	
7	Specify whether Chairman, Executive Director, Non-Executive Director (in case more than one, specify both)	
8	Category (Promoter or Professional or Independent)	
9	Name of the company or Institution whose Nominee the director is	
10	Date of Appointment	
11.	Detail of the companies in which appointed as director/KMP	
	Name of the Company | CIN | Designation | Dateof appointment	
12.	Specimen Signature	

A copy of the DIN Allotment Letter is enclosed. Please acknowledge the receipt.

Declaration

I herebydeclare that:-

(i) I was appointed as director since incorporation i.e. with effect from.....

Or

(ii) I was appointed as director by the Board w.e.f. ..... vide board resolution number .....dated ..... orby the shareholders resolution number..... dated ..... w.e.f ..... (copy of the said resolution shall be attached).

(iii) Copy of form 32 filed with the ROC to the effect of such appointment.

Yours Faithfully

FORM DIR-3C

Intimation of Director Identification Number by the company to the Registrar

Note - All fields marked in * are to be mandatorily filled.

1. *Corporate identity number (CIN) of company | Pre-fill

2(a). Name of the company

(b). Address of the registered office of the company
Line I
Line II

(c). *City

(d) *District | (e). *State

(f). *ISO country code | (g). *Pin code

3. *e-mail ID of the company

4. Authorised capital (in Rupees) | 5.Number of members of the company

6. Paid-up capital (in Rupees)

7(a). Total number of Managing Director, Director(s) as on the date of filing of this form

7(b). Number of Managing Director, Director(s) **(Enter here the total number of managing director, directors for which the form needs to be filed)**

8. Details of the Managing Director, Directors of the company

I. Details of the Director or Managing Director of the company

Director Identification Number (DIN) | Pre-fill

Full name

Father's name

Present residential address

Date of birth (DD/MM/YYYY)

Date of approval of DIN by Central Government (DD/MM/YYYY)

Date of receipt of Form DIN 2 from the director (DD/MM/YYYY) | Attach copy of Form DIN-2

Whether the address is as per the company's records ◯ Yes ◯ No

Designation

Category

Whether Chairman, Executive Director, Non-Executive Director

☐ Chairman ☐ Executive Director ☐ Non-Executive Director

9. Details of the Manager or Secretary of the company

I. Details of the Manager or Secretary of the company

Income-tax permanent account number (PAN)

First name

Middle name

Last name

Father's name

First name

Middle name

Last name

Present residential address Line I

Line II

(a) City (b)State

(b) Country (d) Pin code

(e) Phone (f) Fax

Date of birth (DD/MM/YYYY)

Designation

Date of appointment (DD/MM/YYYY)

DIN of the director to whom the appointee is alternate Pre-fill

Name of the director to whom the appointee is alternate

Name of the company or institution whose nominee the appointee is

Date of appointment (DD/MM/YYYY)

e-mail ID

Whether employed full time or part time ◯ Full Time ◯ Part Time

e-mail ID

3738GI/14-4

II Details of the Manager or Secretary of the company

Income-tax permanent account number (PAN)

First name

Middle name

Last name

Father's name

First name

Middle name

Last name

Present residential address Line I

Line II

(a) City (b)State

(c) Country (d) Pin code

(e) Phone (f) Fax

Date of birth (DD/MM/YYYY)

Designation

Date of appointment (DD/MM/YYYY)

Whether employed full time or part time ◯ Full Time ◯ Part Time

e-mail ID

Attachments

1. Optional attachment(s) - if any

Attach

List of attachments

Remove attachment

Verification

To the best of my knowledge and belief, the information given in this form is correct and complete.

I have been authorized by the board of directors' resolution dated * [ ] (DD/MM/YYYY) to sign and submit this form.

☐ It is hereby confirmed that the appointed director(s) whose particulars are given above, has given declaration to the company that he/she is not restrained/ disqualified/ removed of, for being appointed as Director of a company under the provisions of the Companies Act, 2013 including Section 164 of the said Act.

☐ It is also confirmed that the appointed director(s) whose particulars are given above, has given a declaration to the company that he/she has not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court.

To be digitally signed by

Managing director or director or manager of the company [ ]

*Designation [ ]

Director identification number of the director [ ]

Certification

It is hereby certified that I have verified the above particulars from the records of M/s

[ ]

and found them to be true and correct.

To be digitally signed by

Company Secretary in whole-time practice or the Company Secretary in full-time employment of the company [ ]

*Designation [ ]

Membership number of the secretary [ ]

Note: Attention is drawn to provisions of Section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively.

Modify | Check Form | Prescrutiny | Submit

For office use only:

Affix filing details

eForm Service request number (SRN) [ ] eForm filing date [ ] (DD/MM/YYYY)

Digital signature of the authorising officer

This e-Form is hereby approved [ ]

This e-Form is hereby rejected [ ]

Confirm submission

Date of signing [ ] (DD/MM/YYYY)

(10) form DIR4 shall be omitted;

(11) for the existing Form DIR-6, the Form DIR-6 shall be inserted, namely:-

FORM NO. DIR-6

[Pursuant to rule 12 (1) of the Companies(Appointment and Qualification of Directors) Rules, 2014]

सत्यमेव जयते

Intimation of change in particulars of Director to be given to the Central Government

Note -

- All fields marked in * are to be mandatorily filled.
- In case of Indian nationals, Income-tax Permanent Account Name (Income-tax PAN) is mandatory in all cases even if there is no change in Income-tax PAN. In such cases, director details should be as per Income-tax PAN. In case the details as per Income-tax PAN are incorrect, director/ designated partner is advised to first correct the details in Income-tax PAN.Refer instruction kit for details

1.(a) * Director Identification Number (DIN) Pre-fill

(b) Name

2. * Type of change:

☐ Director ☐ Father's name ☐ Nationality

☐ Date of birth ☐ Gender ☐ Income-tax PAN

☐ Voters Identity card number ☐ Passport number ☐ Driving license number

☐ E-mail ID/ Mobile ☐ Permanent residential address ☐ Present residential address

☐ Photograph of Director ☐ Residential Status

☐ **Aadhaar number** ☐ ☐

Enter information that needs to be corrected. Enter only the relevant field(s)

3. Director's name(Enter full name and do not use abbreviations)

(a) First name

(b) Last name

(c) Middle name

4. Father's name (Even married women must give father's name)

(a) First name

(b) Last name

(c) Middle name

Photograph

(Attach a latest passport size photograph by clicking on above box)(Refer instruction kit for details)

Remove Photograph

5. Whether a citizen of India ◯ Yes ◯ No

6. Nationality

6A. Whether resident in India ◯ Yes ◯ No

7. Date of birth (DD/MM/YYYY)

8. Gender ◯ Male ◯ Female ◯ Transgender

9. Income tax PAN

10. Voter's identity card number 11. Passport number

12. Driving license number

13. Aadhaar number

*14. Mobile

*15.Email ID Verify details

16. Permanent residential address

Line I

Line II

City

State | Pin code

ISO country code | Phone | Fax

Country

17.

Whether present residential address is same as permanent residential address ◯ Yes ◯ No

Persent address

Line I

Line II

City

State | Pin code

ISO country code

Country

Phone | Fax

List of Attachments

Attachments:

1. *Proof of change in particulars; Attach

2. Optional attachments, if any. Attach Remove Attachment

Verification

I, hereby confirm and verify that the particulars given in the Form herein above are true and also are in agreement with the documents being attached to this form.

(i) The photograph and documents being attached to the Form DIR-6 belong to me. I further confirm that all required documents have been duly certified by the respective government authority and are being attached to the Form DIR-6 and

(ii) I am not restrained, disqualified, removed of, for being appointed as director of a company under the provisions of the Companies Act, 2013 including sections 164 and 169, and

(iii) I have not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court, and

(iv) I have no other allotted DIN other than DIN in which changes are intimated under section 154 of the Companies Act, 2013 or a Designated Partner Identification Number under section 7 of the Limited Liability Partnership Act, 2008.

(v) I shall be liable under section 448 of the Act and under relevant provisions of the Indian Penal Code, 1860 and any other law as applicable, if any statement in this application is found to be false or any material fact is found to be have been omitted.

***To be digitally signed by Applicant** DSC

Certification

I declare that I have been duly engaged for the purpose of certification/verification of this form. It is hereby certified that:

☐ *I have satisfied myself about the identity of the applicant based on the perusal of the original of the attached document.

Note: In case where the applicant is residing outside India the particulars have to be verified from the documents duly attested by the attesting authority as prescribed.

- ☐ I also verify having attested the photograph of the said person:
  - o who is personally known to me; or
  - o who meet me in person along with the original of the attested documents.
- ☐ *All required attachments have been completely attached to this application
- ☐ *I have gone through the provisions of The Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original records maintained by the Company/applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed.
- ☐ *I further certify that:
  - ☐ *All the required attachments have been completely and legibly attached to this form;
  - ☐ *I have kept a copy of this form and attachments thereto, in my records for future reference.
  - ☐ *It is understood that I shall be liable for action under Section 448 of The Companies Act, 2013 for wrong certification, if any found at any stage.
  - ☐

*To be digitally signed by DSC Box

*Category

*Whether associate or fellow

*Membership Number

*Certificate of Practice Number

Modify | Check Form | Pre-scrutiny | Submit

Note: Attention is drawn to provisions of Section 448 and 449 which provide for punishment for false statement / certificate and punishment for false evidence respectively.

For office use only :

Affix filing details

eForm Service request number (SRN) eForm filing date (DD/MM/YYYY)

Digital signature of the authorising officer

This e-Form is hereby approved

This e-Form is hereby rejected

Confirm Submission

Date of signing (DD/MM/YYYY)

OR

This e-Form has been taken on file maintained by the registrar of companies through electronic mode and on the basis of statement of correctness given by the company.

(12) form DIR-7 shall be omitted;

[F . No. 01/9/2013(Part-II) CL-V]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note:- The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section(i) vide no. G.S.R. 259(E), dated the 31st March, 2014.

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CC 113

रजिस्ट्री सं० डी० एल०-33004/99 REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 529] नई दिल्ली, मंगलवार, अक्तूबर 14, 2014/आश्विन 22, 1936
No. 529] NEW DELHI, TUESDAY, OCTOBER 14, 2014/ASVINA 22, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 14 अक्तूबर, 2014

सा.का.नि. 722(अ).—केंद्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 469 की उप-धारा (1) और उप-धारा (2) के साथ पठित धारा 139 की उप-धारा (1), उप-धारा (2) और उप-धारा (4), धारा 140 की उप-धारा (1) और उप-धारा (2), धारा 141 की उप-धारा (3), धारा 143 की उप-धारा (2), उप-धारा (3), उप-धारा (8) और उप-धारा (12), धारा 148 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (लेखा परीक्षा और लेखा परीक्षक) नियम, 2014 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (लेखा परीक्षा और लेखा परीक्षक) संशोधन नियम, 2014 है।
(2) ये नियम राजपत्र में प्रकाशन की तारीख से प्रवृत्त होंगे।

2. कंपनी (लेखा परीक्षा और लेखा परीक्षक) नियम, 2014 के नियम 10 के पश्चात् निम्नलिखित अंत:स्थापित किया जाएगा, अर्थात् :—

"10क. धारा 143 की उप-धारा (3) के खंड (i) के प्रयोजनों के लिए 1 अप्रैल, 2015 को या उसके पश्चात प्रारंभ होने वाले वित्तीय वर्षों के लिए लेखापरीक्षक की रिपोर्ट में पर्याप्त आंतरिक वित्तीय नियंत्रण प्रणाली और उसके प्रचालन प्रभावकारिता के संबंध में कथन होगा:

परंतु किसी कंपनी का लेखापरीक्षक 1 अप्रैल, 2014 को या उसके पश्चात प्रारंभ होने वाले और 31 मार्च, 2015 को या उससे पूर्व समाप्त होने वाले वित्तीय वर्ष के लिए इस नियम में निर्दिष्ट विवरण स्वेच्छा से सम्मिलित कर सकेगी।"

[फा.सं. 1/33/2013-सीएल-V-भाग]
अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण : मूल अधिसूचना सा.का.नि. 246(अ), तारीख 31/3/2014 द्वारा भारत के राजपत्र, असाधारण, भाग-II, खंड 3, उप-खंड (i) में प्रकाशित की गई थी।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 14th October, 2014

G.S.R. 722(E).—In exercise of powers conferred by sub-sections (1), (2) and (4) of Section 139, sub-sections (1) and (2) of Section 140, sub-section (3) of Section 141, sub-sections (2), (3), (8) and (12) of Section 143, sub-section (3) of Section 148 read with sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Audit and Auditors) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Audit and Auditors) Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Audit and Auditors) Rules, 2014, after rule 10, the following shall be inserted, namely:—

"10A. For the purposes of clause (i) of sub-section (3) of section 143, for the financial years commencing on or after 1st April, 2015, the report of the auditor shall state about existence of adequate internal financial controls system and its operating effectiveness:

Provided that auditor of a company may voluntarily include the statement referred to in this rule for the financial year commencing on or after 1st April, 2014 and ending on or before 31st March, 2015."

[F. No. 1/33/2013-CL-V-Part]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note.—The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 246(E), dated the 31st March, 2014.

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CC 113

रजिस्ट्री सं० डी० एल०-33004/99 REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 530] नई दिल्ली, मंगलवार, अक्तूबर 14, 2014/आश्विन 22, 1936
No. 530] NEW DELHI, TUESDAY, OCTOBER 14, 2014/ASVINA 22, 1936

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 14 अक्तूबर, 2014

सा.का.नि. 723(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 की धारा 469 के साथ पठित धारा 128 की उप-धारा (1) और उप-धारा (3), धारा 129 की उप-धारा (3), धारा 133, धारा 134, धारा 135 की उप-धारा (4), धारा 136 की उप-धारा (1), धारा 137 और धारा 138 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कंपनी (लेखा) नियम, 2014 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:--

1. (1) इन नियमों का संक्षिप्त नाम कंपनी (लेखा) संशोधन नियम, 2014 है।
(2) ये नियम राजपत्र में प्रकाशन की तारीख से प्रवृत होंगे ।

2. कंपनी (लेखा) नियम, 2014 के नियम 6 में विद्यमान परंतुक के पश्चात्, निम्नलिखित परंतुक अंत:स्थापित किए जाएंगे, अर्थात् :-

"परंतु यह और कि इस नियम की कोई बात, किसी ऐसी पूर्ण स्वामित्व वाली अनुषंगी कंपनी, जिसकी अव्यवहित मूल कंपनी ऐसी कंपनी है जो भारत से बाहर निगमित है से भिन्न पूर्ण स्वामित्व वाली मध्यस्थ अनुषंगी कंपनियों द्वारा समेकित वित्तीय विवरण को तैयार करने के संबंध में लागू नहीं होगी:

परंतु यह भी कि, इस नियम में अंतर्विष्ट कोई बात किसी ऐसी कंपनी की दशा में, जिसकी कोई अनुषंगी कंपनी या कंपनियां नहीं है किंतु उसकी एक या अधिक सहयुक्त कंपनी या सहउद्यम या दोनों हैं, यथास्थिति में सहयुक्त कंपनियों या सहउद्यमों या दोनों, के संबंध में वित्तीय विवरण के समेकन के लिए 1 अप्रैल, 2014 से प्रारंभ होने वाले और 31 मार्च, 2015 को समाप्त होने वाले वित्तीय वर्ष के लिए, किसी अन्य विधि या विनियम के अधीन रहते हुए, लागू नहीं होगी।"

[फा. स. 1/19/2013-सीएल-V-भाग]
अमरदीप सिंह भाटिया, संयुक्त सचिव

टिप्पण: मूल अधिसूचना भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उप-खंड (i) में सा.का.नि. 239(अ), तारीख 31 मार्च, 2014 द्वारा प्रकाशित की गई।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 14th October, 2014

G.S.R. 723(E).—In exercise of the powers conferred by sub-sections (1) and (3) of section 128, sub-section (3) of section 129, section 133, section 134, sub-section (4) of section 135, sub-section (1) of section 136, section 137 and section 138 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Accounts) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Accounts) Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Accounts) Rules, 2014, in rule 6, after the existing proviso, the following provisos shall be inserted, namely:-

"Provided further that nothing in this rule shall apply in respect of preparation of consolidated financial statement by an intermediate wholly-owned subsidiary, other than a wholly-owned subsidiary whose immediate parent is a company incorporated outside India:

Provided also that nothing contained in this rule shall, subject to any other law or regulation, apply for the financial year commencing from the 1st day of April, 2014 and ending on the 31st March, 2015, in case of a company which does not have a subsidiary or subsidiaries but has one or more associate companies or joint ventures or both, for the consolidation of financial statement in respect of associate companies or joint ventures or both, as the case may be. "

[F. No. 1/19/2013-CL-V-Part]

AMARDEEP SINGH BHATIA, Jt. Secy.

Note .- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 239(E), dated the 31st March, 2014.

Printed by the Manager, Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.

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MINISTRY OF CORPORATE AFFAIRS

OFFICE OF THE REGISTRAR OF COMPANIES

In the matter of companies act, 1956 and of the following companies

JAIPUR – 302001, the 18th June 2014

No.ROC /JPR/560(5)/724--Notice is hereby given pursuant to sub-section (5) of section 560 of the Companies Act, 1956 that the name of the following companies have this day been struck off from the register and the said companies are dissolved.

S. No.	Company No.	Company Name
1	2	3
01	028573	RADHIKA AGROBASE PRIVATE LIMITED
02	019494	ETERNAL HEART CARE CENTER PRIVATE LIMITED
03	028531	SHILPY VISHWAKARMA HOTEL AND RESORTS PRIVATE LIMITED
04	020886	JAINIR SOFTWARE AND SERVICES PRIVATE LIMITED
05	036293	ARAW RENEWABLE ENERGY PRIVATE LIMITED
06	031563	ISHI INTERACTIVE IT SOLUTIONS PRIVATE LIMITED
07	039623	NAVIKA GLOBAL OUTSOURCING TECHNOLOGIES PRIVATE LIMITED
08	035670	SMALLBOARD INFOTECH PRIVATE LIMITED
09	024487	MAHAVEER BIOFUELS PRIVATE LIMITED
10	037769	SHREEMATESHWARI COMPUTER INFORMATION TECHNOLOGY PRIVATE LIMITED
11	025276	STAR BIOMASS POWER PRIVATE LIMITED
12	035100	JAINA SOFTWARE SERVICES PRIVATE LIMITED
13	024856	SUPERFINE LANDMART PRIVATE LIMITED
14	024378	MINESH BUILDERS AND COLONIZERS PRIVATE LIMITED
15	030885	SHREE VINAYAK FUTURE VISION MARKETING PRIVATE LIMITED
16	021295	SHIVAMKRIPA CONSTRUCTION (ENGINEERING) PRIVATE LIMITED
17	034534	BENSON NOODLES PRIVATE LIMITED
18	032862	SPICE CHILLI HOSPITALITIES PRIVATE LIMITED
19	034555	TRIVENI MAHIMA SPICES PRIVATE LIMITED
20	039853	GYANESH HEALTH CARE PRIVATE LIMITED
21	025434	LUCRATIVE STOCKS (INDIA) PRIVATE LIMITED
22	023021	SATYESH CHEMICALS PRIVATE LIMITED
23	034535	RATAN PRIME ISPAT PRIVATE LIMITED
24	034551	RAINBOW JUICE PRIVATE LIMITED
25	034550	NARAYAN KRIPA IRON IGNOTS PRIVATE LIMITED

1	2	3
26	034548	MOTHER MILK TOAST PRIVATE LIMITED
27	034556	MANORAMA CROCKERY PRIVATE LIMITED
28	034545	JYOTI MUSTARD OIL PRIVATE LIMITED
29	034554	HEALTHY ADDED MICRONUTRIENTS PRIVATE LIMITED
30	034547	GREEN BEE JAM AND JELLY PRIVATE LIMITED
31	034537	GAURI TEXPRINT PRIVATE LIMITED
32	034546	FUSION AUTO SILENCERS PRIVATE LIMITED
33	034542	CLASSIC PRIME PLASTIC PRIVATE LIMITED
34	032640	SHREEYA STONES PRIVATE LIMITED
35	026665	AMARNATH COLONIZERS PRIVATE LIMITED
36	037080	STARSTYLE BUILDHOME PRIVATE LIMITED
37	038728	SQUARE CUBE BUILDHOME PRIVATE LIMITED
38	034713	REECOSYS GREEN POWER PRIVATE LIMITED
39	015173	RAJASTHAN INFOMATICS PRIVATE LIMITED
40	035955	APPSWAY SOFTWARE PRIVATE LIMITED
41	023860	FREE SIZE JEWELLERY PRIVATE LIMITED
42	041126	TIRUPATI COMPUSOFT PRIVATE LIMITED
43	027223	SHREE CITY BUILDESTATE PRIVATE LIMITED
44	023504	KDK LANDMARK PRIVATE LIMITED
45	031802	SIMONA SAREES PRIVATE LIMITED
46	017236	JIN KUSHAL SURI PROPERTIES PRIVATE LIMITED
47	005392	M.P. BLOCKS AND ALLIED PRODUCTS PVT. LTD.
48	043325	ROOF WEB SOLUTIONS PRIVATE LIMITED
49	018771	ANOKIWAVE DESIGN (INDIA) PRIVATE LIMITED
50	039459	ENMASSE AGRO INDIA LIMITED
51	035602	GEE AAR SCRAPS PRIVATE LIMITED
52	035457	DEEP JYOTI MULTITRADE PRIVATE LIMITED
53	021649	SUNLIGHT GARTEX PRIVATE LIMITED
54	016161	AM PLUS INFOTEK PRIVATE LIMITED
55	032907	SWARNBHUMI MINES AND MINERALS PRIVATE LIMITED
56	031890	SWARN BHUMI TRADEMART INDIA PRIVATE LIMITED
57	032784	SYSTEM HUNDRED BIOTECH PRIVATE LIMITED
58	021826	ALTITUDES INFOTECH PVT LTD

1	2	3
59	019228	COSMOS TRADE PARK DEVELOPERS PRIVATE LIMITED
60	031094	SAURAV HOMES PRIVATE LIMITED
61	035102	QCD TECHNOLOGY INDIA PRIVATE LIMITED
62	029444	SAAR INFOTECH PRIVATE LIMITED
63	029564	VINAYAK UCG ENERGY PRIVATE LIMITED

IMRAN A. SIDDIQUI
Asstt. Registrar of Companies
-cum- Asstt. Official Liquidator
Rajasthan

IN THE MATTER OF COMPANIES ACT, 1956 AND OF FOLLOWING COMPANIES

Cuttack-753014, the 30th May 2014

No. ROC/Sec. 560(5)/2014/692--Notice is hereby given pursuant to Sub- section (5) of the section 560 of the Companies Act, 1956 that the name of the following Companies have this day been struck off from the register of the Registrar of Companies and the said Companies are dissolved.

Sl No.	No. of comp	Name of company
1	2	3
01	15-13807	SP MULTIPROJECTS AND INFRASTRUCTURE PRIVATE LIMITED
02	15-13808	ASHA INFRA DEVELOPERS PRIVATE LIMITED
03	15-13809	ADBEST HEALTH CARE PRIVATE LIMITED
04	15-13813	GOLDEN AGE WELLNESS MISSION LIMITED
05	15-13815	RIGHT PROTECTION SECURITY SERVICES PRIVATE LIMITED
06	15-13816	VOTRA CONSULTANTS PRIVATE LIMITED
07	15-13818	STELLENT CONSULTANCY SERVICES PRIVATE LIMITED
08	15-13821	IT INFOPARK SOLUTIONS PRIVATE LIMITED
09	15-13827	Golden Eyes Show Biz Private Limited
10	15-13831	SAI TECHNOPROJECTS PRIVATE LIMITED
11	15-13833	SOUTHERN REALCONSTRUCTION PRIVATE LIMITED
12	15-13835	UBN SOFTWARE SOLUTIONS PRIVATE LIMITED
13	15-13838	EKDANT INFRATECH PRIVATE LIMITED
14	15-13839	JAY MATADI PRODUCTS MARKETING PRIVATE LIMITED
15	15-13840	SAM INFRA-PROJECTS PRIVATE LIMITED
16	15-13841	ANJANEYA ESTATES PRIVATE LIMITED
17	15-13844	SRIYA ESTCON PRIVATE LIMITED
18	15-13848	JS MININGS & LOGISTICS PRIVATE LIMITED

1	2	3
19	15-13849	SADGURU MOBILE RECHARGE SERVICES PRIVATE LIMITED
20	15-13859	GARDEN VIEW RESORTS PRIVATE LIMITED
21	15-13868	DIVINE DEVCON PRIVATE LIMITED
22	15-13873	KONARK AUTOMOBILES PRIVATE LIMITED
23	15-13874	SAHAJEE MASS MEDIA PRIVATE LIMITED
24	15-13881	STAR SEVEN MARKETING PRIVATE LIMITED
25	15-13882	SEVEN COLOURS MANAGEMENT (INDIA) PRIVATE LIMITED
26	15-13883	ZENITH ESTCON PRIVATE LIMITED
27	15-13884	NILACHAL ENGINEERING & CONSTRUCTION PRIVATE LIMITED
28	15-13887	DIGIMAA AUTOMATION ENGINEERING PRIVATE LIMITED
29	15-13888	D&D ESTCON PRIVATE LIMITED
30	15-13893	KUBERA BOITA PROJECTS PRIVATE LIMITED
31	15-13896	SHREE SAI GANESH AGRO LIMITED
32	15-13897	DEVASHRAM INFRA INDIA LIMITED
33	15-13901	OMM TECH AND PROPERTIES PRIVATE LIMITED
34	15-13902	HIKE SALES PRIVATE LIMITED
35	15-13904	REAP INDIA PRIVATE LIMITED
36	15-13905	BHARASHAA VENTURE LIMITED
37	15-13909	WINGS INFRA PROPERTIES PRIVATE LIMITED
38	15-13911	OMM MULTISERVICES PRIVATE LIMITED
39	15-13912	BHAGABANSAI CONSULTANCY PRIVATE LIMITED
40	15-13915	SANDIP INFOTECH PRIVATE LIMITED
41	15-13920	SAI SUNDAR REALCON PRIVATE LIMITED
42	15-13926	EASY TOUCH TRADING PRIVATE LIMITED
43	15-13927	EDIFY EDUVENTURE PRIVATE LIMITED
44	15-13929	LOGIN FASHIONS PRIVATE LIMITED
45	15-13931	IVORY HOOD INFRASTRUCTURE PRIVATE LIMITED
46	15-13932	MMP INFRA PRIVATE LIMITED
47	15-13936	BHAI BHAI REALCON PRIVATE LIMITED
48	15-13939	WISEMEN RESOURCES (INDIA) LIMITED
49	15-13944	ABI INCLUSIVE PRIVATE LIMITED
50	15-13948	AKM INFRASTRUCTURE PRIVATE LIMITED
51	15-13950	CURE INDIA MEDICARE SERVICES PRIVATE LIMITED
52	15-13953	UTKAL WELLNESS SERVICES PRIVATE LIMITED

1	2	3
53	15-13954	STAR MULTI TECH SOLUTION PRIVATE LIMITED
54	15-13955	ZEOF BIOTECH PRIVATE LIMITED
55	15-13958	AVAS INDIA AGRO LIMITED
56	15-13961	L.N. FIRE-EX PRIVATE LIMITED
57	15-13963	Sai Smruti Engineering Private Limited
58	15-13965	FEDERAL EXIM & LOGISTICS PRIVATE LIMITED
59	15-13966	SWASTIK INDIA MULTIPROJECTS LIMITED
60	15-13968	IRIS TEXT PROCESSORS PRIVATE LIMITED
61	15-13969	BARBIL VENTURES PRIVATE LIMITED
62	15-13971	FUTURE VISION INFRATECH PRIVATE LIMITED
63	15-13973	INCA LIFESTYLE PRIVATE LIMITED
64	15-13976	MATADI BIDULATA REALCON PRIVATE LIMITED
65	15-13979	SUNDARMANI METALLURGICAL PRIVATE LIMITED
66	15-13980	MELEKSYS TECHSOLUTIONS PRIVATE LIMITED
67	15-13982	EVOS INFRASTRUCTURE PRIVATE LIMITED
68	15-13983	ORITECH INFRA PROJECTS PRIVATE LIMITED
69	15-13985	ZANDER TECH PROCESS PRIVATE LIMITED
70	15-13987	HEXAGON INFRA-PROJECTS PRIVATE LIMITED
71	15-13990	SARMISTHA DEVELOPERS PRIVATE LIMITED
72	15-13992	ORIYAN INFRA PROJECTS PRIVATE LIMITED
73	15-13995	SAMIR TECHNO ENGINEERS PRIVATE LIMITED
74	15-13997	SHRADHA SABURI INFRASTRUCTURE PRIVATE LIMITED
75	15-13999	MAA HINGULA DEVELOPERS PRIVATE LIMITED

C.K. DAS
ASST. REGISTRAR OF COMPANIES
ODISHA

IN THE MATTER OF COMPANIES ACT, 1956 AND OF FOLLOWING COMPANIES

Cuttack-753014, the 19th June 2014

No. ROC/FTE/Sec. 560(5)/2014/771--Notice is hereby given pursuant to Sub- section (5) of the section 560 of the Companies Act, 1956 that the name of the following Companies have this day been struck off from the register of the Registrar of Companies and the said Companies are dissolved.

Sl No.	No. of comp	Name of company
01	15-07047	PUSHPAK MINTECH PRIVATE LIMITED
02	15-07953	THAKUR FILL N FLY RIVATE LIMITED
03	15-15648	ACCUSON MEDITECH (INDIA) PRIVATE LIMITED
04	15-16242	SSSN MARKETING PRIVATE LIMITED

B. MISHRA
ROC-cum-OL, ODISHA

IN THE MATTER OF THE COMPANIES ACT, 1956 AND OF THE FOLLOWING COMPANIES

BANGALORE, THE 20TH JUNE 2014

NO. ROC/560/(5) FTE- NOTICE IS HEREBY GIVEN PURSUANT TO SUB- SECTION (5) OF SECTION 560 OF THE COMPANIES ACT, 1956, THAT THE NAMES OF UNDER MENTIONED COMPANIES HAVE BEEN STRUCK OFF FROM THE REGISTER AND THE SAID COMPANIES STAND DISSOLVED:-

Sl. No.	CIN	Company name
1	2	3
1	U04520KA1987PTC008690	S.N.S. GALAXY DEVELOPERS PRIVATE LIMITED
2	U72200KA2012PTC064022	DIGICLAN INFORMATION TECHNOLOGIES PRIVATE LIMITED
3	U72200KA2006PTC038524	SPI SOFTWARE TECHNOLOGIES PRIVATE LIMITED
4	U65992KA1996PTC019594	VITTAL CHITS PRIVATE LIMITED
5	U70109KA2011PTC061314	NEETHI BUILDTECH PRIVATE LIMITED
6	U67190KA2008PTC046055	AMITA CAPITAL ADVISORS PRIVATE LIMITED
7	U67120KA1985PTC006723	PUSKAR INVESTMENTS PRIVATE LIMITED
8	U51102KA1997PTC022886	SRI BHUMI IMPEX PRIVATE LIMITED
9	U63040KA2009PTC050956	BLUE ORCHID HOLIDAYS PRIVATE LIMITED
10	U51909KA2006PTC041305	S TRIAGNI COMMERCIAL PRIVATE LIMITED
11	U93000KA2012PTC062044	E-KHOJ INDIA MARKETING PRIVATE LIMITED
12	U72200KA2013PTC069241	NIPA Software Offshore Development Centre Private Limited
13	U55101KA2005PTC037894	YELLOW SAPPHIRE HOLIDAY HOMES PRIVATE LIMITED
14	U51900KA2010PTC055437	QUENCH IMPEX PRIVATE LIMITED
15	U80902KA2009PTC051602	NETLABS EDUCATION (INDIA) PRIVATE LIMITED
16	U51909KA2010PTC054324	HONEYBE DISTRIBUTORS INDIA PRIVATE LIMITED
17	U64202KA2006PTC040676	INFOKING CHANNEL ENTERTAINERS PRIVATE LIMITED
18	U74900KA2011PTC056509	Learnit Academy Technology Private Limited
19	U51109KA2008PTC047179	RENATI BUSINESS SERVICES PRIVATE LIMITED
20	U24296KA2010PTC052475	RENATI PHARMACEUTICALS PRIVATE LIMITED
21	U01409KA1994PTC015180	MAHOBA AND ARCOT AGRO PRIVATE LIMITED
22	U72200KA2007PTC043561	IT Process Management Consulting India Private Limited
23	U74900KA2009PTC051828	LIFE SCIENCES HUB SOLUTIONS PRIVATE LIMITED
24	U72200KA2007PTC043604	SRDG SOLUTIONS INDIA PRIVATE LIMITED
25	U72200KA2011PTC058409	PERIGEE BIP TECHNOLOGIES PRIVATE LIMITED
26	U72200KA2009PTC050192	EL TechInventio Solutions Private Limited
27	U72200KA2012PTC062082	Conteierge Software Private Limited
28	U25202KA2007PTC041472	SAI SAKTHI RAGAV PACKAGING PRIVATE LIMITED
29	U72900KA2002PTC030509	XSERVE INDIA PRIVATE LIMITED

1	2	3
30	U32108KA2008PTC046336	MAC TELE ACCESS PRIVATE LIMITED
31	U40101KA2010PTC052606	KUMARADHARA ENERGY PRIVATE LIMITED
32	U74110KA2003PTC032099	HSL INFOSEC CONSULTING PRIVATE LIMITED
33	U55101KA2008PTC046398	KINARA HOSPITALITY SERVICES PRIVATE LIMITED
34	U72200KA2005PTC036133	TAVARI SOFTWARE PRIVATE LIMITED
35	U74140KA2004PTC034518	TRANSFORMATION TECHNOLOGIES INDIA PRIVATE LIMITED
36	U72200KA2005PTC037515	TECDOST SOFTWARE PRIVATE LIMITED
37	U74900KA2006PTC040292	PMN General Agencies Private Limited
38	U72200KA2011PTC057480	AAYUR ENGINEERING SYSTEMS PRIVATE LIMITED
39	U74900KA2011PTC058715	GRAPHITI HOMEDECORS PRIVATE LIMITED
40	U80902KA2002PTC030420	VOILA COMMUNICATIONS PRIVATE LIMITED
41	U72200KA2011PTC059134	BAREVOUCH ONLINE SERVICES PRIVATE LIMITED
42	U72200KA2010PTC055622	ACCOLADE INFORMATION SOLUTIONS PRIVATE LIMITED
43	U41000KA2008PTC047483	MURALI SESH ENVIRO TECH PRIVATE LIMITED
44	U72900KA2011PTC060904	EL SOFTWARE SOLUTIONS PRIVATE LIMITED
45	U72200KA2006PTC038428	Avenda Systems India Private Limited
46	U72300KA2010PTC054462	MTA INFOMEDIA PRIVATE LIMITED
47	U24248KA2006PTC038474	OM RAMRAM TRADING ENTERPRISES PRIVATE LIMITED
48	U40108KA2009PTC048910	SNAP INFRASTRUCTURE PRIVATE LIMITED
49	U34300KA2010PTC056102	AARYANS POWER TRAIN TECHNOLOGIES PRIVATE LIMITED
50	U74990KA2011PTC057086	ZRISSH HUMAN RESOURCES PRIVATE LIMITED
51	U72200KA2000PTC027709	SUITESONLINE -INDIA.COM PRIVATE LIMITED
52	U74900KA2011PTC058645	LifeLemon Online Services Private Limited
53	U45200KA2011PTC059739	ALLEYLAND ASSETS PRIVATE LIMITED
54	U73100KA2006PTC038232	RESEARCH FOR DEVELOPMENT INDIA PRIVATE LIMITED
55	U31909KA1983PTC005113	ELISHIMATE ELECTRONIC INDUSTRIES PRIVATE LIMITED
56	U52390KA2013PTC069977	PUBLICA TRADING PRIVATE LIMITED
57	U72200KA2006PTC040110	FIRSTLIGHT ONLINE INDIA PRIVATE LIMITED
58	U73200KA2007PTC043508	INTERNATIONAL INSTITUTE FOR DATA RESEARCH (INDIA) PRIVATE LIMITED
59	U72200KA2004PTC035280	SYNESIS MEDIA INDIA PRIVATE LIMITED
60	U92142KA2009PTC050943	AVIYA ART CONSULTANTS PRIVATE LIMITED
61	U85110KA1992PTC013760	ALCON CERAMICS PRIVATE LIMITED
62	U72900KA1979PTC003656	COMPUTER PRODUCTS AND SERVICES PRIVATE LIMITED
63	U45203KA2012PTC066137	SHREE RENUKA PORTS PRIVATE LIMITED

1	2	3
64	U40102KA2012PTC065728	Shree Renuka Energy Infrastructure Private Limited
65	U14290KA2012PTC066076	SHREE RENUKA RESOURCES PRIVATE LIMITED
66	U40104KA2012PTC065701	SHREE RENUKA URJA PRIVATE LIMITED
67	U72200KA2005PTC036016	FAST FORWARD APPLICATIONS PRIVATE LIMITED
68	U72200KA2010PTC053631	R & S COMMUNE SERVICES PRIVATE LIMITED
69	U28910KA2011PTC057853	BABBITT ENGINEERING PRIVATE LIMITED
70	U74900KA2012PTC066698	Conquest IT Services India Private Limited
71	U45202KA2011PTC059299	MKVK PROJECTS PRIVATE LIMITED
72	U28920KA2005PTC036958	TRADE POWER INDIA PRIVATE LIMITED
73	U72200KA2013PTC069830	Adovea Technologies Private Limited
74	U72900KA2012PTC065467	XPLOORA LABS PRIVATE LIMITED
75	U22210KA2010PTC054014	JUST PRINT SERVICES PRIVATE LIMITED
76	U00155KA1993PTC014970	MONDIAL GRANIT (INDIA)PRIVATE LIMITED
77	U72200KA2009PTC051110	Resources & Offshore Consulting India Private Limited
78	U72900KA2009PTC049458	ENVENTURE INFORMATION TECHNOLOGY SERVICES INDIA PRIVATE LIMITED
79	U55101KA2010PTC054408	GEARUP CAFE PRIVATE LIMITED
80	U45200KA2008PTC046245	Free2B Eco-Art Resorts India Private Limited
81	U80300KA2012PTC064461	AKSHATHA CHARM EDUCATION PRIVATE LIMITED
82	U24120KA2009PTC050339	AAL FERTILIZERS & CHEMICALS PRIVATE LIMITED
83	U74140KA2007PTC042985	USHODAYA MANAGEMENT SERVICES PRIVATE LIMITED
84	U74140KA2009PTC049988	HerdShip Consultancy Private Limited
85	U72100KA2009PTC051559	S-CUBE STORAGE SOLUTIONS PRIVATE LIMITED
86	U51410KA2004PTC034990	PVR ESTATES PRIVATE LIMITED
87	U85110KA2011PTC057904	Ojas Wellness Private Limited
88	U29297KA2000PTC027720	BRAHMA SHAKTHI HERBAL PRODUCTS PRIVATE LIMITED
89	U72200KA2005PTC038101	Business and Decision Software India Private Limited
90	U74900KA2011PTC060447	STRACON INTERIORS PRIVATE LIMITED
91	U72200KA2011PTC060574	PEEPAL LEAF TECHNOLOGIES PRIVATE LIMITED
92	U80301KA2012PTC063721	MITID Institute of Design Private Limited
93	U72200KA2008PTC047843	Lorvis Software Technologies Private Limited
94	U52399KA2010PTC055517	Delhigate Educomm Retail Solutions Private Limited
95	U32104KA2007PTC043794	Vitech Technosolutions Private Limited
96	U15400KA2009PTC051883	ACHATES SPECIALITY FOODS PRIVATE LIMITED
97	U72900KA2011PTC059408	Aurviz Technology Private Limited

1	2	3
98	U27103KA2005PLC035999	JAYKAY PERIPHERALS LIMITED
99	U70102KA2010PTC054368	VASAVI PROPERTIES PRIVATE LIMITED
100	U72200KA2008PTC047136	Pittasoft Embedded Solutions Private Limited
101	U92111KA2006PTC038769	DAKSAA CREATIONS PRIVATE LIMITED
102	U72200KA2011PTC059621	Intellia infosoft Private Limited
103	U72200KA2010PTC052328	ILMA TECHNOLOGIES PRIVATE LIMITED
104	U70102KA2007PTC044361	SUNRAJ Realties Private Limited
105	U73100KA2007PTC044491	PHYTOMEDISYN RESEARCH PRIVATE LIMITED
106	U24232KA2005PTC037673	SUVISI PHARMACEUTICALS PRIVATE LIMITED
107	U72200KA2012PTC062699	DigiDream Labs Private Limited
108	U85100KA2008PTC046345	BODYLINE BEAUTY & BODY CARE PRIVATE LIMITED
109	U24293KA2007PTC044349	SUGANDH ESSENTIAL OILS PRIVATE LIMITED
110	U45208KA2009PTC048979	OPUL INFRASTRUCTURE PRIVATE LIMITED
111	U51505KA2004PTC034696	SANSIM ELECTRONIX PRIVATE LIMITED
112	U72200KA2010PTC052821	SURFMOBEE NEW MEDIA PRIVATE LIMITED
113	U18101KA1987PTC008309	AKSHAYA SILKS PRIVATE LIMITED
114	U01112KA2008PTC048688	ABHAY AGRITECH PRIVATE LIMITED
115	U74140KA2004PTC034815	INSPIRARE STRATEGIC MANAGEMENT SOLUTIONS PRIVATE LIMITED
116	U24246KA2003PTC032276	ECOCLEAN CHEMICALS PRIVATE LIMITED
117	U80101KA1997PTC021625	GEAR LEARNING SYSTEMS PRIVATE LIMITED
118	U74110KA2009PTC051968	TRIANZ V BPO SERVICES PRIVATE LIMITED
119	U15420KA2011PLC058414	CHAITANYA SUGARS LIMITED
120	U70100KA2011PTC057257	Presidency Shelters Private Limited
121	U65991KA2009PTC051508	Repairyourinvestments Advisors Private Limited
122	U22210KA2011PTC057557	C BLOOM NEWS PUBLISHERS PRIVATE LIMITED
123	U72900KA2012PTC065374	FIRSTFUTURISTIC FINANCIAL SOFTWARE PRIVATE LIMITED
124	U45202KA2011PTC056938	B F D DEVELOPERS PRIVATE LIMITED
125	U72100KA1999PTC024963	VIRTUAL TECHNOLOGY PARK PRIVATE LIMITED
126	U65993KA2008PTC047215	DIPTISH INVESTMENTS AND FUND ADVISORS PRIVATE LIMITED
127	U72200KA2010PTC054718	IT IS INFORMATION TECHNOLOGY INFORMATION SERVICES INDIA PRIVATE LIMITED
128	U74130KA2009PTC050366	RAINTREE MARKET SOLUTIONS PRIVATE LIMITED
129	U74999KA2008PLC046542	Zenith-iBridge LPO Limited
130	U72200KA2011PTC060437	HAMMRUKI SYSTEMS PRIVATE LIMITED
131	U27203KA1998PTC024080	V.R. FLEXPACK INDIA PRIVATE LIMITED

1	2	3
132	U70101KA2007PTC042222	Pyramid Holdings Private Limited
133	U72200KA2009PTC051478	ZEIN TECH PRIVATE LIMITED
134	U72900KA2000PTC027879	SACHI COMPUTERS PRIVATE LIMITED
135	U73100KA2007PTC044115	Simatrix System Technologies Private Limited
136	U72200KA2005PTC036117	SRIKALPI SOFTWARE PRIVATE LIMITED
137	U80301KA2010PTC052868	JobNetwork Services Private Limited
138	U17122KA2013PTC071782	FFAB TEXTILE MILLS PRIVATE LIMITED
139	U45201KA2007PTC044271	SPLENDID LIFESTYLE CHALETS PRIVATE LIMITED
140	U01131KA2007PTC043703	Sethuraman Estates Private Limited
141	U80212KA2012PTC064509	TLC INTERNATIONAL SCHOOL MYSORE PRIVATE LIMITED
142	U67110KA2011PTC061241	SAM PLEASANTON HOLDINGS PRIVATE LIMITED
143	U40108KA2010PTC055924	Navashree Power Private Limited
144	U52335KA2006PTC040431	TRAYEE IMPEX PRIVATE LIMITED
145	U72200KA2013PTC071392	Genovi Life Sciences Private Limited
146	U52390KA2011PTC057023	JKBROSCO FOODS PRIVATE LIMITED
147	U29118KA2006PTC040669	ALPHA BOSUN TOOLS PRIVATE LIMITED
148	U13100KA2006PTC040021	CHAMUNDESHWARI MINING COMPANY PRIVATE LIMITED
149	U13100KA2006PTC040017	DEEPSHIKA MINING COMPANY PRIVATE LIMITED
150	U13100KA2006PTC040079	DREAM MINE SCAPE MINERALS PRIVATE LIMITED
151	U13100KA2006PTC040022	DURGA MINING COMPANY PRIVATE LIMITED
152	U13100KA2006PTC040047	MSDC MINING COMPANY PRIVATE LIMITED
153	U13100KA2006PTC040048	SHUBHA MINING IMPORT AND EXPORT PRIVATE LIMITED
154	U63040KA2010PTC052817	SMP AIR CHARTERS & TRAVELS PRIVATE LIMITED
155	U13100KA2006PTC040071	SRI DINESH MINING COMPANY PRIVATE LIMITED
156	U15490KA2012PTC064019	ZUNAA FOOD PRODUCTS PRIVATE LIMITED
157	U72200KA2009PTC051337	SMART VOICE TECHNOLOGIES INDIA PRIVATE LIMITED
158	U13201KA2007PTC044442	MDP Mining & Minerals Private Limited
159	U26921KA1987PTC008208	ASHWINI MINING COMPANY PRIVATE LIMITED

SATYAJIT ROUL
ASSISTANT REGISTRAR OF COMPANIES
KARNATAKA

मुद्रण निदेशालय द्वारा, भारत सरकार मुद्रणालय, एन.आई.टी. फरीदाबाद में मुद्रित एवं प्रकाशन नियंत्रक, दिल्ली द्वारा प्रकाशित, 2014
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MINISTRY OF CORPORATE AFFAIRS
OFFICE OF THE REGISTRAR OF COMPANIES

In the matter of Companies Act, 1956 and of following Companies

Kanpur- 208001, the 16th June 2014

No. LC/560(5)/1039—Notice is hereby given pursuant to sub-section (5) of section 560 of the Companies Act, 1956 that the name of the following companies has this day been struck off from the Register of Companies from the date of this publication. These companies shall stand dissolved:—

Sl. No.	Company Name	CIN No.	SRN No.
1	VENICE FORMULATIONS PRIVATE LIMITED	U51507UP2002PTC026461	B95983987
2	NRICH EVENT SOLUTIONS PRIVATE LIMITED	U74120UP2012PTC051328	C00557843
3	ALLAHABAD TILES AND REFRACTORIES PRIVATE LIMITED	U26933UP1989PTC010634	C00715094
4	SITARAM SHRINIVAS PRIVATE LIMITED	U51109UP1994PTC016457	C00747451
5	UNNATI INFRAPROJECTS PRIVATE LIMITED	U70102UP2010PTC039211	C00956367
6	MICROSAVE INDIA PRIVATE LIMITED	U74140UP2005PTC032954	C01001130
7	SHRI SATYAM BUILDHOME PRIVATE LIMITED	U70102UP2010PTC042654	C01022037
8	TARGET DEVELOPERS INDIA PRIVATE LIMITED	U45400UP2008PTC035782	C01033950
9	SAANVI CEMENT PRIVATE LIMITED	U74900UP2011PTC046124	C01061845
10	AMARSHANTI ENTERPRISES PRIVATE LIMITED	U29305UP2004PTC028531	C01087154
11	SWAMI MUKTIBODH SARASWATI SADHANA AVAM SWADHYAYA SANSTHAN PRIVATE LIMITED	U80221UP2005PTC029955	C01095876
12	O.V. ICE AND COLD STORAGE PRIVATE LIMITED	U01403UP2009PTC038905	C01020577
13	SHAGUN MULTITRADE PRIVATE LIMITED	U74900UP2010PTC041969	C01110832
14	NIDHI FILM SALES PRIVATE LIMITED	U33201UP1987PTC009160	C01200906
15	ROUGH & TOUGH PROTECTION SERVICES PRIVATE LIMITED	U74900UP2009PTC037340	C01271170
16	SKY CRADLES PRIVATE LIMITED	U51909UP2011PTC044335	C01501758
17	MEDYLON HEALTHCARE PRIVATE LIMITED	U74999UP2007PTC033708	C01515543
18	DASHMESH BUILDTECH (INDIA) PRIVATE LIMITED	U45201UP2010PTC03915	C01583731
19	VALUEQUEST BUSINESS SOLUTIONS PRIVATE LIMITED	U51101UP2011PTC047340	C01584838
20	GO ENERGY INDIA PRIVATE LIMITED	U11100UP2012PTC048717	C01585249
21	WISDOM ERA SOLUTIONS PRIVATE LIMITED	U74120UP2012PTC053951	C01585470
22	MEDIGRAYS HOSPITALS PRIVATE LIMITED	U85191UP2012PTC053194	C01585546
23	AL-SAFA STEELS PRIVATE LIMITED	U27310UP2011PTC044857	C01589621
24	PATEL INFRADEVELOPERS PRIVATE LIMITED	U74900UP2010PTC042544	C01854520
25	SAM CITY PROJECTS & CONSULTANTS PRIVATE LIMITED	U74120UP2013PTC054611	C01866391
26	KARV MARKETING PRIVATE LIMITED	U52100UP2008PTC034681	C01876895
27	SHRESHATH REALTORS PRIVATE LIMITED	U70100UP2013PTC060599	C01908169

S. P. KUMAR
Registrar of Companies
UP & Uttarakhand

In the matter of Companies Act, 1956 and of following Companies

Kanpur-208001, the 2014

No. LC/560(3)—Notice is hereby given pursuant to sub-section (3) of section 560 of the Companies Act, 1956 that at the expiration of three months from the date the name of the following companies unless cause is shown to the contrary, will be struck off the Register and the said company will be dissolved:—

Sl. No.	Company Name	CIN No.	SRN No.
1	2	3	4
1	EE INTEGRATION PRIVATE LIMITED	U72300UP2012PTC048919	C00607135
2	INDRAPRASTHA BROADBAND SERVICES PRIVATE LIMITED	U74900UP2010PTC040633	C00848630
3	MAGADH BROADBAND SERVICES PRIVATE LIMITED	U74900UP2010PTC040634	C00857003
4	KARNATAKA BROADBAND SERVICES PRIVATE LIMITED	U74900UP2010PTC040640	C00918987
5	SAIWELFARE MULTISERVICES PRIVATE LIMITED	U74120UP2012PTC054166	C01096098
6	PRABHAKAR SANITATIONS PRIVATE LIMITED	U45201UP1996PTC021202	C01230929
7	ZEPHEN SECURITIES PRIVATE LIMITED	U74120UP2012PTC054286	C01343920
8	CAREER COMMERCE COMPUTER INSTITUTE PRIVATE LIMITED	U80300UP2007PTC033875	C01920594
9	MEGA MULTI MARK AND SERVICES INDIA PRIVATE LIMITED	U75230UP2007PTC033358	C01937028
10	ELEXI BUILDERS AND DEVELOPERS PRIVATE LIMITED	U45201UP2001PTC026022	C01944156
11	HARITUNNATI MARKETING LIMITED	U74900UP2010PLC042030	C01955822
12	FIRSTPERK SERVICES PRIVATE LIMITED	U80211UP2013PTC055409	C01989631
13	MOURYA STRAW BOARD & PAPER MILLS LIMITED	U21010UP2008PLC036286	C01991330
14	UDIT SYNTHETICS PRIVATE LIMITED	U17117UP1996PTC019877	C02009108
15	SHREEGIRIRAJ INFRACONSTRUCTION PRIVATE LIMITED	U70109UP2010PTC040255	C02050821
16	THE EUREKA PRINTING WORKS PRIVATE LIMITED	U22110UP1949PTC002159	C02068344
17	MANOKAMNA AGENCIES PRIVATE LIMITED	U17115UP1999PTC024995	C02131209
18	REDWOOD EYEWEAR PRIVATE LIMITED	U74120UP2011PTC043437	C02208882
19	INNOCUBATION SOFTWARE SOLUTIONS PRIVATE LIMITED	U72200UP2009PTC037682	C02512564
20	ANJINI INFRABUILD PRIVATE LIMITED	U45202UP2013PTC060846	C02533206
21	GOMTI LAND PRIVATE LIMITED	U45206UP2008PTC035565	C02756864
22	GURU KRIPA BUILDAGE INDIA PRIVATE LIMITED	U70102UP2011PTC047254	C03012127
23	KASHISH PALACE PRIVATE LIMITED	U55204UP2011PTC047566	C03173812

1	2	3	4
24	QRICH TRADEZONE PRIVATE LIMITED	U74120UP2013PTC058704	C03194388
25	JAIVIK KRANTI AGROTECH PRIVATE LIMITED	U74120UP2012PTC048616	C03199593
26	GARIB NAWAZ BUILDER AND DEVELOPERS PRIVATE LIMITED	U45400UP2012PTC052575	C03333663
27	INJA INFINITY GLOBAL TRAVELS PRIVATE LIMITED	U63040UP2006PTC032434	C03627395

S. P. KUMAR
Registrar of Companies
UP & Uttarakhand

In the matter of the Companies Act, 1956 and of following Companies

Kolkata, the 10th June 2014

No. ROC/WB/FTE/560/2014 Notices is hereby given pursuant to sub-section (5) of Section 560 of the Companies Act, 1956 that the names of the following 25 Companies have on this day been struck off from the Register and the Companies are dissolved:—

Sl. No.	CIN	Name of the Company
1	2	3
1	U40102WB2000PTC091253	PRECISION ENTERPRISE PRIVATE LIMITED
2	U85100WB2008PTC129849	PARIMAL BANERJI INTERNATIONAL RESEARCH CENTRE PRIVATE LIMITED
3	U45400WB2012PTC172673	SRIPATI PROPERTIES PRIVATE LIMITED
4	U45201WB1996PTC082352	SONALI PROPERTIES PRIVATE LIMITED
5	U17232WB1961PTC025224	BURLAP COMMERCIAL PVT LTD
6	U26933WB1973PTC029059	RUPNARAYAN REFRACTORIES & CERAMICS PVT LTD
7	U72900WB2009PTC133404	SILVIA INFOTECH PRIVATE LIMITED
8	U31401WB2009PTC135841	PECON ENGINEERS PRIVATE LIMITED
9	U60231WB2007PTC115828	REYLANDS LOGISTICS PRIVATE LIMITED
10	U60231WB2007PTC115829	DEBLAKSHMI LOGISTICS PRIVATE LIMITED
11	U70109WB2011PLC163543	ROHEENA REALCON INDIA LIMITED
12	U52100WB2012PTC188502	CHERIMOYA TRADERS PRIVATE LIMITED
13	U74999WB2011PTC163665	WAVE HERBOTECH PRIVATE LIMITED
14	U32300WB2008PTC125331	SINHA ELECTRICALS PRIVATE LIMITED
15	U72300WB2005PTC106076	ASTON INFOSOLUTIONS PVT LTD
16	U22219WB2013PTC190678	ASRO MEDIA & ENTERTAINMENT PRIVATE LIMITED
17	U52100WB2010PTC145900	RETAIN SUPPLIERS PRIVATE LIMITED

1	2	3
18	U74999WB2011PLC169552	MUKTI HEALTHCARE LIMITED
19	U74999WB2012PTC176804	LIFEWOOD TIEUP PRIVATE LIMITED
20	U74999WB2012PTC176941	VIEWMORE SUPPLIERS PRIVATE LIMITED
21	U65993WB1993PTC061220	NUPUR LEAFIN PVT LTD
22	U26940WB2009PTC139330	AMRITA CEMENT PRIVATE LIMITED
23	U85110WB1989PTC046331	MIRA MEMORIAL CLINIC PVT LTD
24	U22122WB1999PTC089319	SMIS INFOMEDIA PRIVATE LIMITED
25	U85110WB2002PTC094609	SILIGURI EYE FOUNDATION & RESEARCH CENTRE PRIVATE LIMITED

D. N. CHOWDHURY
Asstt. Registrar of Companies
West Bengal

In the matter of the Companies Act, 1956 and of following Companies

Cuttack-753014. the 4th June 2014

No. ROC/Sec. 560(5)/2014/733—Notice is hereby given pursuant to Sub-section (5) of the section 560 of the Companies Act, 1956 that the name of the following Companies have this day been struck off from the register of the Registrar of Companies and the said Companies are dissolved:—

Sl. No.	No. of Comp	Name of company
1	2	3
01	15-14003	PURPLE HEIGHTS DEVELOPERS PRIVATE LIMITED
02	15-14006	MOURJYA INFRASTRUCTURE & PROPERTIES PRIVATE LIMITED
03	15-14008	RASTRIYA MEDIA PRIVATE LIMITED
04	15-14014	ROYAL PUBLICATIONS AND BROADCASTING PRIVATE LIMITED
05	15-14015	PRASAUR FASHIONS PRIVATE LIMITED
06	15-14017	PRAYAS MULTI-SERVICES LIMITED
07	15-14021	RADIANCE EDUCATION PRIVATE LIMITED
08	15-14022	SAI SARPESWAR BUILDERS PRIVATE LIMITED
09	15-14027	BASICS ENGICON PRIVATE LIMITED
10	15-14032.	ARATI INFRASTRUCTURE PRIVATE LIMITED
11	15-14040	KAPILASH REAL ESTATES PRIVATE LIMITED
12	15-14041	TEL ONE TELECOM PRIVATE LIMITED
13	15-14044	OM COMBINES & TRADING PRIVATE LIMITED
14	15-14047	NEW LIFE INFRA PROPERTIES LIMITED

1	2	3
15	15-10072	SRM ASSETS & PROPERTIES LIMITED
16	15-10717	ASPIRE LOGITECH PRIVATE LIMITED
17	15-11242	AIM MARKETING LIMITED
18	15-08734	KRISHNA AGRO PLANT PRIVATE LIMITED
19	15-14531	TECHNOWEB SOFTWARE SOLUTIONS PRIVATE LIMITED

C. K. DAS
ASST. REGISTRAR OF COMPANIES
ODISHA

IN THE MATTER OF COMPANIES ACT, 1956 AND OF FOLLOWING COMPANIES

Cuttack-753014, the 11th June 2014

No. ROC/Sec. 560(3)/2014/739—Notice is hereby given pursuant to Sub-Section (3) of Section 560 of the Companies Act, 1956 that at the expiration of three months from the date hereof, the name of the following companies unless cause is shown to the contrary will be struck off from the register and the said companies will be dissolved:—

Sl. No.	No. of Comp.	Name of Company
1	2	3
01	15-09918	KAMAL HOSPITAL & RESEARCH CENTRE PRIVATE LIMITED
02	15-09919	ASHIRBADA MARKETING PRIVATE LIMITED
03	15-09922	SCRIMP CAPITAL ADVISORY SERVICES PRIVATE LIMITED
04	15-09929	FEED LIFE AGROVET PRIVATE LIMITED
05	15-09934	TRIAKSH RAJ ALUMINA PRIVATE LIMITED
06	15-09935	SUNFLOWER HOSPITAL PRIVATE LIMITED
07	15-09944	OMM METALLOYS PRIVATE LIMITED
08	15-09949	SUMMIT BEVERAGES AND FOODS PRIVATE LIMITED
09	15-06717	SWAGAT INN PRIVATE LIMITED
10	15-05466	SUM SYSTEMS AND SERVICES PRIVATE LIMITED
11	15-07612	UNIFORM RELATIONAL LOGIC PRIVATE LIMITED
12	15-11031	SAHAJEE INFRASTRUCTURE AND MULTIPROJECT LIMITED
13	15-13143	FUTURE PLANET FINANCIAL SERVICES LIMITED
14	15-13243	SAHAJEE MARKETING LIMITED
15	15-14251	S. R. THAKUR REAL ESTATE PROPERTIES PRIVATE LIMITED
16	15-14253	KRUPALUJEE DEVELOPER AND PROMOTERS PRIVATE LIMITED
17	15-14255	YNET TECHNOSOLUTIONS PRIVATE LIMITED
18	15-14261	COSMO ROSE INFRASTUCTURE LIMITED
19	15-14264	FOCUS INDIA INFRA AND PROPERTIES MANAGEMENT PRIVATE LIMITED
20	15-14265	PMC BUSINESS PRIVATE LIMITED
21	15-14268	JAANA SWASTHYA MANAGEMENT PRIVATE LIMITED

1	2	3
22	15-14270	MAHADEV AGRITECH PRIVATE LIMITED
23	15-14271	OFTWARE PRIVATE LIMITED
24	15-14272	COZYNEST PROPERTIES PRIVATE LIMITED
25	15-14274	MAA BASULI SUPER FACILITY PRIVATE LIMITED
26	15-14278	OLIVINE MARKETING PRIVATE LIMITED
27	15-14280	JAGRADHEY METALICS & STEEL ALLOYS PRIVATE LIMITED
28	15-14281	PARAG INFRASOLUTION PRIVATE LIMITED
29	15-14283	RELY INDIA INFRADEVELOPERS PRIVATE LIMITED
30	15-14285	MUYNA TECHNOLOGY PRIVATE LIMITED
31	15-14286	SECURE LIFE PHARMACEUTICALS PRIVATE LIMITED
32	15-14290	MAA TARINEE AGROTECH PRIVATE LIMITED
33	15-14293	INNOMETHODS SOLUTIONS PRIVATE LIMITED
34	15-14294	RAJHANS AVIATION PRIVATE LIMITED
35	15-14300	PERFECTVIPS TECHNO SOLUTIONS PRIVATE LIMITED

C. K. DAS
ASST. REGISTRAR OF COMPANIES
ODISHA

In the matter of the Companies Act, 1956 and of the following Companies

Puducherry–605 011, the 29th May 2014

No. 3(161)/2014–Notice is hereby given pursuant to sub-section (5) of Section 560 of the Companies Act, 1956 that the name of the following Companies have this day been struck off the Register and the said Companies are dissolved:—

Sl. No.	Company No.	Name of the Company
1.	2328	M/s. Suryodaya Budget Housing Private Limited
2.	2278	M/s. South Pole Dealing and Consulting Private Limited
3.	2331	M/s. Unistar Infradevelopers Private Limited

C.M. KARL MARX
Registrar of Companies
Puducherry

मुद्रण निदेशालय द्वारा, भारत सरकार मुद्रणालय, एन.आई.टी. फरीदाबाद में मुद्रित एवं प्रकाशन नियंत्रक, दिल्ली द्वारा प्रकाशित, 2014
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MINISTRY OF CORPORATE AFFAIRS

OFFICE OF THE REGISTRAR OF COMPANIES

In the matter of the Companies Act, 2013 and of M/s NATRON INFOSYSTEMS LIMITED

New Delhi -110019, the 27th June 2014

No. 560(3) MCA/ROC-Delhi/sec 560/2014/00008/4740----Notice is hereby given pursuant to sub section (3) of Section 560 of the Companies Act, 2013, that at the expiration of three months from the date hereof the name of the M/s. NATRON INFOSYSTEMS LIMITED, unless cause is shown to the contrary, will be struck off from the Register and the said company will be dissolved.

PREMLAL BHANJURAM MALIK
Dy. Registrar of Companies
National Capital Territory of Delhi and Haryana

In the matter of the Companies Act, 1956 and of the following Companies

New Delhi-110019, the 30th June 2014

No. RoC/Delhi/560(5)/FTE-2011/4776----Notice is hereby given pursuant to sub-section(5) of Section 560 of the Companies Act, 1956 that the name of the following companies have this day been struck off from the register and the said companies are dissolved:-----

SL. NO	CIN	COMPANY NAME
1	U93000DL2009PTC197406	A STAR SECURITY AND H R SERVICES PRIVATE LIMITED
2	U72900DL2002PTC114373	AASTHA WEB INFO SERVICES PRIVATE LIMITED
3	U70101HR2013PTC049057	ADEYINKA REALTORS PRIVATE LIMITED
4	U74899DL1991PTC043116	ADION ELECTRONICS PRIVATE LIMITED
5	U70100DL2007PTC161582	ADVENTURE PROPMART PRIVATE LIMITED
6	U51109DL2006PTC151716	AKASTIA RETAIL PRIVATE LIMITED
7	U65993DL2006PTC144534	ALLEGRA INVESTMENT PRIVATE LIMITED
8	U63000DL2011PTC218862	ALLIANCE TRANS LOGIC PRIVATE LIMITED
9	U45201DL1997PTC087395	ALUMET (INDIA) PRIVATE LIMITED
10	U51909DL2008PTC185732	AMA RETAILS PRIVATE LIMITED
11	U55101DL2010PTC210906	AMATRA HOSPITALITY SERVICES PRIVATE LIMITED
12	U74140DL2007PLC168849	AMAZER TECHNO-CONSULTANTS LIMITED
13	U74899DL1990PTC038801	AMBIENCE AGENCIES PRIVATE LIMITED
14	U70109DL2010PTC205922	AMBUSH REALTORS PRIVATE LIMITED
15	U85100DL2011PTC217678	AMD MEDEXPERT SOLUTIONS PRIVATE LIMITED
16	U51109DL2008PTC174175	ANCHAL CLOTHINGS PRIVATE LIMITED
17	U65100DL2013PTC257126	APLITE FINANCE PRIVATE LIMITED
18	U74999DL2009PTC188630	ARISTO POWER TOOLS & SPARES PRIVATE LIMITED
19	U92190DL2011PTC222175	ART OF LIFE CELEBRATIONS PRIVATE LIMITED
20	U74140DL2007PTC163553	ARTHSHASTRA CONSULTING PRIVATE LIMITED

SL. NO	CIN	COMPANY NAME
21	U31908DL2010PTC198064	ARTLEDZ LIGHTING PRIVATE LIMITED
22	U61100DL2005PTC133332	ARYAN SHIP CHARTERING AND MARINE SERVICES PRIVATE LIMITED
23	U32109DL2005PTC137181	ARYASH ELECTRONICS PRIVATE LIMITED
24	U74140DL2011PTC213388	ASHA MANAGEMENT CONSULTANTS PRIVATE LIMITED
25	U29130DL2011PTC226488	ASTER PRECISION COMPONENTS PRIVATE LIMITED
26	U17291HR2005PTC035969	ATM EMBROIDERY PRIVATE LIMITED
27	U29299HR2005PTC035968	ATM HOLOGRAM PRIVATE LIMITED
28	U51909DL2012PTC235686	ATOOT RETAIL SOLUTIONS PRIVATE LIMITED
29	U74899DL1983PTC016249	ATTALIKA CHIT FUND AND FINANCE PRIVATE LIMITED
30	U85120DL2011PTC225086	AUM ED MED HEALTH CARE PRIVATE LIMITED
31	U45201DL2006PTC147900	AURA DEVELOPERS PRIVATE LIMITED
32	U80900DL2012PTC238191	AVITRAINS SERVICES PRIVATE LIMITED
33	U24100DL2010PTC199669	AYU FLORA NATURALS PRIVATE LIMITED
34	U74899DL1973PTC006920	B.M. ASSOCIATES (DELHI) PRIVATE LIMITED
35	U45200HR2008PTC038187	BABA MOHAN RAM INFRASTRUCTURE PRIVATE LIMITED
36	U45201DL1996PTC082112	BAGAI CONSTRUCTION PRIVATE LIMITED
37	U17120HR2008PTC038230	BAJRANG TEXOFAB PRIVATE LIMITED
38	U74899DL1995PLC068215	BANCAPITAL INDIA LIMITED
39	U74900DL2012PTC230968	BASS MERCANTILE PRIVATE LIMITED
40	U45200DL2008PTC176367	BELGIQUE DEVELOPERS & INFRASTRUCTURE PRIVATE LIMITED
41	U45201DL2006PTC147896	BELVEDERE DEVELOPERS PRIVATE LIMITED
42	U20299DL2009PTC194871	BEYOND BORDERS TIMBER PRIVATE LIMITED
43	U74210DL2007PTC161100	BIGBOSS MARKETING PRIVATE LIMITED
44	U80302DL2011PTC229404	BINOCS HEALTHCARE ACADEMY PRIVATE LIMITED
45	U72300DL2008PTC178347	BISON TECHNOLOGIES PRIVATE LIMITED
46	U74899DL1992PTC050487	BLH PUBLISHERS DISTRIBUTORS PRIVATE LIMITED
47	U45201DL2006PTC145555	BLOOM CITY DEVELOPERS PRIVATE LIMITED
48	U74899DL1988PTC031884	BLUE BIRD SERVICES PRIVATE LTD
49	U70102DL2011PTC228001	BLUE HEAVEN INFRAPROJECTS PRIVATE LIMITED
50	U45400DL2010PTC207711	BRAHM STONE CRUSHING PRIVATE LIMITED
51	U52300DL2011PTC213966	BRAIN RIVER MARKETING PRIVATE LIMITED
52	U22100DL2012PTC242921	BRAND CRAFTER MEDIA PRIVATE LIMITED
53	U22219DL2006PTC151609	C2K GRAPHICS PRIVATE LIMITED
54	U80301DL2012PTC232395	CANDEL TRAINING INSTITUTE PRIVATE LIMITED

SL. NO	CIN	COMPANY NAME
55	U74994DL2008PTC178354	CHIRAG HOME FASHIONS PRIVATE LIMITED
56	U29100DL2010PTC197690	COLT CLIMATE CONTROL PRIVATE LIMITED
57	U74899DL1992PTC050274	CONNECT INDIA PRIVATE LIMITED
58	U74999DL2009PTC192001	COURTYARD OVERSEAS PRIVATE LIMITED
59	U70109DL2006PTC159062	CROSSINGS BUILDWELL PRIVATE LIMITED
60	U70109DL2006PTC152428	CROSSINGS CITY PRIVATE LIMITED
61	U70109DL2006PTC151076	CROSSINGS CORPORATE PARK PRIVATE LIMITED
62	U70109DL2006PTC151075	CROSSINGS GREENS PROPERTY PRIVATE LIMITED
63	U70109DL2006PTC152427	CROSSINGS HOME SOLUTIONS PRIVATE LIMITED
64	U70109DL2006PTC151494	CROSSINGS REALTY PRIVATE LIMITED.
65	U70109DL2006PTC151671	CROSSINGS RESIDENCY PRIVATE LIMITED.
66	U70109DL2006PTC151495	CROSSINGS TOWERS PRIVATE LIMITED
67	U70109DL2006PTC151257	CROSSINGS TOWNSHIP PRIVATE LIMITED.
68	U74140DL1996PTC082267	CROWN AGENTS SERVICES (INDIA) PRIVATE LIMITED
69	U34102DL2013PTC255411	DEEP BROTHERS AUTO WORKS PRIVATE LIMITED
70	U63040DL1999PTC100928	DEEP HEIGHTS TRAVELS PVT LTD
71	U15410DL2012PTC245116	DEVADIDEV FOODS PRIVATE LIMITED
72	U70109DL2012PTC244216	DHANSAMRIDHI INFRAPROJECTS PRIVATE LIMITED
73	U70109DL2012PTC245269	DHANSAMRIDHI INFRASTRUCTURE PRIVATE LIMITED
74	U45200DL2008PTC174829	DHARAMPAL VIMLARANI DEVELOPERS PRIVATE LIMITED
75	U70101HR2013PTC049087	DHOMNVARNA REAL ESTATES PRIVATE LIMITED
76	U51909DL2003PTC123406	DIJ EXPORTS PRIVATE LIMITED
77	U45200DL2006PTC156491	DISHANATH DEVELOPERS PRIVATE LIMITED
78	U72900DL2005PTC138674	DK IT JUNCTION PRIVATE LIMITED
79	U45400DL2007PTC162203	DLT CONSTRUCTION COMPANY PRIVATE LIMITED
80	U74900DL2013PTC252985	DN SVASMED PRIVATE LIMITED
81	U67120DL2000PTC107433	DOT COM HOLDINGS PRIVATE LIMITED
82	U18101DL2008PTC181444	DOUBLE EMM GARMENTS PRIVATE LIMITED
83	U51909DL2012PTC246300	DREAMERS DELIGHT INDIA PRIVATE LIMITED
84	U70100DL2010PTC205954	DROVE REALTORS PRIVATE LIMITED
85	U70102HR2012PTC045049	DVR REALCON PRIVATE LIMITED
86	U70109HR2012PTC045066	DVR REALTY PRIVATE LIMITED
87	U70109DL2006PTC151230	DYNAMIC TOWERS PRIVATE LIMITED
88	U74999DL2000PTC105539	E M TECHNOLOGY PRIVATE LIMITED

SL. NO	CIN	COMPANY NAME
89	U63040DL2008PTC178928	ECO ADVENTURES INDIA PRIVATE LIMITED
90	U55101DL2008PTC182618	ECO ADVENTURES RESORTS PRIVATE LIMITED
91	U72900DL2008PTC178097	EDEN SOFTECH PRIVATE LIMITED
92	U70102DL2010PTC209348	EIR DEVELOPERS PRIVATE LIMITED
93	U17200DL2010PTC197903	ELEGANTVILLA FURNISHINGS PRIVATE LIMITED
94	U18101DL2006PTC149502	ELEGENT GARMENTS PVT LTD
95	U65100DL2013PTC252025	ENTOURAGE FINANCIAL SERVICES PRIVATE LIMITED
96	U74140DL2010PTC210872	ESPACE CORPORATE ART INITIATIVES PRIVATE LIMITED
97	U51226DL2008PTC183641	FARMGATE MILK PRIVATE LIMITED
98	U51900DL2009PTC190151	FASHION CRAFTS EXIM PRIVATE LIMITED
99	U64120DL2002PTC113954	FAST MAIL COURIERS PRIVATE LIMITED
100	U36911DL2005PTC139335	FEMINA JEWELLERY PRIVATE LIMITED
101	U72900DL2012PTC229727	FLASH GAMES PRIVATE LIMITED
102	U51909HR2010PTC041453	FLEXSIGHT MARKETING PRIVATE LIMITED
103	U73100DL2011PTC217109	FORTUNE RESEARCH REPORTS PRIVATE LIMITED
104	U72900DL2011PTC217639	FOSTER INFOTECH PRIVATE LIMITED
105	U74899DL1990PTC041901	FRONTIER CARGO NETWORK PRIVATE LIMITED
106	U51909DL2009PTC189870	FUTUREVISION TRADENET PRIVATE LIMITED
107	U70101DL2010PTC210458	GANGADHAR BUILDWELL PRIVATE LIMITED
108	U65921DL1997PTC086297	GARDEN PROJECTS AND DEVELOPMENT PRIVATE LIMITED
109	U70101DL2012PTC232431	GAVO GLOBAL REALTORS PRIVATE LIMITED
110	U74899DL1987PTC028622	GEE DEE AGENCIES PRIVATE LTD
111	U40100DL2007PTC170082	GENEXT ENERGY CONVERSION PRIVATE LIMITED
112	U74900HR2009FTC039532	GEOSPATIAL CONSULTANCY SERVICES PRIVATE LIMITED
113	U74140DL2008PTC183229	GI C A TECHNICAL CONSULTANTS PRIVATE LIMITED
114	U52393DL1999PTC100717	GLITTERATI CREATIONS INDIA PRIVATE LIMITED
115	U51109HR2008PTC037529	GOOD MORNING INDIA BAKERS PRIVATE LIMITED
116	U70100DL2010PTC210411	GOPESH INFRASTRUCTURES PRIVATE LIMITED
117	U15200DL2010PTC208359	GREATVALUE FOOD PRODUCTS PRIVATE LIMITED
118	U60200DL2011PTC216419	GREATVALUE LOGISTICS PRIVATE LIMITED
119	U40104DL2009PTC197042	GREATVALUE POWER PROJECTS PRIVATE LIMITED
120	U45201DL2006PTC146713	GROWFAST PROPERTIES PRIVATE LIMITED
121	U17299DL2007PTC160494	H N TEXTILE PRIVATE LIMITED
122	U45201DL2001PTC109232	HARSHDEEP PROMOTERS AND BUILDERS PRIVATE LIMITED

SL. NO	CIN	COMPANY NAME
123	U85190DL2012PTC245347	HEAD AND SPINE PAIN MANAGEMENT PRIVATE LIMITED
124	U29253DL2009PTC188178	HEWITT ROBINS INDIA PRIVATE LIMITED
125	U22212DL2005PTC143274	HILTON GRAPHICS PRIVATE LIMITED
126	U11100DL2009PTC197495	HSR PRIME ENGINEERING PRIVATE LIMITED
127	U72200DL2004PTC128532	IBSINDIA CONSULTING PRIVATE LIMITED
128	U92419DL2010PTC200880	IMPACT SPORTS SERVICES PRIVATE LIMITED
129	U74900DL2008PTC184053	IMPACT VALUE STORES PRIVATE LIMITED
130	U45400DL2007PTC167003	IMPRESSIONS INFRASTRUCTURE PRIVATE LIMITED
131	U52100DL2009PTC190020	INCREDIBLE IMPEX PRIVATE LIMITED
132	U15494DL2012PTC238938	INDICA NUTRI FOODS PRIVATE LIMITED
133	U70101DL2012PTC244190	INDICA REALTECH PRIVATE LIMITED
134	U74140DL2008PTC175061	INFORMATICS MEDIA CONSULTANTS PRIVATE LIMITED
135	U72900DL2011PTC225402	INNOVER CONSULTANCY SERVICES PRIVATE LIMITED
136	U74120DL2007PTC167603	INTERNATIONAL RENTAL SERVICES PRIVATE LIMITED
137	U74140DL2013PTC253064	INVITEE EVENT PLANNER PRIVATE LIMITED
138	U85110DL2006PTC147380	JAN HITASHI HOSPITAL PRIVATE LIMITED
139	U74991DL2006PTC148510	JANUS CREATION PRIVATE LIMITED
140	U21013DL2001PLC110633	JASMINE PAPER RESOURCES LIMITED
141	U45200DL2012PTC232532	K K HOUSING PRIVATE LIMITED
142	U51397DL2008PTC180739	KAMADHENU AYURVEDA PRIVATE LIMITED
143	U72900DL2002PTC118210	KANTA INFOTECH PRIVATE LIMITED
144	U24119DL2004PTC131240	KHUSHI CHEMTEX PRIVATE LIMITED
145	U18101DL2008PTC176053	KINGS FABRICARE PRIVATE LIMITED
146	U65992HR1991PTC031297	KONIX CHITS PRIVATE LIMITED
147	U45400DL2008PTC185430	KSP CONSTRUCTIONS PRIVATE LIMITED
148	U74899DL1986PTC024430	KULWANT ENGINEERING WORKS PRIVATE LTD
149	U74899DL1995PTC068533	LAKEVIEW MARKETING PRIVATE LIMITED
150	U45400DL2007PTC168603	LAXMI INFRABUILD PRIVATE LIMITED
151	U74140DL2003PTC119828	LEGENDARY LEGAL AND MANAGEMENT SERVICES PRIVATE LIMITED
152	U51909DL1992PTC050061	LICHCHHAVI NIRYAT PRIVATE LIMITED
153	U51909DL2007PTC161208	LIFESTYLE EXIM PRIVATE LIMITED
154	U45200DL2011PTC221095	LUCULENT BUILDWELL PRIVATE LIMITED
155	U74899DL1994PLC063882	M G AGRO PROCESSORS LIMITED
156	U93000DL2012PTC242159	M K R SERVICES PRIVATE LIMITED

SL. NO	CIN	COMPANY NAME
157	U51909DL2013PTC253525	MAGICARE SOLUTIONS PRIVATE LIMITED
158	U74899DL1991PTC048716	MAHAVEERA GASES PRIVATE LIMITED
159	U74140DL2008PTC180402	MANIFOLD CONSULTANTS PRIVATE LIMITED
160	U70109DL2012PTC237632	MAPSCON BUILDTECH PRIVATE LIMITED
161	U70100DL2010PTC205438	MARACAS DEVELOPERS PRIVATE LIMITED
162	U92199DL2003PTC119480	MARS EVENTS PRIVATE LIMITED
163	U74120DL2007PTC162417	MAX CERTIFICATIONS PRIVATE LIMITED
164	U72900DL2007PTC164230	MDK TECHNOLOGY PRIVATE LIMITED
165	U70101DL2012PTC240545	MEGATRIM DEVELOPERS PRIVATE LIMITED
166	U70101DL2011PTC213310	MILESTONE INFRATECH PRIVATE LIMITED
167	U74140DL2010PTC209867	MIND AVENUES MANAGEMENT SERVICES PRIVATE LIMITED
168	U72900DL2011PTC227372	MOON APPS. DBA TECHNOLOGIES PRIVATE LIMITED
169	U74899DL1994PTC061969	MTH INDIA PRIVATE LIMITED
170	U70100DL2013PTC256459	MURLIDHAR BUILDTECH PRIVATE LIMITED
171	U70100DL2013PTC256014	MURLIDHAR INFRADEVELOPERS PRIVATE LIMITED
172	U70100DL2013PTC255907	MURLIDHAR REALTORS PRIVATE LIMITED
173	U51909DL2005PTC134266	N S V R IMPEX PRIVATE LIMITED
174	U01400DL2010PTC205315	NANDAL DAIRY AND RURAL INTEGRATIONS PRIVATE LIMITED
175	U31901DL2006PTC157087	NARANG PRECISION COMPONENTS PRIVATE LIMITED
176	U55101DL2006PTC148828	NAVIGATE RESTAURANT BRANDS (INDIA)PRIVATE LIMITED
177	U72300DL2012PTC231828	NEOWORLD TECHNOLOGIES PRIVATE LIMITED
178	U74999HR2011PTC043258	NEW ERA LUBRICANTS PRIVATE LIMITED
179	U74920DL2010PTC210650	NEWGEN SECURITY AND ALLIED SERVICES PRIVATE LIMITED
180	U24233DL2004PTC129784	NOIDA AYURVED PRIVATE LIMITED
181	U74899DL1996PLC075115	NUWAVE PHARMACEUTICALS LIMITED
182	U18101DL2008PTC179899	ORANGE TREE APPAREL PRIVATE LIMITED
183	U65900DL2010PTC208832	OSTLER FINANCIAL ADVISORY PRIVATE LIMITED
184	U51909DL2010PTC197904	PALM ENTERPRISES PRIVATE LIMITED
185	U72300DL2008PTC172412	PARAMHANS XPO INFOTECH PRIVATE LIMITED
186	U55100HR2011PTC042163	PARROT HOTELS PRIVATE LIMITED
187	U51311HR2002PTC034960	PBS OVERSEAS PRIVATE LIMITED
188	U74899DL1986PTC023376	PEARL CERAMICS PRIVATE LTD.
189	U40101DL2011PTC214474	PGA POWERSUN TECH PRIVATE LIMITED
190	U70102DL2009PTC196287	PIHU CONSTRUCTIONS PRIVATE LIMITED

SL. NO	CIN	COMPANY NAME
191	U72200DL2005PTC135917	PITNEY BOWES SOFTWARE PRIVATE LIMITED
192	U72200DL2004PTC131743	PLANET CYBERTECH PRIVATE LIMITED
193	U70200DL2010PTC210536	PRIYABHAKTA DEVELOPERS PRIVATE LIMITED
194	U18101DL2011PTC218381	PRIYANKA BHALLA EXPORTS PRIVATE LIMITED
195	U74999DL2004PTC128793	PUNEET MOULDED PRIVATE LIMITED
196	U45201DL2002PTC116974	PURVI CONSTRUCTIONS PRIVATE LIMITED
197	U35122DL2007PTC166117	Q-PLUS AUTO PRIVATE LIMITED
198	U74120DL2008PTC183680	R & R BUILDESTATES PRIVATE LIMITED
199	U72900DL2004PTC127466	R I NETALAYA SOLUTIONS PRIVATE LIMITED
200	U70101DL2010PTC199415	R P SINGH REAL ESTATE DEVELOPERS PRIVATE LIMITED
201	U70102DL2013PTC260975	RADIANCE CORPORATE HOMZ PRIVATE LIMITED
202	U51311DL2004PTC129783	RAJANI GARMENTS PRIVATE LIMITED
203	U74120DL2008PTC175203	RAMA CALPACK PRIVATE LIMITED
204	U45200DL2007PTC161024	RANGOLI TOWN PLANNERS PRIVATE LIMITED
205	U72200HR2011PTC043259	RAVIRA INTERNET RETAIL PRIVATE LIMITED
206	U52300DL2011PTC215341	RBR SALES (INDIA) PRIVATE LIMITED
207	U45400DL2007PTC170110	RCON ENGINEERING CONTRACTS PRIVATE LIMITED
208	U70200DL2012PTC229645	REMAXX CONSORTIUM REALITIES PRIVATE LIMITED
209	U74999DL2012PTC232765	RGB RESOURCE MEDIA PRIVATE LIMITED
210	U72100DL2013PTC257492	RHC ENTERPRISES PRIVATE LIMITED
211	U70200HR2013PTC048984	RISHESWAR BUILDCON PRIVATE LIMITED
212	U45201DL1994PTC058867	RNS PROMOTERS PRIVATE LIMITED
213	U70109DL2006PTC152282	ROSE BUILDTECH PRIVATE LIMITED
214	U62200DL2007PTC167219	ROTORJET AIR CONCEPTS PRIVATE LIMITED
215	U74999DL2013PTC261427	RSM ENERGY SYSTEMS PRIVATE LIMITED
216	U51900DL2012PTC244087	RUDRALITE TRADEX PRIVATE LIMITED
217	U70109DL2013PLC249560	SAI SUNBEAM INFRABUILD CORPORATION LIMITED
218	U70109DL2006PTC151322	SAKSHAM PROPERTIES PRIVATE LIMITED
219	U51909DL2006PTC155899	SANJEEV INDUSTRIAL CORPORATION PRIVATE LIMITED
220	U80904DL2008PTC185356	SAPIENT EDUCATIONAL SERVICES PRIVATE LIMITED
221	U74140DL2005PTC139118	SAPRAS MANAGEMENT CONSULTANTS PRIVATE LIMITED
222	U74899DL1980PTC010191	SARDA OIL INDUSTRIES PRIVATE LTD
223	U72200DL2007PTC161553	SATCOM NETWORKS PRIVATE LIMITED
224	U92190DL2010PTC203553	SCALE MARKETING SERVICES PRIVATE LIMITED

SL. NO	CIN	COMPANY NAME
225	U51909DL2012PTC238385	SEEBIR EVENTURES PRIVATE LIMITED
226	U45201DL2006PTC145931	SENIOR INFRABUILD PRIVATE LIMITED
227	U65993DL2000PTC104313	SHAKUN CAPITAL SERVICES PRIVATE LIMITED
228	U72200DL2007FTC171934	SHEFFIELD HAWORTH SOFTWARE DEVELOPMENT KNOWLEDGE CENTER INDIA PRIVATE LIMITED
229	U74910DL2008PTC183625	SHELKIER MANPOWER PRIVATE LIMITED
230	U70109DL2006PTC154369	SHOURYA DUROBUILD PRIVATE LIMITED
231	U45400DL2008PTC172180	SHOURYA REALCON INDIA PRIVATE LIMITED
232	U70109DL2010PTC199254	SHRI LALJI INFRACON PRIVATE LIMITED
233	U40104DL2010PTC204840	SHRI LALJI POWER PROJECTS PRIVATE LIMITED
234	U62200DL2007PTC160007	SHWETHA AIR CARGO PRIVATE LIMITED
235	U92190DL2008PTC178644	SIRDI SAI EVENTS PRIVATE LIMITED
236	U51900HR2010PTC040257	SMART STEPS MARKETING PRIVATE LIMITED
237	U72200DL2007PTC161095	SOFTAGE MARKETING PRIVATE LIMITED
238	U55101DL1992PTC050405	SOLANG RESORTS PRIVATE LIMITED
239	U74899DL1985PTC020161	SOUTH ASIA MARKETING CO PRIVATE LIMITED
240	U36101DL2002PTC117061	SPACEWORKZ INFRASTRUCTURE PRIVATE LIMITED
241	U45402DL2008PTC184061	SPLENDID INFRAREALITY VENTURES PRIVATE LIMITED
242	U92400HR2013PLC049219	SRS CINEMAS & ENTERTAINMENT LIMITED
243	U52609HR2013PLC049291	SRS MODERN RETAIL LIMITED
244	U15139HR2013PLC049518	SRS ROYAL BITES LIMITED
245	U74140DL2008PTC177136	SSK CONSULTANTS PRIVATE LIMITED
246	U64202DL2005PTC139998	STAR E-SERVICES PRIVATE LIMITED
247	U25202DL2005PTC136167	STICKCRAFT PROPACK PRIVATE LIMITED
248	U93000DL2014PTC263585	STONED APE STUDIOS PRIVATE LIMITED
249	U70101DL2013PTC262178	SUHANI BUILDTECH PRIVATE LIMITED
250	U13203DL2006PTC146553	SUMEERU MINES AND MINERALS PRIVATE LIMITED
251	U74140DL2010PTC207943	SUN OFFICE SOLUTION SERVICES PRIVATE LIMITED
252	U25206HR1990PTC030927	SURYA HYDROLICS PVT.LTD.
253	U72300DL2011PTC226621	SWAR INFOSYSTEMS PRIVATE LIMITED
254	U52100DL2011PTC215999	SYD RETAIL PRIVATE LIMITED
255	U45101DL2001PTC110234	T P GUPTA CONSTRUCTIONS PRIVATE LIMITED
256	U74900DL2009PTC196908	TANYA ELECTRICAL AND CIVIL WORKS PRIVATE LIMITED
257	U32304DL2005PTC138643	TARANG DIGITAL STUDIOS PRIVATE LIMITED
258	U10200DL2005PTC143938	TARASAGAR ENTERPRISES PRIVATE LIMITED
259	U72300DL2007PTC169548	TECHNO LATTICE SOLUTIONS PRIVATE LIMITED

SL. NO	CIN	COMPANY NAME
260	U51900HR2012PLC044782	TECHNOPHILE COMMERCIAL LIMITED
261	U72300DL2006PTC156998	TECHVICTUS SOFTWARE CONSULTANCY PRIVATE LIMITED
262	U74899DL1988PTC033526	TELENETS SOFTWARE AND CONSULTING PRIVATE LIMITED
263	U74999DL2012PTC233298	THE PEOPLE DEVELOPMENT CONSULTANCY PRIVATE LIMITED
264	U72200DL2010PTC201850	THINKTANK SOLUTIONS PRIVATE LIMITED
265	U29268DL1997PTC085250	TOPSLOT ENGINEERING COMPONANTS PRIVATE LIMITED
266	U93000DL2009FTC189690	TRADECO CONSULTING INDIA PRIVATE LIMITED
267	U80210DL2013PTC247366	TRANS ATLANTIC EDUCATIONAL TRIPS PRIVATE LIMITED
268	U36995DL2010PTC200150	TRANS INDIA COSMETICS PRIVATE LIMITED
269	U72300DL2010PTC200325	TRANS INFOSOLUTIONS PRIVATE LIMITED
270	U51101HR2010PTC039906	TRIANGLE STOCKS PRIVATE LIMITED
271	U45200DL2007PTC160876	TRIDEV PROPMART PRIVATE LIMITED
272	U52100DL2007PTC168460	TROCELLEN INDIA PRIVATE LIMITED
273	U74999DL1998PTC093319	UK IMMIGRATION CONSULTANCY PRIVATE LIMITED
274	U35990DL2011PTC212820	UNIQUE ROLLER BEARING PRIVATE LIMITED
275	U11101DL1999PTC100325	UNITED DRILLING ASSOCIATES PRIVATE LIMITED
276	U74140DL2012PTC240251	UNIVERSAL RESEARCH MINE PRIVATE LIMITED
277	U17111DL2000PTC108393	UNR OVERSEAS PRIVATE LIMITED.
278	U93000DL2011PTC217310	UP BRIDGE ENGINEERS & CONSULTANTS PRIVATE LIMITED
279	U18101DL1988PTC034258	UPPAL FASHIONS PRIVATE LIMITED
280	U52312DL2012PTC240516	UV COLOR CHANGE COSMETICS PRIVATE LIMITED
281	U51909DL2012PTC232916	UV COLOR CHANGE CREATIONS PRIVATE LIMITED
282	U45201DL2006PTC145554	VAIBHAV ESTATES DEVELOPERS PRIVATE LIMITED
283	U51433DL2004PTC131241	VAKI ARCHITECTURAL SPECIALITIES PRIVATE LIMITED
284	U72900DL2000PTC103666	VED PRAKASH SOFTECH PRIVATE LIMITED
285	U32202DL2004PTC128872	VERSATILES ELECTROTECH PRIVATE LIMITED
286	U93000DL2012PTC233109	VIDHATA EDUHEALTH PRIVATE LIMITED
287	U45200DL2008PTC175735	VIMLARANI VIJAY AGGARWAL PROPERTIES PRIVATE LIMITED
288	U45400DL2007PTC171306	VISHISHT DEVELOPERS PRIVATE LIMITED
289	U45400DL2011PTC214793	VSK DEVELOPERS PRIVATE LIMITED
290	U72900DL2010PTC198374	VWIN TECHNOLOGIES PRIVATE LIMITED
291	U72900DL2000PLC107025	WEB GAINZ LTD
292	U85110DL2010PTC203000	WELLOGIC HEALTHNET PRIVATE LIMITED
293	U74999DL2006PTC155361	WELLOGIC INDIA PRIVATE LIMITED

SL. NO	CIN	COMPANY NAME
294	U74140DL2011PTC219131	WIN WIN MANAGEMENT CONSULTANTS PRIVATE LIMITED
295	U72300DL2008PTC180075	WIOSKA INFOSERVICE PRIVATE LIMITED
296	U36101DL1998PTC091842	WOODSTOCK RHINE PRIVATE LIMITED
297	U51909DL2012PTC241941	WTH INDIA PRIVATE LIMITED
298	U51311DL2004PTC129581	Y B GARMENTS PRIVATE LIMITED
299	U22211DL2013PTC256348	YELLOW GATE VENTURES PRIVATE LIMITED
300	U29220DL2011PTC212761	YOGESH MACHINERY TOOLS PRIVATE LIMITED
301	U24232DL2009PTC196132	ZYDOM HEALTHCARE PRIVATE LIMITED

RAJNEESH KUMAR SINGH
Asstt. Registrar of Companies
NCT of Delhi & Haryana

In the matter of the Companies Act, 1956 and of the following Companies

Kanpur- 208001, the 26th June 2014

No.LC/560(3)/1298----Notice is hereby given pursuant to sub-section (3) of section 560 of the Companies Act, 1956 that at the expiration of three months from the date the name of the following companies unless cause is shown to the contrary, will be struck off the Register and the said company will be dissolved:----

Sl No	Company Name	Cin No.
1	2	3
1	LAKSHYA AVASAR MARKETING PRIVATE LIMITED	U51399UP2003PTC028077
2	S.KUMAR'S VISION INDIA MARKETING PRIVATE LIMITED	U74999UP2003PTC028071
3	VIGOROUSS INSURANCE SERVICES PRIVATE LIMITED	U66010UP2003PTC028074
4	SKY LAB MARKETING SERVICES PRIVATE LIMITED	U51399UP2003PTC028057
5	IDEAL COMMUNICATIONS PRIVATE LIMITED	U22121UP2003PTC028046
6	VOYAGE SHOWS & PROMOTIONS PRIVATE LIMITED	U92141UP2003PTC028048
7	ACCURATE CALL PRIVATE LIMITED	U80902UP2003PTC028042
8	JAISWAL BUILDCON COMPANY PRIVATE LIMITED	U45201UP2003PTC028037
9	JANKI DEVELOPERS & CONSTRUCTIONS PRIVATE LIMITED	U45203UP2003PTC028040
10	ALLIANCE DEVELOPERS AND BUILDERS PRIVATE LIMITED	U45201UP2003PTC028041
11	PANCHVATI MARKETING PRIVATE LIMITED	U74999UP2003PTC028034
12	SEHJAS EDUCATION PRIVATE LIMITED	U80101UP2003PTC028031
13	MINUS PLUS ZERO EXPORTS PRIVATE LIMITED	U62190UP2003PTC028016
14	AVR SERVICES PRIVATE LIMITED	U80903UP2003PTC028017
15	SHOES UNLIMITED PRIVATE LIMITED	U19202UP2003PTC028019
16	RED ROSE GARMENTS PRIVATE LIMITED	U18101UP2003PTC028020
17	HEAVENWAY SALES AND MARKETING PRIVATE LIMITED	U74999UP2003PTC028006
18	ADVANCE MARKET RESEARCH & SOCIAL INFORMATION PRIVATE LIMITED	U74130UP2003PTC027996

1	2	3
19	VINDHYAVASINI SURGICAL PRIVATE LIMITED	U51397UP2003PTC027860
20	ADVISION MARKETING PRIVATE LIMITED	U74999UP2003PTC027981
21	SGV MARKETING COMPANY PRIVATE LIMITED	U51399UP2003PTC027983
22	SAM DRUGS & PHARMACEUTICALS PRIVATE LIMITED	U24232UP2003PTC027978
23	BONAFIDE NET SERVICES PRIVATE LIMITED	U52334UP2003PTC027973
24	MANGLAM TRACTORS PRIVATE LIMITED	U50101UP2003PTC027972
25	OMGURU OILS PRIVATE LIMITED	U15142UP2003PTC027968
26	G I FOREIGN TOURS & TRAVELS PRIVATE LIMITED	U63040UP2003PTC027969
27	K. S. CASTING PRIVATE LIMITED	U27104UP2003PTC027961
28	ACME SALES & MARKETING PRIVATE LIMITED	U74300UP2003PTC027964
29	GOLDENFUTURE SALES & MARKETING CONCEPT PRIVATE LIMITED	U74300UP2003PTC027952
30	BANODHIA PRAKASHAN PRIVATE LIMITED	U22122UP2003PTC027953
31	LEADING INDIA SALES & SERVICES PRIVATE LIMITED	U51399UP2003PTC027955
32	TRUEFRIENDS MARKETING CONCEPT PRIVATE LIMITED	U74300UP2003PTC027959
33	NETWAY INDIA MARKETING PRIVATE LIMITED	U74300UP2003PTC027960
34	RESTORA FOAMS PRIVATE LIMITED	U17226UP2003PTC027945
35	GOLDENSKY MARKETING PRIVATE LIMITED	U74999UP2003PTC027948
36	LIFELINE DISTRIBUTORS PRIVATE LIMITED,	U51397UP2003PTC027943
37	TIME BASE MARKETING PRIVATE LIMITED	U74999UP2003PTC027913
38	THINK INFOSOLUTIONS PRIVATE LIMITED	U72900UP2003PTC027919
39	LOTUS MEDICAL DEVICES INDIA PRIVATE LIMITED	U85110UP2003PTC027906
40	H.R.HOLDINGS PRIVATE LIMITED	U45201UP2003PTC027901
41	HEALTHLINE FORMULATIONS PRIVATE LIMITED	U51397UP2003PTC027897
42	NARESH PETROLEUM PRIVATE LIMITED	U50500UP2003PTC027865
43	MAHARAJA AGRASEN SHIKSHAN SANSTHAN PRIVATE LIMITED	U80302UP2003PTC027849
44	S.K.REAL ESTATE PROMOTERS PRIVATE LIMITED	U70109UP2003PTC027853
45	HELIOS INFO-SOLUTIONS PRIVATE LIMITED	U72200UP2003PTC027833
46	AVON BUSINESS SYSTEM PRIVATE LIMITED	U51399UP2003PTC027811
47	AAI ENTERPRISES PRIVATE LIMITED	U45201UP2003PTC027810
48	RELIABLE INSURANCE CARE SERVICE PRIVATE LIMITED	U66010UP2003PTC027792
49	BRIGHTFUTURE SALES AND MARKETING PRIVATE LIMITED	U74999UP2003PTC027791

S P KUMAR
Registrar of Companies
UP & Uttarakhand

In the matter of the Companies Act, 1956 and of the following Companies

Kanpur- 208001, the 27th June 2014

No.LC/560(5)/1312----Notice is hereby given pursuant to sub-section (5) of section 560 of the Companies Act, 1956 that the name of the following companies has this day been struck off from the Register of Companies from the date of this publication. These companies shall stand dissolved:----

Sl No	Company Name	Cin No.
1	2	3
1	KARAN ENTERPRISES INDIA PRIVATE LIMITED	U45201UP2005PTC030685
2	FIRST ASSEMBLING AND MARKETING PRIVATE LIMITED	U74999UP2005PTC030669

1	2	3
3	V-TEL MARKETING AND COMMUNICATION PRIVATE LIMITED	U52603UP2005PTC030658
4	AGALZ BIOCOM PRIVATE LIMITED	U24232UR2005PTC030631
5	DYNAMIC DIRECTLINK MARKETING PRIVATE LIMITED	U74999UP2005PTC030599
6	DWARKESH SECURITY SERVICES PRIVATE LIMITED	U74920UP2005PTC030537
7	ASTHA SALES PRIVATE LIMITED	U74999UP2005PTC030427
8	LORD VISHNU ESTATES PRIVATE LIMITED	U45201UP2005PTC030506
9	RITESH SORTEX PRIVATE LIMITED	U15311UP2005PTC030509
10	SARVAVIDYA PUBLISHING HOUSE PRIVATE LIMITED	U22121UP2005PTC030510
11	VITALIZE HERBS PRIVATE LIMITED	U24233UP2005PTC030501
12	SUPPORT MARKETING (INDIA) PRIVATE LIMITED	U51109UP2005PTC030491
13	ADITYA LIVESTOCK TRADERS PRIVATE LIMITED	U74999UP2005PTC030456
14	RIGHTWASH DOMESTIC CLOTHE CLEANING AND DRY CLEANING SERVICES PRIVATE LIMITED	U93010UP2005PTC030459
15	NEOPACKETS COMMUNICATION INDIA PRIVATE LIMITED	U72200UP2005PTC030450
16	VISION ONE NETWORK MARKETING PRIVATE LIMITED	U74999UP2005PTC030454
17	GREEN ROADWAYS TRANSPORT (INDIA) PRIVATE LIMITED	U60232UP2005PTC030235
18	MISSION FORWARDING (INDIA) PRIVATE LIMITED	U60231UP2005PTC030213
29	PARASMANI SEEDS PRIVATE LIMITED	U01122UP2005PTC030173
20	GORAKSH FOODS PRIVATE LIMITED	U15440UP2005PTC030151
21	GANANDHIRAJA CONSTRUCTION PRIVATE LIMITED	U45201UP2005PTC030020
22	L C A AGRO PRIVATE LIMITED	U01112UP2005PTC029657
23	VIKALP CAPITAL CARE PRIVATE LIMITED	U67190UP2005PTC029532
24	VISHVAMITRA CONSTRUCTIONS PRIVATE LIMITED	U45201UP2005PTC029476 –
25	AAKASH COACHING PRIVATE LIMITED	U80211UP2005PTC029477
26	COLOSSEL MARKETING AND EDUCATION PRIVATE LIMITED	U74999UP2004PTC029349
27	IATRO LABS PRIVATE LIMITED	U73100UP2004PTC029119
28	SURI REALTORS PRIVATE LIMITED	U45201UP2004PTC029112
29	V3 EXIM OVERSEAS PRIVATE LIMITED	U18101UP2004PTC028920

S.P.KUMAR
Registrar of Companies
U.P. & Uttarakhand

In the matter of the Companies Act, 1956 and of the following Companies

Kanpur- 208001, the 27th June 2014

No.LC/560(3)/1313----Notice is hereby given pursuant to sub-section (3) of section 560 of the Companies Act, 1956 that at the expiration of three months from the date the name of the following

companies unless cause is shown to the contrary, will be struck off the Register and the said company will be dissolved:----

Sl No.	COMPANY NAME	CIN NO.
1	2	3
1	NAUGARIA AGRO FORESTRY PRODUCTS PRIVATE LIMITED	U01122UP2004PTC028903
2	MUGAL PLASTERS PRIVATE LIMITED	U26952UP2004PTC028892
3	SHREE PRAGYA BUILDCON PRIVATE LIMITED	U45201UP2004PTC028893
4	GREEN WITCH EXPORTS PRIVATE LIMITED	U19123UP2004PTC028894
5	ADINATH HOSPITAL AND RESEARCH CENTRE PRIVATE LIMITED	U85110UP2004PTC028891
6	PEARL INDIA INFOWARE PRIVATE LIMITED	U72200UP2004PTC028890
7	LIFE VISION SALES AND DISTRIBUTION PRIVATE LIMITED	U74999UP2004PTC028882
8	SATYAM SHIVAM SUNDARAM FABRICATORS PRIVATE LIMITED	U26964UP2004PTC028869
9	ZWITTER PHARMACEUTICALS PRIVATE LIMITED	U51397UP2004PTC028875
10	4 DIMENSIONS TRAVEL (INDIA) PRIVATE LIMITED	U63040UP2004PTC028863
11	PUSHPLATA ICE AND COLD STORAGE PRIVATE LIMITED	U63022UP2004PTC028868
12	SISODIA INVERT SUGAR PRIVATE LIMITED	U15421UP2004PTC028854
13	RISHIPOOJA ENERGY TECHNOLOGIES PRIVATE LIMITED	U29119UP2004PTC028846
14	PARSHIV PHARMACEUTICALS PRIVATE LIMITED	U51397UP2004PTC028843
15	ZEEMIQ PHARMACEUTICALS PRIVATE LIMITED	U51397UP2004PTC028838
16	KALANCHAL FILMS AND MUSIC COMPANY PRIVATE LIMITED	U92114UP2004PTC028823
17	D R P S PHARMACEUTICALS PRIVATE LIMITED	U24232UP2004PTC028820
18	DREAMWORLD E-SALES PRIVATE LIMITED	U74999UP2004PTC028821
19	CORAL MACKEREL MARKETING PRIVATE LIMITED	U74999UP2004PTC028810
20	UDAY MARKFIN SERVICES PRIVATE LIMITED	U72200UP2004PTC028812
21	GREENHOUSE BUILDCON PRIVATE LIMITED	U45201UP2004PTC028813
22	SUHIMI CONSULTANCIES AND SOLUTIONS PRIVATE LIMITED	U74140UP2004PTC028809
23	NLG CHEMICALS CO PRIVATE LIMITED	U51434UP2004PTC028796
24	DAWN SALES AND MARKETING PRIVATE LIMITED	U74999UP2004PTC028792
25	SUPER DATA PROCESSOR PRIVATE LIMITED	U80221UP2004PTC028795
26	SWARNIM SALES PRIVATE LIMITED	U74999UP2004PTC028788
27	AL-MIZAN FROZEN FOODS PRIVATE LIMITED	U15139UP2004PTC028791
28	SHYAMA LIFELINE MARKETING PRIVATE LIMITED	U74999UP2004PTC028782
29	IMAGINATION EDUCATION CENTRE PRIVATE LIMITED	U80211UP2004PTC028777
30	S.S.PETRONET OILS AND GAS SERVICES PRIVATE LIMITED	U51410UP2004PTC028753
31	D B S SALES PRIVATE LIMITED	U74999UP2004PTC028747
32	NAVGRAH BUILDERS PRIVATE LIMITED	U45201UP2004PTC028748
33	PRACTICAL MERCANTILE CO PRIVATE LIMITED	U51399UP2004PTC028733
34	VISHAMBHER ENTERPRISES PRIVATE LIMITED	U10102UP2004PTC028728

1	2	3
35	SHRI SHOBHA RAM FOODS PRIVATE LIMITED	U15135UP2004PTC028719
36	INDOO INFOCOM PRIVATE LIMITED	U72200UP2004PTC028584
37	SAPTARISHI MERCANTILE SALES PRIVATE LIMITED	U51399UP2004PTC028714
38	SUSHTI INSURANCE SERVICES PRIVATE LIMITED	U66030UP2004PTC028716
39	NEW SUM MARKETING PRIVATE LIMITED	U74999UP2004PTC028718
40	NEELKAMAL HITECH TRADING PRIVATE LIMITED	U51399UP2004PTC028709
41	ARYANS MERCANTILE SALES PRIVATE LIMITED	U74999UP2004PTC028704
42	MICRO INFOSYS COMPUTER EDUCATION PRIVATE LIMITED	U80302UP2004PTC028701
43	GANPATI ENTERTAINMENT PRIVATE LIMITED	U92141UP2004PTC028682
44	SWARNISHA MARKETING SERVICES PRIVATE LIMITED	U74999UP2004PTC028680
45	REXIMED PHARMACEUTICALS PRIVATE LIMITED	U51397UP2004PTC028678
46	KUNICA MARKETING PRIVATE LIMITED	U52334UP2004PTC028666
47	KRIPA SHANKAR BUILDERS PRIVATE LIMITED	U51432UP2004PTC028639
48	SUKRITI FINCON PRIVATE LIMITED	U65922UP2004PTC028641
49	ASHNA CERAMICS PRIVATE LIMITED	U26914UP2004PTC028644
50	ARISING FUTURE IN SALES AND MARKETING PRIVATE LIMITED	U74999UP2004PTC028636
51	DIAMONDPRISM AGROTECH PRIVATE LIMITED	U02001UP2004PTC028637
52	CAMERA EYE FILM DISTRIBUTION PRIVATE LIMITED	U92112UP2004PTC028631
53	ALOK HOUSING COMPANY PRIVATE LIMITED	U45201UP2004PTC028632
54	SHANTI ADVERTISING PRIVATE LIMITED	U74300UP2004PTC028620
55	SEVEN STAR CONCEPTS SALES PRIVATE LIMITED	U74999UP2004PTC028571
56	AASRA ASSOCIATE SALES PRIVATE LIMITED	U29308UP2004PTC028573
57	AMRIT HERBALS PRIVATE LIMITED	U24233UP2004PTC028578
58	IDEAL CIRCULATION WAY MARKETING PRIVATE LIMITED	U74999UP2004PTC028534
59	REBRU BRUSH COMPANY PRIVATE LIMITED	U24229UP2004PTC028536
60	GATI PETROLIUM PRIVATE LIMITED	U50500UP2004PTC028541
61	BHARGO SECURITIES PRIVATE LIMITED	U67120UP2004PTC028517
62	MAURYA'S MARKETING PRIVATE LIMITED	U51397UP2004PTC028521
63	RESOMATRIX PRODUCTS PRIVATE LIMITED	U74130UP2004PTC028522
64	ASHU HEALTH CARE PRIVATE LIMITED	U51397UP2004PTC028526
65	VIJETTA SALES PRIVATE LIMITED	U51399UP2004PTC028512
66	SALSONS CHIT FUND PRIVATE LIMITED	U65992UP2004PTC028514
67	SHREE HARDOI BALAJI FUELS PRIVATE LIMITED	U10101UP2004PTC028504
68	ASHISH VED NAMAN TRADERS PRIVATE LIMITED	U50500UP2004PTC028500

1	2	3
69	SATYAM-SHIVAM-SUNDRAM SALES AND MARKETING PRIVATE LIMITED	U74999UP2004PTC028501
70	VAISHNO SECURITY SERVICES PRIVATE LIMITED	U74920UP2004PTC028498
71	GOLDENWAY MARKETING PRIVATE LIMITED	U74999UP2004PTC028484
72	VIJMAN MARKETTING PRIVATE LIMITED	U51109UP2004PTC028477
73	*ANKUIES* PHARMACEUTICALS PRIVATE LIMITED	U51397UP2004PTC028460
74	SHRIRAM TECHNO BEARINGS PRIVATE LIMITED	U27108UP2004PTC028434
75	CAREER PROFESSIONAL TRAINING NETWORK PRIVATE LIMITED	U74999UP2004PTC028427
76	AMBA MULTI MARKETING PRIVATE LIMITED	U74999UP2004PTC028418
77	PRAGYA FILMS PRIVATE LIMITED	U92111UP2004PTC028419
78	MIRROR TRAVELS & TOURS PRIVATE LIMITED	U63040UP2004PTC028411
79	PRINCE CASTING PRIVATE LIMITED	U27104UP2004PTC028400
80	GANGA OXYGEN PRIVATE LIMITED	U23201UP2004PTC028396
81	HAMARA SAMRADH JEEVAN SALES PRIVATE LIMITED	U74999UP2004PTC028387
82	DOLLAR STEELS PRIVATE LIMITED	U27104UP2004PTC028384
83	VARSHNEY DEVELOPERS PRIVATE LIMITED	U45201UP2004PTC028373
84	SUKHBASI LAL MISRI LAL TEXTILES PRIVATE LIMITED	U17212UP2004PTC028369
85	USHA INFOSOLUTIONS PRIVATE LIMITED	U72900UP2004PTC028370
86	SKYLAB COMMUNICATION NETWORK PRIVATE LIMITED	U72900UP2004PTC028346
87	JANKI TOURISM INDIA PRIVATE LIMITED	U63040UP2004PTC028347
88	SHRI SHARE PANDIT CONSULTANTS PRIVATE LIMITED	U67190UP2004PTC028348
89	DHAMAKA INDIA MARKETING PRIVATE LIMITED	U74999UP2004PTC028349
90	CONSORTIUM PROJECTS PRIVATE LIMITED	U45201UP2004PTC028339
91	TRISAM HEALTH CARE PRIVATE LIMITED	U51397UP2004PTC028343
92	EYE-SIGHT ENTERTAINMENT PRIVATE LIMITED	U92113UP2004PTC028334
93	INFO VEIN SOFTWARE TECHNOLOGIES PRIVATE LIMITED	U72900UP2004PTC028330
94	CDS CHEMICALS PRIVATE LIMITED	U24232UP2004PTC028320
95	SICHUAN SILK PRIVATE LIMITED	U67120UP2004PTC028327
96	J.M.STEEL AND ALLOYS PRIVATE LIMITED	U27104UP2004PTC028315
97	RAVI PUMPS AND GENERATORS PRIVATE LIMITED	U29119UP2004PTC028310
98	SUN CREDIT SOLUTION PRIVATE LIMITED	U65192UP2004PTC028313
99	KANPUR PUBLICATION HOUSE PRIVATE LIMITED	U22212UP2004PTC028305
100	S M S PROTECTION AND SECURITY SERVICES PRIVATE LIMITED	U74920UP2004PTC028302
101	RAJESH MASALA PRIVATE LIMITED	U15495UP2004PTC028300
102	NATURAL SALES CONCEPT PRIVATE LIMITED	U74999UP2004PTC028291

1	2	3
103	SWYAM SIDDHA INVESTSOLUTION PRIVATE LIMITED	U67200UP2004PTC028283
104	CDS MARKETING PRIVATE LIMITED	U74999UP2004PTC028275
105	TELESIA CHEM AND FOODS INDIA PRIVATE LIMITED	U51229UP2004PTC028265
106	DREAM WIN MARKETING PRIVATE LIMITED	U74999UP2004PTC028256
107	R.S.M.HOSPITAL PRIVATE LIMITED	U85110UP2004PTC028254
108	J AND J CITY CLUBS PRIVATE LIMITED	U55201UP2004PTC028246
109	THE INURE TECHNOLOGIES PRIVATE LIMITED	U72200UP2004PTC028240
110	GENIOUS MARKETING PRIVATE LIMITED	U51399UP2004PTC028228
111	I-SPY MARKETTING PRIVATE LIMITED	U72200UP2004PTC028229
112	GHANSHYAM MERCENTILE MARKETING PRIVATE LIMITED	U74999UP2003PTC028096
113	NORTHERN ACADAMY OF HIGHER EDUCATION PRIVATE LIMITED	U80301UP2004PTC028224
114	GLOSS-CB LABS PRIVATE LIMITED	U51397UP2004PTC028214
115	INTERGLOBE AVIATION PRIVATE LIMITED	U62100UP2004PTC028212
116	NABI KAREEM BUILDERS PRIVATE LIMITED	U45201UP2004PTC028207
117	PRABHU DAYAL AND BROS. BIOCHEM PRIVATE LIMITED	U24232UP2004PTC028203
118	GAURAV AND GAUREESH ASSOCIATES (MARKETING) PRIVATE LIMITED	U19116UP2004PTC028197
119	BHAWANI REALTORS-AND BUILDERS PRIVATE LIMITED	U45201UP2004PTC028192
120	MADHUR INDIA DETECTIVES PRIVATE LIMITED	U74920UP2004PTC028184
121	FRIENDS AMBITION TRADING PRIVATE LIMITED	U74999UP2003PTC028182
122	KUDOS HEALTHCARE PRIVATE LIMITED	U24232UP2003PTC028179
123	FARMER'S DISTRIBUTORS PRIVATE LIMITED	U72200UP2003PTC028169
124	ORIGIN SOFTECH PRIVATE LIMITED	U74999UP2003PTC028165
125	B R TYRES PRIVATE LIMITED	U25112UP2003PTC028157
126	MASTERMIND PROTECTION GUARD (INDIA) PRIVATE LIMITED	U74920UP2006PTC031819
127	ARESH AGRO FOODS PRIVATE LIMITED	U51229UP2003PTC028144
128	MAHADEO PUBLISHERS & STATIONERS PRIVATE LIMITED	U22122UP2003PTC028145
129	EXCEL INFOWARE PRIVATE LIMITED	U72900UP2003PTC028131
130	KLT ENTERPRISES PRIVATE LIMITED	U18101UP2003PTC028133
131	GOLDEN CHANCE SALES AND MARKETTING PRIVATE LIMITED	U74999UP2003PTC028119
132	INSTA CORE MARKETING PRIVATE LIMITED	U65999UP2003PTC028122
133	NAKUR MARKETING PRIVATE LIMITED	U74959UP2003PTC028114
134	CAPSTONE MARKETING PRIVATE LIMITED	U74999UP2003PTC028115
135	N.U.BRIGHT SALES & MARKETING PRIVATE LIMITED	U74999UP2003PTC028110

1	2	3
136	CATALYST ADVISORY SERVICES PRIVATE LIMITED	U74110UP2003PTC028111
137	GUPPANI AGRO INDIA PRIVATE LIMITED	U15499UP2003PTC028113
138	APNA KHUSHHAL BAZAR MARKETING PRIVATE LIMITED	U74999UP2003PTC028097
139	DEVVANSHI MARKETING AND ADVERTISING PRIVATE LIMITED	U74999UP2003PTC028098
140	DEBONAIR KIDS INDIA PRIVATE LIMITED	U95000UP2003PTC028099
141	INDIWAY MARKETING PRIVATE LIMITED	U51397UP2003PTC028087
142	OSHEL ENGINEERS PRIVATE LIMITED	U31300UP2003PTC028083
143	S.G.R.MARKETING PRIVATE LIMITED	U52322UP2003PTC028075

S P KUMAR
Registrar of Companies,
UP & Uttarakhand

In the matter of the Companies Act, 1956 and of the following Companies

Kolkata, the 25th June 2014

No.ROC/WB/SM/560/2014—Notices is hereby given pursuant to sub-section (5) of Section 560 of the Companies Act, 1956 that the names of the following 102 Companies have on this day been struck off from the Register and the Companies are dissolved.

SL NO.	CIN	Name of the company
1	2	3
1	U74900WB2010PTC153809	SARAL NETWORK TRADE PRIVATE LIMITED
2	U45400WB2010PTC153885	MAHULBAN DEVELOPER & HOUSING PRIVATE LIMITED
3	U45400WB2010PTC155390	GAJAPATI DEVELOPERS PRIVATE LIMITED
4	U51909WB2010PTC154444	EVERWAY TRADECOM PRIVATE LIMITED
5	U52190WB2010PTC155074	SPIDER NETWORK COMMERCIAL PRIVATE LIMITED
6	U74900WB2010PTC141040	BRINDA MARBLE & TRADING PRIVATE LIMITED
7	U13203WB2010PTC145206	SOMENATH ENTERPRISES PRIVATE LIMITED
8	U45400WB2010PTC152754	DULAL HOUSING PRIVATE LIMITED
9	U51909WB2010PTC153811	KINGFISHER DEALCOMM PRIVATE LIMITED
10	U51224WB2010PTC152804	PRITI FOOD MARKETING PRIVATE LIMITED
11	U52322WB2010PTC152986	KUSUM SAREE TRADING PRIVATE LIMITED
12	U52590WB2010PTC152990	ALKA TRADECOM PRIVATE LIMITED
13	U01403WB2010PTC153044	GHOSH & ROY'S KRISHI FARM PRIVATE LIMITED
14	U63040WB2010PLC153219	RISING TOURISM LIMITED
15	U55101WB2010PTC153285	J.B. SACH FOOD & RESTAURANTS PRIVATE LIMITED
16	U51909WB2010PTC153581	MANGALMURTI TRADELINK PRIVATE LIMITED

1	2	3
17	U67190WB2010PLC153628	M.S. GLOBAL MANAGEMENT CAPITAL SERVICES LIMITED
18	U74999WB2010PLC153661	KAWATCH TELE & INFRASTRUCTURE INDIA LIMITED
19	U52190WB2010PTC153928	ALAASKA DEALMARK PRIVATE LIMITED
20	U70109WB2010PLC154923	FORT GREENARIES POWER INFRACON LIMITED
21	U51909WB2010PTC155688	SIYARAM DEALCOM PRIVATE LIMITED
22	U29253WB2010PLC156237	MACMET TAIM WESER ENGINEERING LIMITED
23	U52190WB2010PTC154853	SHEERWOOD ENTERPRISES PRIVATE LIMITED
24	U15312WB2010PTC155628	BABA BHOLANATH RICE MILL PRIVATE LIMITED
25	U22130WB2010PLC141617	MANTRAM BINODAN MEDIA KARYAKRAM LIMITED
26	U31504WB2010PTC152186	SAS ELECTRO MECHANICAL EQUIPMENTS PRIVATE LIMITED
27	U18100WB2010PTC152221	AKSHRA TEXTILE TRADING PRIVATE LIMITED
28	U51909WB2010PTC153902	SHIVDARSHAN COMMODEAL PRIVATE LIMITED
29	U01403WB2010PLC154789	GREEN VALLEY FARM PROJECTS LIMITED
30	U17121WB2010PTC155796	BONDIA SPINFAB PRIVATE LIMITED
31	U70109WB2010PTC156238	PAWAN MODISH DEVELOPERS AND PROMOTERS PVT. LTD.
32	U27201WB1965PTC026496	EAST INDIA ENGINEERING PVT LTD
33	U70100WB2009PLC140094	SWARNATORI PROJECT INFRA LIMITED
34	U51909WB2010PTC141333	SAPTRISHI DEALER PRIVATE LIMITED
35	U52390WB2010PTC152159	SBG RETAILS PRIVATE LIMITED
36	U74900WB2010PTC152872	ROMAN DISTRIBUTORS PRIVATE LIMITED
37	U51909WB2010PTC153024	REVIEW DEALERS PRIVATE LIMITED
38	U52100WB2010PTC153058	LIFE GURD TRADECOM PRIVATE LIMITED
39	U51909WB2010PTC152786	SHIVKHORI VINCOM PRIVATE LIMITED
40	U74900WB2010PTC153081	JAMUNA STEEL PRIVATE LIMITED
41	U52100WB2010PTC153386	R. T. C. MARKETING PRIVATE LIMITED
42	U25209WB2010PTC153791	CHAURASIA POLYMERS PRIVATE LIMITED
43	U70102WB2010PLC153963	REAL LIFE REALTY (INDIA) LIMITED
44	U01403WB2010PTC154081	BENGAL INVITRO VENTURE PRIVATE LIMITED
45	U70200WB2010PLC154207	INTERET INFRASTRUCTURE LIMITED
46	U85110WB2010PTC155465	SURAHA HOSPITALITY SERVICES PRIVATE LIMITED
47	U51909WB2010PTC154082	ANNEX INFLUENCE MARKETING PRIVATE LIMITED
48	U74999WB2010PTC153640	JRD VINIMAY PRIVATE LIMITED
49	U74999WB2010PTC153687	ANKUR FINANCIAL MANAGEMENT SERVICES PVT. LTD.
50	U92140WB2010PTC153780	STUNNING EVENTS & ENTERTAINMENT PRIVATE LIMITED
51	U01403WB2010PTC153975	SAMRIDDHI AGRO PROJECTS PRIVATE LIMITED

1	2	3
52	U51909WB2010PTC154237	YASHRAJ VINCOM PRIVATE LIMITED
53	U70102WB2010PLC154381	REAL INDIA DEVCON LIMITED
54	U01403WB2010PLC154512	PARASMONI AGROPROJECTS LIMITED
55	U24233WB2010PTC155377	TSR IMPEX PRIVATE LIMITED
56	U01403WB2010PLC155425	BLUEBELL AGRIVISION INDIA LIMITED
57	U51909WB2010PTC155498	REVVER COMDEL PRIVATE LIMITED
58	U70109WB2010PLC155774	SEA STONE DEVELOPERS LIMITED
59	U93000WB2010PTC156036	G F S SECURITAS & ESCORTS PRIVATE LIMITED
60	U85195WB2010PTC156077	SIYARAM PHARMACEUTICALS PRIVATE LIMITED
61	U28910WB2010PTC156186	MODEL PRECISION ENGINEERING PRIVATE LIMITED
62	U52390WB2010PTC152723	BEST LIFE CARE MARKETING PRIVATE LIMITED
63	U52100WB2010PTC152376	CROSSWAY MARKETING INDIA PRIVATE LIMITED
64	U72900WB2010PTC152548	JSJ INNOVATIVE TECHNOLOGY PRIVATE LIMITED
65	U52100WB2010PTC152660	CORUS SALES PRIVATE LIMITED
66	U52322WB2010PTC152989	MEHAK GARMENT TRADING PRIVATE LIMITED
67	U14200WB2010PTC153100	SRI JIN GRANITES & MARBELS PRIVATE LIMITED
68	U52590WB2010PTC153150	RAINBOW DEALMARK PRIVATE LIMITED
69	U45400WB2010PTC153387	MISAL INFRASTRUCTURE PRIVATE LIMITED
70	U51505WB2010PTC152798	B P ENERGY RESOURCES PRIVATE LIMITED
71	U52322WB2010PTC152987	AYUSHI SAREE TRADING PRIVATE LIMITED
72	U18202WB2010PTC152994	DIGANTA JUTE ENTERPRISE PRIVATE LIMITED
73	U52390WB2010PTC154520	YARNS IMPEX PRIVATE LIMITED
74	U51909WB2010PTC154742	V-AIM MARKETING PRIVATE LIMITED
75	U51909WB2010PTC156106	ECONOMY AGENCIES PRIVATE LIMITED
76	U24100WB2010PTC156222	NUPHUR HEALTHCARE PRIVATE LIMITED
77	U13100WB2010PTC156439	FERROTECH ORES & MINERALS PRIVATE LIMITED
78	U52590WB2010PTC152984	KASHIKA SAREE EMPORIUM PRIVATE LIMITED
79	U40102WB2010PTC155626	SIENNA ELECTRICALS (INDIA) PVT.LTD
80	U51909WB2010PTC152082	RAGHUPATI DEALTRADE PRIVATE LIMITED
81	U52100WB2010PTC152449	KALYAN MERCHANTS PRIVATE LIMITED
82	U70109WB2010PTC152569	BASTU REAL ESTATE PRIVATE LIMITED
83	U74900WB2010PTC152621	PURUSATTAM AGROTECH (INDIA) PRIVATE LIMITED
84	U63090WB2010PTC152688	SEATRANS OVERSEA SERVICES PRIVATE LIMITED
85	U74999WB2010PLC152860	BARDHAMAN JANAKALYAN MULTILEVEL DISTRIBUTION LIMITED.
86	U74999WB2010PTC153337	SUPERDEAL HOUSING ADVISORY PRIVATE LIMITED

1	2	3
87	U51909WB2010PTC153368	RUDRAMALA VINIMAY PRIVATE LIMITED
88	U74999WB2010PTC153485	RAAS E-PAGE MEDIA PRIVATE LIMITED
89	U50102WB2010PTC153536	BLACK DIAMOND COMMERCIAL PRIVATE LIMITED
90	U70102WB2010PTC153644	LAXMI CONCLAVE PRIVATE LIMITED
91	U51909WB2010PTC153739	AMRITLAXMI AGENCIES PRIVATE LIMITED
92	U51909WB2010PTC153741	MANGALVANI VINIMAY PRIVATE LIMITED
93	U51909WB2010PTC153901	SANYAM MERCHANDISE PRIVATE LIMITED
94	U51909WB2010PTC154080	FUTURE FRIENDS MARKETING PRIVATE LIMITED
95	U25209WB2010PTC154146	DEY & SARKAR PLASTIC MOULDING AND SUPPLY COMPANY PVT. LTD.
96	U01403WB2010PLC154384	MARS AGROFARM DEVELOPERS LIMITED
97	U52100WB2010PTC154556	ABSOLUTE DEALMARK PRIVATE LIMITED
98	U52390WB2010PTC154557	PERFECTCHOICE TRADING PRIVATE LIMITED
99	U51109WB2010PTC154659	NEBULA TRACOM PRIVATE LIMITED
100	U45400WB2010PLC154681	PEARL VALLEY INFRANIRMAN LIMITED
101	U17291WB2010PTC154725	LOKNATH POWERLOOM PRIVATE LIMITED
102	U74999WB2010PTC155107	RAGHUPATI SUPPLIERS PRIVATE LIMITED

PRANAY CHATURVEDI
Asstt. Registrar of Companies
West Bengal

In the matter of the Companies Act, 1956 and of M/s MARIA CONSTANZE HOSPITALITY PRIVATE LIMITED
Panaji, - 403001, the 06th June 2014

No. 5120/817----Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act.1956, that the name of MARIA CONSTANZE HOSPITALITY PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

SRIDHAR PAMARTHI
Registrar of Companies
Goa, Daman and Diu

In the matter of the Companies Act, 1956 and of M/s CLAFRA TOURS AND TRAVELS PRIVATE LIMITED
Panaji, - 403001, the 06th June 2014

No. 2992/820---- Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act.1956, that the name of CLAFRA TOURS AND TRAVELS PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

SRIDHAR PAMARTHI
Registrar of Companies
Goa, Daman and Diu

In the matter of the Companies Act, 1956 and of M/s STELLA TOURS AND TRAVELS PRIVATE LIMITED
Panaji, - 403001, the 06th June 2014

No. 5034/823----Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act.1956, that the name of STELLA TOURS AND TRAVELS PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

SRIDHAR PAMARTHI
Registrar of Companies
Goa, Daman and Diu

In the matter of the Companies Act,1956 and of M/s NEWLAND HOLIDAY HOMES PRIVATE LIMITED

Panaji, - 403001, the 6th June 2014

No. 4937/827----.Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act. 1956, that the name of NEWLAND HOLIDAY HOMES PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

SRIDHAR PAMARTHI
Registrar of Companies
Goa, Daman and Diu

In the matter of the Companies Act, 1956 and of M/s SOUDAMINI FOODS PRIVATE LIMITED

Panaji, - 403001, the 6th June 2014

No. 1835/830----Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act. 1956, that the name of SOUDAMINI FOODS PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

SRIDHAR PAMARTHI
Registrar of Companies
Goa, Daman and Diu

In the matter of the Companies Act,1956 and of
M/s ALCHIMIA AYURVEDIC YOGA HEALTH THERAPIES PRIVATE LIMITED

Panaji, - 403001, the 6th June 2014

No. 6048/833----Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act.1956, that the name of ALCHIMIA AYURVEDIC YOGA HEALTH THERAPIES PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

SRIDHAR PAMARTHI
Registrar of Companies
Goa, Daman and Diu

In the matter of the Companies Act, 1956 and of M/s ELLISSE HANDICRAFTS PRIVATE LIMITED

Panaji, - 403001, the 6th June 2014

No. 6127/836----Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act,1956 that the name of ELLISSE HANDICRAFTS PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

SRIDHAR PAMARTHI
Registrar of Companies
Goa, Daman and Diu

In the matter of the Companies Act, 1956 and of M/s ONE WORLD PROJECT MANAGEMENT PRIVATE LIMITED

Panaji, - 403001, the 6th June 2014

No. 4156/839----Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act.1956, that the name of ONE WORLD PROJECT MANAGEMENT PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

SRIDHAR PAMARTHI
Registrar of Companies
Goa, Daman and Diu

In the matter of the Companies Act, 1956 and of M/s BHRAMRI ESTATES PRIVATE LIMITED

Panaji, - 403001, the 6th June 2014

No. 6886/842----Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act. 1956, that the name of BHRAMRI ESTATES PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

SRIDHAR PAMARTHI
Registrar of Companies
Goa, Daman and Diu

In the matter of the Companies Act, 1956 and of the following Companies

Cuttack-753014, the 24th June 2014

No. ROC/Sec. 560(5)/2014/994---- Notice is hereby given pursuant to Sub- section (5) of the section 560 of the Companies Act, 1956 that the name of the following Companies have this day been struck off from the register of the Registrar of Companies and the said Companies are dissolved:----

Sl No.	No. of comp	Name of Company
01	15-7356	JPDC PRIVATE LIMITED
02	15-08356	MONALISA BUILDERS PRIVATE LIMITED
03	15-8763	SETRICS QUALISOFT PRIVATE LIMITED
04	15-11808	UTKAL INFORMATION AND COMMUNICATION TECHNOLOGY SERVICES PRIVATE LIMITED
05	15-12350	UNIVERSAL UNITED INDUSTRIES AND TRADE CONSORTIUM PRIVATE LIMITED
06	15-12518	AURO MINING & ENVIRONMENT CONSULTING PRIVATE LIMITED
07	15-14051	PSD CONSULTANCY PRIVATE LIMITED
08	15-14054	B K PUBLICATIONS PRIVATE LIMITED
09	15-14055	GSS INFRA PROJECTS PRIVATE LIMITED
10	15-14056	INTELLO SOLUTIONS PRIVATE LIMITED
11	15-14057	MARKED INC SERVICES PRIVATE LIMITED
12	15-14059	MAXFIN INFRA INDIA LIMITED
13	15-14060	ADITYA FUTURE SECURE PRIVATE LIMITED
14	15-14061	PADMA RESORTS PRIVATE LIMITED
15	15-14064	SAI RAM REALCON PRIVATE LIMITED
16	15-14065	JJ RESOURCE MANAGEMENT SOLUTION PRIVATE LIMITED
17	15-14066	SBZ PROPERTIES PRIVATE LIMITED
18	15-14070	FARNAS HYDROPOWER PRIVATE LIMITED
19	15-14074	JAI LAXMI BUILDERS PRIVATE LIMITED
20	15-14075	SWARNABHUMI FOODS INDIA LIMITED
21	15-14076	U-LIFE MULTITRADE PRIVATE LIMITED
22	15-14079	GREEN LIFE INFRA PROJECTS PRIVATE LIMITED
23	15-14083	JAGRUTI SULOCHANA MULTI SERVICES PRIVATE LIMITED

24	15-14084	SAVITRI SINGH MARKETING PRIVATE LIMITED
25	15-14086	ALL ROUND RESIDENTIAL SERVICES PRIVATE LIMITED
26	15-14087	LITTLE GARDEN REALCON PRIVATE LIMITED
27	15-14088	SURYA PRATAP INFRASTRUCTURE LIMITED
28	15-14094	MASS VENTURES LIMITED
29	15-14096	SURYA NIRMAN PHARMACEUTICALS PRIVATE LIMITED
30	15-14099	ADITYA INFRADESIGNERS PRIVATE LIMITED
31	15-15125	VISION INDIA MULTITECH INFRA LIMITED
32	15-05216	MAITRI BUILDERS PRIVATE LIMITED
33	15-12572	SEA SHELL HOTELS & MULTIPLEX PRIVATE LIMITED

C.K. DAS
ASST. REGISTRAR OF COMPANIES,
ODISHA.

In The Matter of The Companies Act, 1956 and of the following Companies

Bangalore, the 26th June, 2014

NO. ROC/560/(5) FTE—NOTICE IS HEREBY GIVEN PURSUANT TO SUB- SECTION (5) OF SECTION 560 OF THE COMPANIES ACT, 1956, THAT THE NAME OF UNDER MENTIONED COMPANIES HAVE BEEN STRUCK OFF FROM THE REGISTER AND THE SAID THE COMPANIES STAND DISSOLVED:----

Sl. No.	CIN	COMPANY NAME
1	U24239KA2007PTC044631	BEIKE CLINCELL SOLUTIONS PRIVATE LIMITED
2	U40101KA2003PTC032909	AKASHA GANGA ENERGY PRIVATE LIMITED
3	U85110KA1995PLC027861	BLOOMING MEADOWS LIMITED
4	U80301KA2001PLC029271	PINKTROUT INFORMATICS INDIA LIMITED
5	U01810KA2005PTC036632	PAY-OTA SYSTEMS INDIA PRIVATE LIMITED
6	U72200KA2009PTC050332	MOIDEAS SOLUTIONS PRIVATE LIMITED
7	U28900KA2007PTC042452	KRAFT WERK INDIA PRIVATE LIMITED
8	U18109KA2010PTC054698	BITSINDIANA APPARELS PRIVATE LIMITED
9	U74999KA2011PTC056565	NATYAKALA ARTS PRIVATE LIMITED
10	U72200KA2012PTC064266	SYNCHROSYS TECHNOLOGIES PRIVATE LIMITED
11	U72900KA2011PTC061687	CLOUD NET SERVICES PRIVATE LIMITED
12	U72909KA2009PTC051807	AGINO NETWORKS PRIVATE LIMITED

13	U40102KA2010PTC053803	ZERO CARBON ENERGY VENTURES PRIVATE LIMITED
14	U50404KA2011PTC056735	QUEST AUTOMOBILES INDIA PRIVATE LIMITED
15	U45202KA2008SGC045742	AKKSHAY PROJECTS PRIVATE LIMITED
16	U74999KA2007PTC043178	TALETE GEO SPATIAL PRIVATE LIMITED
17	U29305KA2011PTC057925	TAMARIND TECHSYS PRIVATE LIMITED
18	U74900KA2010PTC055434	RATHNA MULTISOURCE SERVICE PRIVATE LIMITED
19	U17124KA2008PTC048546	PARI EMBROIDERY PRIVATE LIMITED
20	U10200KA2011SGC057921	KARNATAKA EMTA COLLIERIES LIMITED
21	U74910KA2000PTC027578	EPROFESSIONAL WORLD WIDE PRIVATE LIMITED
22	U51496KA2005PTC037842	AXION IMPEX PRIVATE LIMITED
23	U74140KA2008PTC047703	DELTA2SIGMA CONSULTANCY SERVICES PRIVATE LIMITED
24	U51101KA2012PTC064705	CURION PHARMACEUTICALS PRIVATE LIMITED
25	U85100KA2012PTC063235	HEALTH ANALYST INTERNATIONAL PRIVATE LIMITED
26	U52300KA2011PTC059995	3CLOSETS E-COMMERCE PRIVATE LIMITED
27	U72900KA2003PTC032661	TALKING BUDDHA LEARNING SOLUTIONS PRIVATE LIMITED
28	U40108KA2010PTC055945	RVA RENEWABLE ENERGY PRIVATE LIMITED
29	U72900KA2011PTC061437	IWIZABILITY SOLUTIONS PRIVATE LIMITED
30	U15411KA1994PTC015698	NOUVELLE FOODS PRIVATE LIMITED
31	U72200KA2007PTC042308	JUBE MICROSYSTEMS PRIVATE LIMITED
32	U74120KA2010PTC055210	LABORATOIRES VBN INDUSTRIAL & RESEARCH PROFESSIONNELS PRIVATE LIMITED
33	U25200KA2011PTC058606	LAXMI POLYSACKS INDIA PRIVATE LIMITED

A. SEHAR PONRAJ
Deputy Registrar of Companies
Karnataka

In the matter of the Companies Act, 1956 and of the Following Companies

Bangalore, the 25th June 2014

NO. ROC/560/(5) FTE- NOTICE IS HEREBY GIVEN PURSUANT TO SUB- SECTION (5) OF SECTION 560 OF THE COMPANIES ACT, 1956, THAT THE NAMES OF UNDER MENTIONED COMPANIES HAVE BEEN STRUCK OFF FROM THE REGISTER AND THE SAID COMPANIES STAND DISSOLVED:----

Sl. No.	CIN	Company Name
01	U74999KA2011PTC057810	INDE TALENT SCOUTS PRIVATE LIMITED
02	U27106KA1977PTC003162	EXOTHERM PRIVATE LIMITED

03	U72200KA2011PTC056749	COMSTOR DISTRIBUTION (INDIA) PRIVATE LIMITED
04	U72900KA2012PTC063904	BLUEDREAMS TECHNOLOGIES PRIVATE LIMITED
05	U55101KA2012PTC065411	TINDYS FOODS PRIVATE LIMITED
06	U72900KA2012PTC067415	EDUCAN TECHNOLOGIES PRIVATE LIMITED
07	U70102KA1995PTC017951	OAKWOOD REALTORS PRIVATE LIMITED
08	U72200KA2011PTC058466	VIPRATHI TECHNOLOGIES PRIVATE LIMITED
09	U72200KA2013PTC069738	INTENTREE SOLUTIONS PRIVATE LIMITED
10	U24100KA2011PTC060452	NEON NUTRACEUTICALS PRIVATE LIMITED
11	U17121KA2007PTC043372	SHRIRANGA COTTON MILLS PRIVATE LIMITED
12	U02212KA2005PTC037513	INTELLECT PUBLISHING HOUSE PRIVATE LIMITED

SUSHIL KUMAR
Assistant Registrar of Companies
Karnataka

मुद्रण निदेशालय द्वारा, भारत सरकार मुद्रणालय, एन.आई.टी. फरीदाबाद में मुद्रित एवं प्रकाशन नियंत्रक, दिल्ली द्वारा प्रकाशित, 2014
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Companies Act, 2013

ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೫೦ Volume 150	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಮೇ ೭, ೨೦೧೫ (ವೈಶಾಖ ೧೭, ಶಕ ವರ್ಷ ೧೯೩೭) Bengaluru, Thursday, May 7, 2015 (Vaishakha 17, Shaka Varsha 1937)	ಸಂಚಿಕೆ ೧೯ Issue 19

ಭಾಗ ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಇ 01 ಕೇನಿಪ್ರ 2015, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 21/23ನೇ ಫೆಬ್ರವರಿ, 2015

2014ನೇ ಸಾಲಿನ 03-06-2014ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3 (ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 1428(E) ದಿನಾಂಕ: 02-06-2014 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF CORPORATE AFFAIRS

ORDER

New Delhi, the 2nd June, 2014

S.O. 1428(E).—In exercise of the powers conferred by sub-section (I) of Section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove certain difficulties that have arisen in giving effect to the provisions of Section 73 of the said Act, namely:-

1. (1) This Order may be called the Companies (Removal of Difficulties) Second Order, 2014.

(2) It shall come into force at once.

2. Jurisdiction, Powers, authority and functions of Company Law Board.-Until a date is notified by the Central Government under sub-section (1) of Section 434 of the Companies Act, 2013 (18 of 2013), the Company Law Board constituted in pursuance of sub-section (1) of Section 10E of the Companies Act, 1956 (1 of 1956) shall exercise the jurisdiction, powers, authority and functions under sub-section (4) of Section 73 of the Companies Act, 2013 (18 of 2013).

[F. No. 218/2014-CL-V]

AMARDEEP SINGH BHATIA,

Jt.Secy.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್.ಆಂಜನಿ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

P.R. 05
SC - 20

IV-F-1(0)

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ
ಅಧಿಸೂಚನೆ
ಸಂಖ್ಯೆ: ಸಂವ್ಯಇ 12 ಕೇನಿಪ್ರ 2015, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 21/23ನೇ ಫೆಬ್ರವರಿ, 2015

2014ನೇ ಸಾಲಿನ 18–09–2014ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3 (i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.R.S. 669(E) ದಿನಾಂಕ: 18–09–2014 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

NOTIFICATION
New Delhi. the 18th September, 2014

G.S.R. 669(E).-In exercise of the powers, conferred by the sub-section (1) read with clause (a) of sub-section (2) of Section 75 of the Disaster Management Act, 2005 (53 of 2005), hereinafter referred as Act. the Central Government hereby makes the following rules, further to amend the Disaster Management (Term of Office and Conditions of Service of Members of the National Authority and Payment of Allowances to Members of Advisory Committee) Rules, 2006. namely:-

1. (1) These rules may be called the Disaster Management (Term of Office and Conditions of Service of Members of the National Authority and Payment of Allowances to Members of Advisory Committee) Second Amendment Rules. 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Disaster Management (Term of Office and Conditions of Service of Members of the National Authority and Payment of Allowances 10 Members of Advisory Committee) Rules, 2006, for rule 3, the following rule shall be substituted, namely:-

"**3. Pay and service conditions.**—(1) A person nominated as a member of the National Authority shall be entitled the pay (less pension in the case of a retired officer), dearness allowance, accommodation, medical facilities, travelling allowance, leave travel concession as admissible to a Secretary to the Government of India' and leave as admissible to a Government servant under the Central Civil Services (Leave) Rules, 1972.

(2) A member of the National Authority who is designated as the Vice-Chairperson of the National Authority under sub-section (3) of Section 3 of the Act, shall be entitled to pay (less pension in the case of a retired officer), dearness allowance, accommodation, medical facilities, travelling allowance. leave travel concession as admissible to the Cabinet Secretary."

[F.No. 44-2014-NDM-II]

G. V. V. SARMA, Jt. Secy.

Note: The principal rules were published in the Gazette of India vide notification number G.S.R. 598(E), dated the 27th September, 2006 and subsequently amended vide notification number G.S.R. 544(E), dated the 30th July, 2014.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

P.R. 06
SC - 20

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ
ಅಧಿಸೂಚನೆ
ಸಂಖ್ಯೆ: ಸಂವ್ಯಇ 10 ಕೇನಿಪ್ರ 2015, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 21/23ನೇ ಫೆಬ್ರವರಿ, 2015

2014ನೇ ಸಾಲಿನ 01–09–2014ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3 (ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 2191(E) ದಿನಾಂಕ: 22–07–2014 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF POWER
NOTIFICATION
New Delhi, the 22nd July, 2014

S.O. 2191(E).-In exercise of the powers conferred by sub-section (I) of Section 162 of the Electricity Act, 2003 (36 of 2003) read with Qualifications, Powers and Functions for Chief Electrical Inspector and Electrical Inspectors Rules. 2006 notified on 17.8.2006, the Central Government hereby appoints Shri N.M.Dhoke. Director (Rolling Stock. Signaling and Operation), BMRCL as Chief Electrical Inspector under for Bangalore Metro Rail Corporation Ltd., from the date of this Notification till his tenure in BMRCL, subject to fulfillment of the Qualification and Condition mentioned in the above Rule.

The above mentioned officer shall exercise the powers and perform his functions in respect of electrical works, electrical installations and electrical rolling stock in operation within the areas occupied by the BMRCL or in respect of works and all electrical installations under the control of BMRCL belonging to BMRCL as per the procedure provided in Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulations. 2010.

IV-F-1 (★)

BMRCL will ensure that Shri N.M. Dhoke will not be the Chief Electrical Inspector in respect of the work assigned to him as Director (Rolling Stock, Signaling and Operation) in BMRCL.

The person appointed as Chief Electrical Inspector shall undergo such training as the Central Government may consider necessary for the purpose and such training shall be completed to the satisfaction of the Government.

[F. No.42/3/2010-R&R]

JYOTI ARORA, Jt. Secy.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

P.R. 07
SC - 20

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ
ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಇ 06 ಕೇನಿಪ್ರ 2015, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 20/23ನೇ ಫೆಬ್ರವರಿ, 2015

2014ನೇ ಸಾಲಿನ 16–09–2014ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3 (ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 2399(E) ದಿನಾಂಕ: 16–09–2014 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF FINANCE
(Department of Revenue)
NOTIFICATION
New Delhi, the 16th September, 2014
INCOME TAX

S.O. 2399 (E).-In exercise of the powers conferred by section 295 read with Section 32 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely :-

1. (1) These rules may be called the Income-tax (8th Amendment) Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. in the Income-tax Rules, 1962, in the New Appendix-I, in Part-A relating to Tangible Assets, under the heading III. Machinery and Plant, in item (8), in sub-item (xiii),-

(a) In clause (l), for the words, figures and letters ``installed on or before 31st day of March, 2012", the words, figures and letters ``installed on or after the 1st day of April, 2014" shall be substituted ; and

(b) In clause (m), for the words, figures and letters ``installed on or before 31st day of March, 2012", the words, figures and letters ``installed on or after the 1st day of April, 2014" shall be substituted.

[Notification No. 43/2014/F.No. 152/1/2013-TPL]

RAJESH KUMAR BHOOT, Director (TPL)

Note: The principal rules were published in the Gazette of India vide notification number S.O. 969(E), dated the 26th March, 1962 and last amended vide notification number S.O. 1902(E), dated the 25th July, 2014.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

P.R. 10
SC - 20

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ
ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಇ 11 ಕೇನಿಪ್ರ 2015, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 20/23ನೇ ಫೆಬ್ರವರಿ, 2015

2014ನೇ ಸಾಲಿನ 01–08–2014ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3 (ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 1985(E) ದಿನಾಂಕ: 12–06–2014 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF FINANCE

(Department of Revenue)

(Office of the Commissioner of Central Excise)

(Bengaluru I, Commissionerate)

NOTIFICATION

Bengaluru, the 12th June, 2014

No. 03/2014-Cus. (NT)

S.O. 1985 (E).-In exercise of the powers delegated to the undersigned vide Notification No. 33/1994-Cus (NT), dated 1st July, 1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi, under clause (a) of Section 152 of the Customs Act, 1962, I, hereby declare Sy. No. 16/1, Konganahalli Village, Kywara Hobli, Chintamani Taluk, Chikkaballapur District 563 128, in the State of Karnataka to be warehousing station under Section 9 of the Customs Act, 1962, for the limited purpose of setting up of 100% EOU.

[F.C. No. IV/16/146/2014 Tech B-1]

ASHOK, Commissioner

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

P.R. 11
SC - 20

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಇ 02 ಕೇನಿಪ್ರ 2015, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 20ನೇ ಫೆಬ್ರವರಿ, 2015

2014ನೇ ಸಾಲಿನ 17-10-2014ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3 (i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.R.S. 733(E) ದಿನಾಂಕ: 26-09-2014 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

RESERVE BANK OF INDIA

(Foreign Exchange Department)

(CENTRAL OFFICE)

NOTIFICATION

Mumbai, the 26th September, 2014

Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) (Amendment) Regulations, 2014

G.S.R. 733(E).-In exercise of the powers conferred by clause (i) of sub-section (3) of Section 6, and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India hereby makes the following amendment in the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 (Notification No. FEMA. 21/2000-RB dated May 3. 2000), namely:-

2. Short title and commencement :-

(i) These Regulations may be called the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) (Amendment) Regulations. 2014.

(ii) They shall come into force from the date of their publication in the Official Gazette.

3. Amendment of the regulations

In the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 (Notification No. FEMA 21/2000-RB dated May 3, 2000), after regulation 8, the following shall be added namely:

"9. Any transaction involving acquisition of immovable property under these regulations shall be subject to the applicable tax laws in India."

[No. FEMA. 321/2014-RB]

C. D. SRINIVASAN, Chief General Manager

Foot Note : The Principal Regulations were published in the Official Gazette vide G.S.R. No. 407(E), dated May 8, 2000 in Part II, Section 3, Sub-section (i) and subsequently amended vide:-

a) G.S.R. No. 578(E) dated August 19, 2002
b) G.S.R. No. 557(E) dated July 22, 2003
c) G.S.R. No. 130(E) dated March 3, 2006
d) G.S.R. No. 299(E) dated May 1,2009

~~Bill No. 121-E of 2011~~

THE COMPANIES BILL, 2013

ARRANGEMENT OF CLAUSES

ASSENTED TO
ON 29 AUG 2013
Act. No. 18 of 2013

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8. Formation of companies with charitable objects, etc.
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10. Effect of memorandum and articles.
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CLAUSES

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185. Loan to directors, etc.

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(*10*) No alteration made under this section shall have any effect until it has been registered in accordance with the provisions of this section.

(*11*) Any alteration of the memorandum, 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.

Alteration of articles.

14. (*1*) Subject to the provisions of this Act and the conditions contained in its memorandum, if any, a company may, by a special resolution, alter its articles including alterations having the effect of conversion of—

(*a*) a private company into a public company; or

(*b*) a public company into a private company:

Provided that where a company being a private company alters its articles in such a manner that they no longer include the restrictions and limitations which are required to be included in the articles of a private company under this Act, the company shall, as from the date of such alteration, cease to be a private company:

Provided further that any alteration having the effect of conversion of a public company into a private company shall not take effect except with the approval of the Tribunal which shall make such order as it may deem fit.

(*2*) Every alteration of the articles under this section and a copy of the order of the Tribunal approving the alteration as per sub-section (*1*) shall be filed with the Registrar, together with a printed copy of the altered articles, within a period of fifteen days in such manner as may be prescribed, who shall register the same.

(*3*) Any alteration of the articles registered under sub-section (*2*) shall, subject to the provisions of this Act, be valid as if it were originally in the articles.

Alteration of memorandum or articles to be noted in every copy.

15. (*1*) Every alteration made in the memorandum or articles of a company shall be noted in every copy of the memorandum or articles, as the case may be.

(*2*) If a company makes any default in complying with the provisions of sub-section (*1*), the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every copy of the memorandum or articles issued without such alteration.

Rectification of name of company.

16. (*1*) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name, is registered by a name which,—

(*a*) in the opinion of the Central Government, is identical with or too nearly resembles the name by which a company in existence had been previously registered, whether under this Act or any previous company law, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of three months from the issue of such direction, after adopting an ordinary resolution for the purpose;

(*b*) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, 1999, made to the Central Government within three years of incorporation or registration or change of name of the company, whether under this

~~Bill No. 121-F of 2011~~

THE COMPANIES BILL, 2013

(AS PASSED BY THE HOUSES OF PARLIAMENT)

A

BILL

to consolidate and amend the law relating to companies

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Companies Act, 2013.

(*2*) It extends to the whole of India.

(*3*) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this

Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(*4*) The provisions of this Act shall apply to—

(*a*) companies incorporated under this Act or under any previous company law;

(*b*) insurance companies, except in so far as the said provisions are inconsistent with the provisions of the Insurance Act, 1938 or the Insurance Regulatory and Development Authority Act, 1999; 4 of 1938. 41 of 1999.

(*c*) banking companies, except in so far as the said provisions are inconsistent with the provisions of the Banking Regulation Act, 1949; 10 of 1949.

(*d*) companies engaged in the generation or supply of electricity, except in so far as the said provisions are inconsistent with the provisions of the Electricity Act, 2003; 36 of 2003.

(*e*) any other company governed by any special Act for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act; and

(*f*) such body corporate, incorporated by any Act for the time being in force, as the Central Government may, by notification, specify in this behalf, subject to such exceptions, modifications or adaptation, as may be specified in the notification.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*1*) "abridged prospectus" means a memorandum containing such salient features of a prospectus as may be specified by the Securities and Exchange Board by making regulations in this behalf;

(*2*) "accounting standards" means the standards of accounting or any addendum thereto for companies or class of companies referred to in section 133;

(*3*) "alter" or "alteration" includes the making of additions, omissions and substitutions;

(*4*) "Appellate Tribunal" means the National Company Law Appellate Tribunal constituted under section 410;

(*5*) "articles" means the articles of association of a company as originally framed or as altered from time to time or applied in pursuance of any previous company law or of this Act;

(*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.

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;

(*7*) "auditing standards" means the standards of auditing or any addendum thereto for companies or class of companies referred to in sub-section (*10*) of section 143;

(*8*) "authorised capital" or "nominal capital" means such capital as is authorised by the memorandum of a company to be the maximum amount of share capital of the company;

(*9*) "banking company" means a banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(*10*) "Board of Directors" or "Board", in relation to a company, means the collective body of the directors of the company;

(*11*) "body corporate" or "corporation" includes a company incorporated outside India, but does not include—

(*i*) a co-operative society registered under any law relating to co-operative societies; and

(*ii*) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf;

(*12*) "book and paper" and "book or paper" include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form;

(*13*) "books of account" includes records maintained in respect of—

(*i*) all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;

(*ii*) all sales and purchases of goods and services by the company;

(*iii*) the assets and liabilities of the company; and

(*iv*) the items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified under that section;

(*14*) "branch office", in relation to a company, means any establishment described as such by the company;

(*15*) "called-up capital" means such part of the capital, which has been called for payment;

(*16*) "charge" means an interest or lien created on the property or assets of a company or any of its undertakings or both as security and includes a mortgage;

(*17*) "chartered accountant" means a chartered accountant as defined in clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (*1*) of section 6 of that Act; 38 of 1949.

(*18*) "Chief Executive Officer" means an officer of a company, who has been designated as such by it;

(*19*) "Chief Financial Officer" means a person appointed as the Chief Financial Officer of a company;

(*20*) "company" means a company incorporated under this Act or under any previous company law;

(*21*) "company limited by guarantee" means a company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up;

(*22*) "company limited by shares" means a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them;

(*23*) "Company Liquidator", in so far as it relates to the winding up of a company, means a person appointed by—

(*a*) the Tribunal in case of winding up by the Tribunal; or

(*b*) the company or creditors in case of voluntary winding up,

as a Company Liquidator from a panel of professionals maintained by the Central Government under sub-section (*2*) of section 275;

(*24*) "company secretary" or "secretary" means a company secretary as defined in clause (*c*) of sub-section (*1*) of section 2 of the Company Secretaries Act, 1980 who is appointed by a company to perform the functions of a company secretary under this Act; 56 of 1980.

(*25*) "company secretary in practice" means a company secretary who is deemed to be in practice under sub-section (*2*) of section 2 of the Company Secretaries Act, 1980; 56 of 1980.

(*26*) "contributory" means a person liable to contribute towards the assets of the company in the event of its being wound up.

Explanation.—For the purposes of this clause, it is hereby clarified that a person holding fully paid-up shares in a company shall be considered as a contributory but shall have no liabilities of a contributory under the Act whilst retaining rights of such a contributory;

(*27*) "control" shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(*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; 23 of 1959.

(*29*) "court" means—

(i) the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate, except to the extent to which jurisdiction has been conferred on any district court or district courts subordinate to that High Court under sub-clause (*ii*);

(ii) the district court, in cases where the Central Government has, by notification, empowered any district court to exercise all or any of the jurisdictions conferred upon the High Court, within the scope of its jurisdiction in respect of a company whose registered office is situate in the district;

(iii) the Court of Session having jurisdiction to try any offence under this Act or under any previous company law;

(iv) the Special Court established under section 435;

(v) any 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;

(*30*) "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;

(*31*) "deposit" includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India;

(*32*) "depository" means a depository as defined in clause (*e*) of sub-section (*1*) of section 2 of the Depositories Act, 1996; 22 of 1996.

(*33*) "derivative" means the derivative as defined in clause (*ac*) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(*34*) "director" means a director appointed to the Board of a company;

(*35*) "dividend" includes any interim dividend;

(*36*) "document" includes summons, notice, requisition, order, declaration, form and register, whether issued, sent or kept in pursuance of this Act or under any other law for the time being in force or otherwise, maintained on paper or in electronic form;

(*37*) "employees' stock option" means the option given to the directors, officers or employees of a company or of its holding company or subsidiary company or companies, if any, which gives such directors, officers or employees, the benefit or right to purchase, or to subscribe for, the shares of the company at a future date at a pre-determined price;

(*38*) "expert" includes an engineer, a valuer, a chartered accountant, a company secretary, a cost accountant and any other person who has the power or authority to issue a certificate in pursuance of any law for the time being in force;

(*39*) "financial institution" includes a scheduled bank, and any other financial institution defined or notified under the Reserve Bank of India Act, 1934; 2 of 1934.

(*40*) "financial statement" in relation to a company, includes—

(*i*) a balance sheet as at the end of the financial year;

(*ii*) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;

(*iii*) cash flow statement for the financial year;

(*iv*) a statement of changes in equity, if applicable; and

(*v*) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (*i*) to sub-clause (*iv*):

Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement;

(*41*) "financial year", 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:

Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary 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:

Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause;

(*42*) "foreign company" means any company or body corporate incorporated outside India which—

(*a*) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and

(*b*) conducts any business activity in India in any other manner.

(*43*) "free reserves" means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as dividend:

Provided that—

(*i*) any amount representing unrealised gains, notional gains or revaluation of assets, whether shown as a reserve or otherwise, or

(*ii*) any change in carrying amount of an asset or of a liability recognised in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value,

shall not be treated as free reserves;

(*44*) "Global Depository Receipt" means any instrument in the form of a depository receipt, by whatever name called, created by a foreign depository outside India and authorised by a company making an issue of such depository receipts;

(*45*) "Government company" means any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company;

(46) "holding company", in relation to one or more other companies, means a company of which such companies are subsidiary companies;

(*47*) "independent director" means an independent director referred to in sub-section (*5*) of section 149;

(*48*) "Indian Depository Receipt" means any instrument in the form of a depository receipt created by a domestic depository in India and authorised by a company incorporated outside India making an issue of such depository receipts;

(*49*) "interested director" means a director who is in any way, whether by himself or through any of his relatives or firm, 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;

(*50*) "issued capital" means such capital as the company issues from time to time for subscription;

(*51*) "key managerial personnel", 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; and

(*v*) such other officer as may be prescribed;

(*52*) "listed company" means a company which has any of its securities listed on any recognised stock exchange;

(*53*) "manager" means an individual who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called, whether under a contract of service or not;

(*54*) "managing director" means a director who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.

Explanation.—For the purposes of this clause, the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within the substantial powers of management;

(*55*) "member", in relation to a company, means—

(*i*) the subscriber to the memorandum of the company who shall be deemed to have agreed to become member of the company, and on its registration, shall be entered as member in its register of members;

(*ii*) every other person who agrees in writing to become a member of the company and whose name is entered in the register of members of the company;

(*iii*) every person holding shares of the company and whose name is entered as a beneficial owner in the records of a depository;

(*56*) "memorandum" means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act;

(*57*) "net worth" means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, 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;

(*58*) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(*59*) "officer" includes any director, manager or key managerial personnel or any person in accordance with whose directions or instructions the Board of Directors or any one or more of the directors is or are accustomed to act;

(*60*) "officer who is in default", for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following officers of a company, namely:—

(*i*) whole-time director;

(*ii*) key managerial personnel;

(*iii*) where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified;

(*iv*) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default;

(*v*) any person in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity;

(*vi*) every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;

(*vii*) in respect of the issue or transfer of any shares of a company, the share transfer agents, registrars and merchant bankers to the issue or transfer;

(*61*) "Official Liquidator" means an Official Liquidator appointed under sub-section (*1*) of section 359;

(*62*) "One Person Company" means a company which has only one person as a member;

(*63*) "ordinary or special resolution" means an ordinary resolution, or as the case may be, special resolution referred to in section 114;

(*64*) "paid-up share capital" or "share capital paid-up" means such aggregate amount of money credited as paid-up as is equivalent to the amount received as paid-up in respect of shares issued and also includes any amount credited as paid-up in respect of shares of the company, but does not include any other amount received in respect of such shares, by whatever name called;

(*65*) "postal ballot" means voting by post or through any electronic mode;

(*66*) "prescribed" means prescribed by rules made under this Act;

(*67*) "previous company law" means any of the laws specified below:—

(*i*) Acts relating to companies in force before the Indian Companies Act, 1866; — 10 of 1866.

(*ii*) the Indian Companies Act, 1866; — 10 of 1866.

(*iii*) the Indian Companies Act, 1882; — 6 of 1882.

(*iv*) the Indian Companies Act, 1913; — 7 of 1913.

(*v*) the Registration of Transferred Companies Ordinance, 1942; — Ord. 54 of 1942.

(*vi*) the Companies Act, 1956; and — 1 of 1956.

(*vii*) any law corresponding to any of the aforesaid Acts or the Ordinances and in force—

(*A*) in the merged territories or in a Part B State (other than the State of Jammu and Kashmir), or any part thereof, before the extension thereto of the Indian Companies Act, 1913; or — 7 of 1913.

(B) in the State of Jammu and Kashmir, or any part thereof, before the commencement of the Jammu and Kashmir (Extension of Laws) Act, 1956, in so far as banking, insurance and financial corporations are concerned, and before the commencement of the Central Laws (Extension to Jammu and Kashmir) Act, 1968, in so far as other corporations are concerned;

62 of 1956.

25 of 1968.

(*viii*) the Portuguese Commercial Code, in so far as it relates to *sociedades anonimas*; and

Sikkim Act 8 of 1961.

(*ix*) the Registration of Companies (Sikkim) Act, 1961;

(*68*) "private company" means a company having a minimum paid-up share capital of one lakh rupees or such higher paid-up share capital as may be prescribed, and which by its articles,—

(*i*) restricts the right to transfer its shares;

(*ii*) except in case of One Person Company, limits the number of its members to two hundred:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:

Provided further that—

(*A*) persons who are in the employment of the company; and

(*B*) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased,

shall not be included in the number of members; and

(*iii*) prohibits any invitation to the public to subscribe for any securities of the company;

(*69*) "promoter" means a person—

(*a*) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or

(*b*) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or

(*c*) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act:

Provided that nothing in sub-clause (*c*) shall apply to a person who is acting merely in a professional capacity;

(*70*) "prospectus" means any document described or issued as a prospectus and includes a red herring prospectus referred to in section 32 or shelf prospectus referred to in section 31 or any notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of a body corporate;

(*71*) "public company" means a company which—

(*a*) is not a private company;

(*b*) has a minimum paid-up share capital of five lakh rupees or such higher paid-up 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 ;

(*72*) "public financial institution" means—

(*i*) the Life Insurance Corporation of India, established under section 3 of the Life Insurance Corporation Act, 1956; 31 of 1956.

(*ii*) the Infrastructure Development Finance Company Limited, referred to in clause (*vi*) of sub-section (*1*) of section 4A of the Companies Act, 1956 so repealed under section 465 of this Act; 1 of 1956.

(*iii*) specified company referred to in the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(*iv*) institutions notified by the Central Government under sub-section (*2*) of section 4A of the Companies Act, 1956 so repealed under section 465 of this Act; 1 of 1956.

(*v*) such other institution as may be notified by the Central Government in consultation with the Reserve Bank of India:

Provided that no institution shall be so notified unless—

(*A*) it has been established or constituted by or under any Central or State Act; or

(*B*) not less than fifty-one per cent. of the paid-up share capital is held or controlled by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments;

(*73*) "recognised stock exchange" means a recognised stock exchange as defined in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(*74*) "register of companies" means the register of companies maintained by the Registrar on paper or in any electronic mode under this Act;

(*75*) "Registrar" means a Registrar, an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar, having the duty of registering companies and discharging various functions under this Act;

(*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;

(*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;

(*viii*) any company which is—

(*A*) a holding, subsidiary or an associate company of such company; or

(*B*) a subsidiary of a holding company to which it is also a subsidiary;

(*ix*) such other person as may be prescribed;

(*77*) "relative", with reference to any person, means any one who is related to another, if—

(*i*) they are members of a Hindu Undivided Family;

(*ii*) they are husband and wife; or

(*iii*) one person is related to the other in such manner as may be prescribed;

(*78*) "remuneration" means any money or its equivalent given or passed to any person for services rendered by him and includes perquisites as defined under the Income-tax Act, 1961; 43 of 1961.

(*79*) "Schedule" means a Schedule annexed to this Act;

(*80*) "scheduled bank" means the scheduled bank as defined in clause (*e*) of section 2 of the Reserve Bank of India Act, 1934; 2 of 1934.

(*81*) "securities" means the securities as defined in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(*82*) "Securities and Exchange Board" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992; 15 of 1992.

(*83*) "Serious Fraud Investigation Office" means the office referred to in section 211;

(*84*) "share" means a share in the share capital of a company and includes stock;

(*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 five crore rupees; or

(*ii*) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees:

Provided that nothing in this clause shall apply to—

(*A*) a holding company or a subsidiary company;

(*B*) a company registered under section 8; or

(*C*) a company or body corporate governed by any special Act;

(86) "subscribed capital" means such part of the capital which is for the time being subscribed by the members of a company;

(*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 total share capital either at its own or together with one or more of its subsidiary companies:

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.

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 some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;

(*c*) the expression "company" includes any body corporate;

(*d*) "layer" in relation to a holding company means its subsidiary or subsidiaries;

(*88*) "sweat equity shares" means such equity shares as are issued by a company to its directors or employees at a discount or for consideration, other than cash, for providing their know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(*89*) "total voting power", in relation to any matter, means the total number of votes which may be cast in regard to that matter on a poll at a meeting of a company

if all the members thereof or their proxies having a right to vote on that matter are present at the meeting and cast their votes;

(*90*) "Tribunal" means the National Company Law Tribunal constituted under section 408;

(*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;

(*92*) "unlimited company" means a company not having any limit on the liability of its members;

(*93*) "voting right" means the right of a member of a company to vote in any meeting of the company or by means of postal ballot;

(*94*) "whole-time director" includes a director in the whole-time employment of the company;

(*95*) words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 shall have the meanings respectively assigned to them in those Acts.

42 of 1956.
15 of 1992.
22 of 1996.

CHAPTER II

INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO

Formation of company.

3. (*1*) A company may be formed for any lawful purpose by—

(*a*) seven or more persons, where the company to be formed is to be a public company;

(*b*) two or more persons, where the company to be formed is to be a private company; or

(*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 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 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.

Memorandum.

4. (*1*) The memorandum of a company shall state—

(*a*) the name of the company with the last word "Limited" in the case of a public limited company, or the last words "Private Limited" 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;

(*c*) the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof;

(*d*) the liability of members of the company, whether limited or unlimited, and also state,—

(*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—

(*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

(*B*) to the costs, charges and expenses of winding-up and for adjustment of the rights of the contributories among themselves;

(*e*) in the case of a company having a share capital,—

(*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

(*ii*) the number of shares each subscriber to the memorandum intends to take, indicated opposite his name;

(*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.

(*2*) The name stated in the memorandum shall not—

(*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

(*b*) be such that its use by the company—

(*i*) will constitute an offence under any law for the time being in force; or

(*ii*) is undesirable in the opinion of the Central Government.

(*3*) Without prejudice to the provisions of sub-section (*2*), a company shall not be registered with a name which contains—

(*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 under any law for the time being in force; or

(*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.

(*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—

(*a*) the name of the proposed company; or

(*b*) the name to which the company proposes to change its name.

(*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 sixty days from the date of the application.

(*ii*) Where after reservation of name under clause (*i*), it is found that name was applied by furnishing wrong or incorrect information, then,—

(*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 liable to a penalty which may extend to one lakh rupees;

(*b*) if the company has been incorporated, the Registrar may, after giving the company an opportunity of being heard—

(*i*) either direct the company to change its name within a period of three months, after passing an ordinary resolution;

(*ii*) take action for striking off the name of the company from the register of companies; or

(*iii*) make a petition for winding up of the company.

(*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.

(*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.

Articles.

5. (*1*) The articles of a company shall contain the regulations for management of the company.

(*2*) The articles shall also contain such matters, as may be prescribed:

Provided that nothing prescribed in this sub-section shall be deemed to prevent a company from including such additional matters in its articles as may be considered necessary for its management.

(*3*) The articles may contain provisions for entrenchment to the effect that specified provisions of the articles may be altered only if conditions or procedures as that are more restrictive than those applicable in the case of a special resolution, are met or complied with.

(*4*) The provisions for entrenchment referred to in sub-section (*3*) shall only be made either on formation of a company, or by an amendment in the articles agreed to by all the members of the company in the case of a private company and by a special resolution in the case of a public company.

(*5*) Where the articles contain provisions for entrenchment, whether made on formation or by amendment, the company shall give notice to the Registrar of such provisions in such form and manner as may be prescribed.

(*6*) The articles of a company shall be in respective forms specified in Tables, F, G, H, I and J in Schedule I as may be applicable to such company.

(*7*) A company may adopt all or any of the regulations contained in the model articles applicable to such company.

(*8*) In case of any company, which is registered after the commencement of this Act, in so far as the registered articles of such company do not exclude or modify the regulations contained in the model articles applicable to such company, those regulations shall, so far as applicable, be the regulations of that company in the same manner and to the extent as if they were contained in the duly registered articles of the company.

(*9*) Nothing in this section shall apply to the articles of a company registered under any previous company law unless amended under this Act.

Act to override memorandum, articles, etc.

6. Save as otherwise expressly provided in this Act—

(*a*) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a company, or in any agreement executed by it, or in any resolution passed by the company in general meeting or by its Board of Directors, whether the same be registered, executed or passed, as the case may be, before or after the commencement of this Act; and

(*b*) any provision contained in the memorandum, articles, agreement or resolution shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.

Incorporation of company.

7. (*1*) There shall be filed with the Registrar within whose jurisdiction the registered office of a company is proposed to be situated, the following documents and information for registration, namely:—

(*a*) the memorandum and articles of the company duly signed by all the subscribers to the memorandum in such manner as may be prescribed;

(*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;

(*c*) an affidavit 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 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;

(*d*) the address for correspondence till its registered office is established;

(*e*) the particulars of name, including surname or family name, residential address, nationality and such other particulars of every subscriber to the memorandum along with proof of identity, as may be prescribed, and in the case of a subscriber being a body corporate, such particulars as may be prescribed;

(*f*) the particulars of the persons mentioned in the articles as the first directors of the company, their names, including surnames or family names, the Director Identification Number, residential address, nationality and such other particulars including proof of identity as may be prescribed; and

(*g*) the particulars of the interests of the persons mentioned in the articles as the first directors of the company in other firms or bodies corporate along with their consent to act as directors of the company in such form and manner as may be prescribed.

(*2*) The Registrar on the basis of documents and information filed under sub-section (*1*) shall register all the documents and information referred to in that sub-section in the register and issue a certificate of incorporation in the prescribed form to the effect that the proposed company is incorporated under this Act.

(*3*) On and from the date mentioned in the certificate of incorporation issued under sub-section (*2*), the Registrar shall allot to the company a corporate identity number, which shall be a distinct identity for the company and which shall also be included in the certificate.

(*4*) The company shall maintain and preserve at its registered office copies of all documents and information as originally filed under sub-section (*1*) till its dissolution under this Act.

(*5*) If any person furnishes any false or incorrect particulars of any information or suppresses any material information, of which he is aware in any of the documents filed with the Registrar in relation to the registration of a company, he shall be liable for action under section 447.

(*6*) Without prejudice to the provisions of sub-section (*5*) where, at any time after the incorporation of a company, it is proved that the company has been got incorporated by furnishing any false or incorrect information or representation or by suppressing any material fact or information in any of the documents or declaration filed or made for incorporating such company, or by any fraudulent action, the promoters, the persons named as the first directors of the company and the persons making declaration under clause (*b*) of sub-section (*1*) shall each be liable for action under section 447.

(*7*) Without prejudice to the provisions of sub-section (*6*), where a company has been got incorporated by furnishing any false or incorrect information or representation or by suppressing any material fact or information in any of the documents or declaration filed or made for incorporating such company or by any fraudulent action, the Tribunal may, on an application made to it, on being satisfied that the situation so warrants,—

(*a*) pass such orders, as it may think fit, for regulation of the management of the company including changes, if any, in its memorandum and articles, in public interest or in the interest of the company and its members and creditors; or

(*b*) direct that liability of the members shall be unlimited; or

(*c*) direct removal of the name of the company from the register of companies; or

(*d*) pass an order for the winding up of the company; or

(*e*) pass such other orders as it may deem fit:

Provided that before making any order under this sub-section, - -

(*i*) the company shall be given a reasonable opportunity of being heard in the matter; and

(*ii*) the Tribunal shall take into consideration the transactions entered into by the company, including the obligations, if any, contracted or payment of any liability.

Formation of companies with charitable objects, etc.

8. (*1*) Where it is proved to the satisfaction of the Central Government that a person or an association of persons proposed to be registered under this Act as a limited company –

(*a*) has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object;

(*b*) intends to apply its profits, if any, or other income in promoting its objects; and

(*c*) intends to prohibit the payment of any dividend to its members.

the Central Government may, by licence issued in such manner as may be prescribed, and on such conditions as it deems fit, allow that person or association of persons to be registered as a limited company under this section without the addition to its name of the word "Limited", or as the case may be, the words "Private Limited" , and thereupon the Registrar shall, on application, in the prescribed form, register such person or association of persons as a company under this section.

(*2*) The company registered under this section shall enjoy all the privileges and be subject to all the obligations of limited companies.

(*3*) A firm may be a member of the company registered under this section.

(*4*) (*i*) A company registered under this section shall not alter the provisions of its memorandum or articles except with the previous approval of the Central Government.

(*ii*) A company registered under this section may convert itself into company of any other kind only after complying with such conditions as may be prescribed.

(*5*) Where it is proved to the satisfaction of the Central Government that a limited company registered under this Act or under any previous company law has been formed with any of the objects specified in clause (*a*) of sub-section (*1*) and with the restrictions and prohibitions as mentioned respectively in clauses (*b*) and (*c*) of that sub-section, it may, by licence, allow the company to be registered under this section subject to such conditions as the Central Government deems fit and to change its name by omitting the word "Limited", or as the case may be, the words "Private Limited" from its name and thereupon the Registrar shall, on application, in the prescribed form, register such company under this section and all the provisions of this section shall apply to that company.

(*6*) The Central Government may, by order, revoke the licence granted to a company registered under this section if the company contravenes any of the requirements of this section or any of the conditions subject to which a licence is issued or the affairs of the company are conducted fraudulently or in a manner violative of the objects of the company or prejudicial to public interest, and without prejudice to any other action against the company under this Act, direct the company to convert its status and change its name to add the word "Limited" or the words "Private Limited", as the case may be, to its name and thereupon the Registrar shall, without prejudice to any action that may be taken under sub-section (*7*), on application, in the prescribed form, register the company accordingly:

Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard:

Provided further that a copy of every such order shall be given to the Registrar.

(*7*) Where a licence is revoked under sub-section (*6*), the Central Government may, by order, if it is satisfied that it is essential in the public interest, direct that the company be wound up under this Act or amalgamated with another company registered under this section:

Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard.

(*8*) Where a licence is revoked under sub-section (*6*) and where the Central Government is satisfied that it is essential in the public interest that the company registered under this section should be amalgamated with another company registered under this section and having similar objects, then, notwithstanding anything to the contrary contained in this Act, the Central Government may, by order, provide for such amalgamation to form a single company with such constitution, properties, powers, rights, interest, authorities and privileges and with such liabilities, duties and obligations as may be specified in the order.

(*9*) If on the winding up or dissolution of a company registered under this section, there remains, after the satisfaction of its debts and liabilities, any asset, they may be transferred to another company registered under this section and having similar objects, subject to such

conditions as the Tribunal may impose, or may be sold and proceeds thereof credited to the Rehabilitation and Insolvency Fund formed under section 269.

(*10*) A company registered under this section shall amalgamate only with another company registered under this section and having similar objects.

(*11*) If a company makes any default in complying with any of the requirements laid down in this section, the company shall, without prejudice to any other action under the provisions of this section, be punishable with fine which shall not be less than ten lakh rupees but which may extend to one crore rupees and the directors and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than twenty-five thousand rupees but which may extend to twenty-five lakh rupees, or with both:

Provided that when it is proved that the affairs of the company were conducted fraudulently, every officer in default shall be liable for action under section 447.

Effect of registration.

9. From the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name.

Effect of memorandum and articles.

10. (*1*) Subject to the provisions of this Act, the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by the company and by each member, and contained covenants on its and his part to observe all the provisions of the memorandum and of the articles.

(*2*) All monies payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

Commencement of business, etc.

11. (*1*) A company having a share capital shall not commence any business or exercise any borrowing powers unless—

(*a*) a declaration is filed by a director in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him and the paid-up share capital of the company is not less than five lakh rupees in case of a public company and not less than one lakh rupees in case of a private company on the date of making of this declaration; and

(*b*) the company has filed with the Registrar a verification of its registered office as provided in sub-section (*2*) of section 12.

(*2*) If any default is made in complying with the requirements of this section, the company shall be liable to a penalty which may extend to five thousand rupees and every officer who is in default shall be punishable with fine which may extend to one thousand rupees for every day during which the default continues.

(*3*) Where no declaration has been filed with the Registrar under clause (*a*) of sub-section (*1*) within a period of one hundred and eighty days of the date of incorporation of the company and the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may, without prejudice to the provisions of sub-section (*2*), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.

Registered office of company.

12. (*1*) A company shall, on and from the fifteenth day of its incorporation 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 the characters of that language or of one of those languages;

(*b*) have its name engraved in legible characters on its seal;

(*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

(*d*) have its name printed on *hundies*, promissory notes, bills of exchange and such other documents as may be prescribed:

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*):

Provided further that the words "One Person Company" shall be mentioned in brackets below the name of such company, wherever its name is printed, affixed or engraved.

(*4*) Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within fifteen days of the change, who shall record the same.

(*5*) Except on the authority of a special resolution passed by a company, the registered office of the company shall not be changed,—

(*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

(*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:

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.

(*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.

(*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 sub-section (*5*) have been complied with and the change shall take effect from the date of the certificate.

(*8*) If any default is made in complying with the requirements of this section, the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every day during which the default continues but not exceeding one lakh rupees.

Alteration of memorandum.

13. (*1*) Save as provided in section 61, a company may, by a special resolution and after complying with the procedure specified in this section, alter the provisions of its memorandum.

(*2*) Any change in the name of a company shall be subject to the provisions of sub-sections (*2*) and (*3*) of section 4 and shall not have effect except with the approval of the Central Government in writing:

Provided that no such approval shall be necessary where the only change in the name of the company is the deletion therefrom, or addition thereto, of the word "Private", consequent on the conversion of any one class of companies to another class in accordance with the provisions of this Act.

(*3*) When any change in the name of a company is made under sub-section (*2*), the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name and the change in the name shall be complete and effective only on the issue of such a certificate.

(*4*) The alteration of the memorandum relating to the place of the registered office from one State to another shall not have any effect unless it is approved by the Central Government on an application in such form and manner as may be prescribed.

(*5*) The Central Government shall dispose of the application under sub-section (*4*) within a period of sixty days and before passing its order may satisfy itself that the alteration has the consent of the creditors, debenture-holders and other persons concerned with the company or that the sufficient provision has been made by the company either for the due discharge of all its debts and obligations or that adequate security has been provided for such discharge.

(*6*) Save as provided in section 64, a company shall, in relation to any alteration of its memorandum, file with the Registrar—

(*a*) the special resolution passed by the company under sub-section (*1*);

(*b*) the approval of the Central Government under sub-section (*2*), if the alteration involves any change in the name of the company.

(*7*) Where an alteration of the memorandum results in the transfer of the registered office of a company from one State to another, a certified copy of the order of the Central Government approving the alteration shall be filed by the company with the Registrar of each of the States within such time and in such manner as may be prescribed, who shall register the same, and the Registrar of the State where the registered office is being shifted to, shall issue a fresh certificate of incorporation indicating the alteration.

(*8*) A company, which has raised money from public through prospectus and still has any unutilised amount out of the money so raised, shall not change its objects for which it raised the money through prospectus unless a special resolution is passed by the company and—

(*i*) the details, as may be prescribed, in respect of such resolution shall also be published in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated and shall also be placed on the website of the company, if any, indicating therein the justification for such change;

(*ii*) the dissenting shareholders shall be given an opportunity to exit by the promoters and shareholders having control in accordance with regulations to be specified by the Securities and Exchange Board.

(*9*) The Registrar shall register any alteration of the memorandum with respect to the objects of the company and certify the registration within a period of thirty days from the date of filing of the special resolution in accordance with clause (*a*) of sub-section (*6*) of this section.

(*10*) No alteration made under this section shall have any effect until it has been registered in accordance with the provisions of this section.

(*11*) Any alteration of the memorandum, 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.

Alteration of articles.

14. (*1*) Subject to the provisions of this Act and the conditions contained in its memorandum, if any, a company may, by a special resolution, alter its articles including alterations having the effect of conversion of—

(*a*) a private company into a public company; or

(*b*) a public company into a private company:

Provided that where a company being a private company alters its articles in such a manner that they no longer include the restrictions and limitations which are required to be included in the articles of a private company under this Act, the company shall, as from the date of such alteration, cease to be a private company:

Provided further that any alteration having the effect of conversion of a public company into a private company shall not take effect except with the approval of the Tribunal which shall make such order as it may deem fit.

(*2*) Every alteration of the articles under this section and a copy of the order of the Tribunal approving the alteration as per sub-section (*1*) shall be filed with the Registrar, together with a printed copy of the altered articles, within a period of fifteen days in such manner as may be prescribed, who shall register the same.

(*3*) Any alteration of the articles registered under sub-section (*2*) shall, subject to the provisions of this Act, be valid as if it were originally in the articles.

Alteration of memorandum or articles to be noted in every copy.

15. (*1*) Every alteration made in the memorandum or articles of a company shall be noted in every copy of the memorandum or articles, as the case may be.

(*2*) If a company makes any default in complying with the provisions of sub-section (*1*), the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every copy of the memorandum or articles issued without such alteration.

Rectification of name of company.

16. (*1*) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name, is registered by a name which,—

(*a*) in the opinion of the Central Government, is identical with or too nearly resembles the name by which a company in existence had been previously registered, whether under this Act or any previous company law, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of three months from the issue of such direction, after adopting an ordinary resolution for the purpose;

(*b*) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, 1999, made to the Central Government within three years of incorporation or registration or change of name of the company, whether under this

Act or any previous company law, in the opinion of the Central Government, is identical with or too nearly resembles to an existing trade mark, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of six months from the issue of such direction, after adopting an ordinary resolution for the purpose.

(*2*) Where a company changes its name or obtains a new name under sub-section (*1*), it shall within a period of fifteen days from the date of such change, give notice of the change to the Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and the memorandum.

(*3*) If a company makes default in complying with any direction given under sub-section (*1*), the company shall be punishable with fine of one thousand rupees for every day during which the default continues and every officer who is in default shall be punishable with fine which shall not be less than five thousand rupees but which may extend to one lakh rupees.

Copies of memorandum, articles, etc., to be given to members.

17. (*1*) A company shall, on being so requested by a member, send to him within seven days of the request and subject to the payment of such fees as may be prescribed, a copy of each of the following documents, namely:- –

(*a*) the memorandum;

(*b*) the articles; and

(*c*) every agreement and every resolution referred to in sub-section (*1*) of section 117, if and in so far as they have not been embodied in the memorandum or articles.

(*2*) If a company makes any default in complying with the provisions of this section, the company and every officer of the company who is in default shall be liable for each default, to a penalty of one thousand rupees for each day during which such default continues or one lakh rupees, whichever is less.

Conversion of companies already registered.

18. (*1*) A company of any class registered under this Act may convert itself as a company of other class under this Act by alteration of memorandum and articles of the company in accordance with the provisions of this Chapter.

(*2*) Where the conversion is required to be done under this section, the Registrar shall on an application made by the company, after satisfying himself that the provisions of this Chapter applicable for registration of companies have been complied with, close the former registration of the company and after registering the documents referred to in sub-section (*1*), issue a certificate of incorporation in the same manner as its first registration.

(*3*) The registration of a company under this section shall not affect any debts, liabilities, obligations or contracts incurred or entered into, by or on behalf of the company before conversion and such debts, liabilities, obligations and contracts may be enforced in the manner as if such registration had not been done.

Subsidiary company not to hold shares in its holding company.

19. (*1*) No company shall, either by itself or through its nominees, hold any shares in its holding company and no holding company shall allot or transfer its shares to any of its subsidiary companies and any such allotment or transfer of shares of a company to its subsidiary company shall be void:

Provided that nothing in this sub-section shall apply to a case—

(*a*) where the subsidiary company holds such shares as the legal representative of a deceased member of the holding company; or

(*b*) where the subsidiary company holds such shares as a trustee; or

(*c*) where the subsidiary company is a shareholder even before it became a subsidiary company of the holding company:

Provided further that the subsidiary company referred to in the preceding proviso shall have a right to vote at a meeting of the holding company only in respect of the shares held by it as a legal representative or as a trustee, as referred to in clause (*a*) or clause (*b*) of the said proviso.

(*2*) The reference in this section to the shares of a holding company which is a company limited by guarantee or an unlimited company, not having a share capital, shall be construed as a reference to the interest of its members, whatever be the form of interest.

Service of documents.

20. (*1*) A document may be served on a company or an officer thereof by sending it to the company or the officer at the registered office of the company by registered post or by speed post or by courier service or by leaving it at its registered office or by means of such electronic or other mode as may be prescribed:

Provided that where securities are held with a depository, the records of the beneficial ownership may be served by such depository on the company by means of electronic or other mode.

(*2*) Save as provided in this Act or the rules made thereunder for filing of documents with the Registrar in electronic mode, a document may be served on Registrar or any member by sending it to him by post or by registered post or by speed post or by courier or by delivering at his office or address, or by such electronic or other mode as may be prescribed:

Provided that a member may request for delivery of any document through a particular mode, for which he shall pay such fees as may be determined by the company in its annual general meeting.

Explanation.—For the purposes of this section, the term "courier" means a person or agency which delivers the document and provides proof of its delivery.

Authentication of documents, proceedings and contracts.

21. Save as otherwise provided in this Act,—

(*a*) a document or proceeding requiring authentication by a company; or

(*b*) contracts made by or on behalf of a company,

may be signed by any key managerial personnel or an officer of the company duly authorised by the Board in this behalf.

Execution of bills of exchange, etc.

22. (*1*) A bill of exchange, *hundi* or promissory note shall be deemed to have been made, accepted, drawn or endorsed on behalf of a company if made, accepted, drawn, or endorsed in the name of, or on behalf of or on account of, the company by any person acting under its authority, express or implied.

(*2*) A company may, by writing under its common seal, authorise any person, either generally or in respect of any specified matters, as its attorney to execute other deeds on its behalf in any place either in or outside India.

(*3*) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the effect as if it were made under its common seal.

CHAPTER III

PROSPECTUS AND ALLOTMENT OF SECURITIES

PART I.—*Public offer*

Public offer and private placement.

23. (*1*) A public company may issue securities—

(*a*) to public through prospectus (herein referred to as "public offer") by complying with the provisions of this Part; or

(*b*) through private placement by complying with the provisions of Part II of this Chapter; or

(*c*) through a rights issue or a bonus issue in accordance with the provisions of this Act and in case of a listed company or a company which intends to get its securities listed also with the provisions of the Securities and Exchange Board of India Act, 1992 and the rules and regulations made thereunder.

15 of 1992.

(*2*) A private company may issue securities—

(*a*) by way of rights issue or bonus issue in accordance with the provisions of this Act; or

(*b*) through private placement by complying with the provisions of Part II of this Chapter.

Explanation.—For the purposes of this Chapter, "public offer" includes initial public offer or further public offer of securities to the public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of a prospectus.

Power of Securities and Exchange Board to regulate issue and transfer of securities, etc.

24. (*1*) The provisions contained in this Chapter, Chapter IV and in section 127 shall,—

(*a*) in so far as they relate to —

(*i*) issue and transfer of securities; and

(*ii*) non-payment of dividend,

by listed companies or those companies which intend to get their securities listed on any recognised stock exchange in India, except as provided under this Act, be administered by the Securities and Exchange Board by making regulations in this behalf;

(*b*) in any other case, be administered by the Central Government.

Explanation.—For the removal of doubts, it is hereby declared that all powers relating to all other matters relating to prospectus, return of allotment, redemption of preference shares and any other matter specifically provided in this Act, shall be exercised by the Central Government, the Tribunal or the Registrar, as the case may be.

(*2*) The Securities and Exchange Board shall, in respect of matters specified in sub-section (*1*) and the matters delegated to it under proviso to sub-section (*1*) of section 458, exercise the powers conferred upon it under sub-sections (*1*), (*2A*), (*3*) and (*4*) of section 11, sections 11A, 11B and 11D of the Securities and Exchange Board of India Act, 1992.

15 of 1992.

Document containing offer of securities for sale to be deemed prospectus.

25. (*1*) Where a company allots or agrees to allot any securities of the company with a view to all or any of those securities being offered for sale to the public, any document by which the offer for sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company; and all enactments and rules of law as to the contents of prospectus and as to liability in respect of mis-statements, in and omissions from, prospectus, or otherwise relating to prospectus, shall apply with the modifications specified in sub-sections (*3*) and (*4*) and shall have effect accordingly, as if the securities had been offered to the public for subscription and as if persons accepting the offer in respect of any securities were subscribers for those securities, but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of mis-statements contained in the document or otherwise in respect thereof.

(*2*) For the purposes of this Act, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, securities was made with a view to the securities being offered for sale to the public if it is shown --

(*a*) that an offer of the securities or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or

(*b*) that at the date when the offer was made, the whole consideration to be received by the company in respect of the securities had not been received by it.

(*3*) Section 26 as applied by this section shall have effect as if —

(*i*) it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus--

(*a*) the net amount of the consideration received or to be received by the company in respect of the securities to which the offer relates; and

(*b*) the time and place at which the contract where under the said securities have been or are to be allotted may be inspected;

(*ii*) the persons making the offer were persons named in a prospectus as directors of a company.

(*4*) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document referred to in sub-section (*1*) is signed on behalf of the company or firm by two directors of the company or by not less than one-half of the partners in the firm, as the case may be.

Matters to be stated in prospectus.

26. (*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 signed and shall—

(*a*) state the following information, namely:—

(*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;

(*ii*) dates of the opening and closing of the issue, and declaration about the issue of allotment letters and refunds within the prescribed time;

(*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;

(*iv*) details about underwriting of the issue;

(*v*) consent of the directors, auditors, bankers to the issue, expert's opinion, if any, and of such other persons, as may be prescribed;

(*vi*) the authority for the issue and the details of the resolution passed therefor;

(*vii*) procedure and time schedule for allotment and issue of securities;

(*viii*) capital structure of the company in the prescribed manner;

(*ix*) main objects of public offer, terms of the present issue and such other particulars as may be prescribed;

(*x*) main objects and present business of the company and its location, schedule of implementation of the project;

(*xi*) particulars relating to—

(*A*) management perception of risk factors specific to the project;

(*B*) gestation period of the project;

(*C*) extent of progress made in the project;

(*D*) deadlines for completion of the project; and

(*E*) any litigation or legal action pending or taken by a Government 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;

(*xii*) minimum subscription, amount payable by way of premium, issue of shares otherwise than on cash;

(*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

(*xiv*) disclosures in such manner as may be prescribed about sources of promoter's contribution;

(*b*) set out the following reports for the purposes of the financial information, namely:—

(*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;

(*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 such reports of its subsidiaries and in such manner as may be prescribed:

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;

(*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:

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 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;

(*c*) make a declaration about the compliance of the provisions of this Act and a statement to the effect that nothing in the prospectus is contrary to the provisions of this Act, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 and the rules and regulations made thereunder; and

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(*d*) state such other matters and set out such other reports, as may be prescribed.

(*2*) Nothing in sub-section (*1*) shall apply—

(*a*) to the issue to existing members or debenture-holders of a company, of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant has a right to renounce the shares or not under sub-clause (*ii*) of clause (*a*) of sub-section (*1*) of section 62 in favour of any other person; or

(*b*) to the issue of a prospectus or form of application relating to shares or debentures which are, or are to be, in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a recognised stock exchange.

(*3*) Subject to sub-section (*2*), the provisions of sub-section (*1*) shall apply to a prospectus or a form of application, whether issued on or with reference to the formation of a company or subsequently.

Explanation.—The date indicated in the prospectus shall be deemed to be the date of its publication.

(*4*) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless on or before the date of its publication, there has been delivered to the Registrar for registration, a copy thereof signed by every person who is named therein as a director or proposed director of the company or by his duly authorised attorney.

(*5*) A prospectus issued under sub-section (*1*) shall not include a statement purporting to be made by an expert unless the expert is a person who is not, and has not been, engaged or interested in the formation or promotion or management, of the company and has given his written consent to the issue of the prospectus and has not withdrawn such consent before the delivery of a copy of the prospectus to the Registrar for registration and a statement to that effect shall be included in the prospectus.

(*6*) Every prospectus issued under sub-section (*1*) shall, on the face of it,—

(*a*) state that a copy has been delivered for registration to the Registrar as required under sub-section (*4*); and

(*b*) specify any documents required by this section to be attached to the copy so delivered or refer to statements included in the prospectus which specify these documents.

(*7*) The Registrar shall not register a prospectus unless the requirements of this section with respect to its registration are complied with and the prospectus is accompanied by the consent in writing of all the persons named in the prospectus.

(*8*) No prospectus shall be valid if it is issued more than ninety days after the date on which a copy thereof is delivered to the Registrar under sub-section (*4*).

(*9*) If a prospectus is issued in contravention of the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees and every person who is knowingly a party to the issue of such prospectus shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees, or with both.

Variation in terms of contract or objects in prospectus.

27. (*1*) A company shall not, at any time, vary the terms of a contract referred to in the prospectus or objects for which the prospectus was issued, except subject to the approval of, or except subject to an authority given by the company in general meeting by way of special resolution:

Provided that the details, as may be prescribed, of the notice in respect of such resolution to shareholders, shall also be published in the newspapers (one in English and one in vernacular language) in the city where the registered office of the company is situated indicating clearly the justification for such variation:

Provided further that such company shall not use any amount raised by it through prospectus for buying, trading or otherwise dealing in equity shares of any other listed company.

(*2*) The dissenting shareholders being those shareholders who have not agreed to the proposal to vary the terms of contracts or objects referred to in the prospectus, shall be given an exit offer by promoters or controlling shareholders at such exit price, and in such manner and conditions as may be specified by the Securities and Exchange Board by making regulations in this behalf.

Offer of sale of shares by certain members of company.

28. (*1*) Where certain members of a company propose, in consultation with the Board of Directors to offer, in accordance with the provisions of any law for the time being in force, whole or part of their holding of shares to the public, they may do so in accordance with such procedure as may be prescribed.

(*2*) Any document by which the offer of sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company and all laws and rules made thereunder as to the contents of the prospectus and as to liability in respect of mis-statements in and omission from prospectus or otherwise relating to prospectus shall apply as if this is a prospectus issued by the company.

(*3*) The members, whether individuals or bodies corporate or both, whose shares are proposed to be offered to the public, shall collectively authorise the company, whose shares are offered for sale to the public, to take all actions in respect of offer of sale for and on their behalf and they shall reimburse the company all expenses incurred by it on this matter.

Public offer of securities to be in dematerialised form.

29. (*1*) Notwithstanding anything contained in any other provisions of this Act,—

(*a*) every company making public offer; and

(*b*) such other class or classes of public companies as may be prescribed,

shall issue the securities only in dematerialised form by complying with the provisions of the Depositories Act, 1996 and the regulations made thereunder. 22 of 1996.

(*2*) Any company, other than a company mentioned in sub-section (*1*), may convert its securities into dematerialised form or issue its securities in physical form in accordance with the provisions of this Act or in dematerialised form in accordance with the provisions of the Depositories Act, 1996 and the regulations made thereunder. 22 of 1996.

Advertisement of prospectus.

30. Where an advertisement of any prospectus of a company is published in any manner, it shall be necessary to specify therein the contents of its memorandum as regards the objects, the liability of members and the amount of share capital of the company, and the names of the signatories to the memorandum and the number of shares subscribed for by them, and its capital structure.

Shelf prospectus.

31. (*1*) Any class or classes of companies, as the Securities and Exchange Board may provide by regulations in this behalf, may file a shelf prospectus with the Registrar at the stage of the first offer of securities included therein which shall indicate a period not exceeding one year as the period of validity of such prospectus which shall commence from the date of opening of the first offer of securities under that prospectus, and in respect of a second or subsequent offer of such securities issued during the period of validity of that prospectus, no further prospectus is required.

(*2*) A company filing a shelf prospectus shall be required to file an information memorandum containing all material facts relating to new charges created, changes in the financial position of the company as have occurred between the first offer of securities or the previous offer of securities and the succeeding offer of securities and such other changes as may be prescribed, with the Registrar within the prescribed time, prior to the issue of a second or subsequent offer of securities under the shelf prospectus:

Provided that where a company or any other person has received applications for the allotment of securities along with advance payments of subscription before the making of any such change, the company or other person shall intimate the changes to such applicants and if they express a desire to withdraw their application, the company or other person shall refund all the monies received as subscription within fifteen days thereof.

(*3*) Where an information memorandum is filed, every time an offer of securities is made under sub-section (*2*), such memorandum together with the shelf prospectus shall be deemed to be a prospectus.

Explanation.—For the purposes of this section, the expression "shelf prospectus" means a prospectus in respect of which the securities or class of securities included therein are issued for subscription in one or more issues over a certain period without the issue of a further prospectus.

Red herring prospectus.

32. (*1*) A company proposing to make an offer of securities may issue a red herring prospectus prior to the issue of a prospectus.

(*2*) A company proposing to issue a red herring prospectus under sub-section (*1*) shall file it with the Registrar at least three days prior to the opening of the subscription list and the offer.

(*3*) A red herring prospectus shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus and a prospectus shall be highlighted as variations in the prospectus.

(*4*) Upon the closing of the offer of securities under this section, the prospectus stating therein the total capital raised, whether by way of debt or share capital, and the closing price of the securities and any other details as are not included in the red herring prospectus shall be filed with the Registrar and the Securities and Exchange Board.

Explanation.—For the purposes of this section, the expression "red herring prospectus" means a prospectus which does not include complete particulars of the quantum or price of the securities included therein.

Issue of application forms for securities.

33. (*1*) No form of application for the purchase of any of the securities of a company shall be issued unless such form is accompanied by an abridged prospectus:

Provided that nothing in this sub-section shall apply if it is shown that the form of application was issued—

(*a*) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to such securities; or

(*b*) in relation to securities which were not offered to the public.

(*2*) A copy of the prospectus shall, on a request being made by any person before the closing of the subscription list and the offer, be furnished to him.

(*3*) If a company makes any default in complying with the provisions of this section, it shall be liable to a penalty of fifty thousand rupees for each default.

Criminal liability for mis-statements in prospectus.

34. Where a prospectus, issued, circulated or distributed under this Chapter, includes any statement which is untrue or misleading in form or context in which it is included or where any inclusion or omission of any matter is likely to mislead, every person who authorises the issue of such prospectus shall be liable under section 447:

Provided that nothing in this section shall apply to a person if he proves that such statement or omission was immaterial or that he had reasonable grounds to believe, and did up to the time of issue of the prospectus believe, that the statement was true or the inclusion or omission was necessary.

Civil liability for mis-statements in prospectus.

35. (*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;

(*c*) is a promoter of the company;

(*d*) has authorised the issue of the prospectus; and

(*e*) is an expert referred to in sub-section (*5*) of section 26,

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.

(*2*) No person shall be liable under sub-section (*1*), if he proves—

(*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

(*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.

(*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 fraudulent purpose, every person referred to in sub-section (*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.

Punishment for fraudulently inducing persons to invest money.

36. Any person who, either knowingly or recklessly makes any statement, promise or forecast which is false, deceptive or misleading, or deliberately conceals any material facts, to induce another person to enter into, or to offer to enter into,—

(*a*) any agreement for, or with a view to, acquiring, disposing of, subscribing for, or underwriting securities; or

(*b*) any agreement, the purpose or the pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities; or

(*c*) any agreement for, or with a view to obtaining credit facilities from any bank or financial institution,

shall be liable for action under section 447.

Action by affected persons.

37. A suit may be filed or any other action may be taken under section 34 or section 35 or section 36 by any person, group of persons or any association of persons affected by any misleading statement or the inclusion or omission of any matter in the prospectus.

Punishment for personation for acquisition, etc., of securities.

38. (*1*) Any person who—

(*a*) makes or abets making of an application in a fictitious name to a company for acquiring, or subscribing for, its securities; or

(*b*) makes or abets making of multiple applications to a company in different names or in different combinations of his name or surname for acquiring or subscribing for its securities; or

(*c*) otherwise induces directly or indirectly a company to allot, or register any transfer of, securities to him, or to any other person in a fictitious name,

shall be liable for action under section 447.

(*2*) The provisions of sub-section (*1*) shall be prominently reproduced in every prospectus issued by a company and in every form of application for securities.

(*3*) Where a person has been convicted under this section, the Court may also order disgorgement of gain, if any, made by, and seizure and disposal of the securities in possession of, such person.

(*4*) The amount received through disgorgement or disposal of securities under sub-section (*3*) shall be credited to the Investor Education and Protection Fund.

Allotment of securities by company.

39. (*1*) No allotment of any securities of a company offered to the public for subscription shall be made unless the amount stated in the prospectus as the minimum amount has been subscribed and the sums payable on application for the amount so stated have been paid to and received by the company by cheque or other instrument.

(*2*) The amount payable on application on every security shall not be less than five per cent. of the nominal amount of the security or such other percentage or amount, as may be specified by the Securities and Exchange Board by making regulations in this behalf.

(*3*) If the stated minimum amount has not been subscribed and the sum payable on application is not received within a period of thirty days from the date of issue of the prospectus, or such other period as may be specified by the Securities and Exchange Board, the amount received under sub-section (*1*) shall be returned within such time and manner as may be prescribed.

(*4*) Whenever a company having a share capital makes any allotment of securities, it shall file with the Registrar a return of allotment in such manner as may be prescribed.

(*5*) In case of any default under sub-section (*3*) or sub-section (*4*), the company and its officer who is in default shall be liable to a penalty, for each default, of one thousand rupees for each day during which such default continues or one lakh rupees, whichever is less.

Securities to be dealt with in stock exchanges.

40. (*1*) Every company making public offer shall, before making such offer, make an application to one or more recognised stock exchange or exchanges and obtain permission for the securities to be dealt with in such stock exchange or exchanges.

(*2*) Where a prospectus states that an application under sub-section (*1*) has been made, such prospectus shall also state the name or names of the stock exchange in which the securities shall be dealt with.

(*3*) All monies received on application from the public for subscription to the securities shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than–

(*a*) for adjustment against allotment of securities where the securities have been permitted to be dealt with in the stock exchange or stock exchanges specified in the prospectus; or

(*b*) for the repayment of monies within the time specified by the Securities and Exchange Board, received from applicants in pursuance of the prospectus, where the company is for any other reason unable to allot securities.

(*4*) Any condition purporting to require or bind any applicant for securities to waive compliance with any of the requirements of this section shall be void.

(*5*) If a default is made in complying with the provisions of this section, the company shall be punishable with a fine which shall not be less than five lakh rupees but which may extend to fifty 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 fifty thousand rupees but which may extend to three lakh rupees, or with both.

(*6*) A company may pay commission to any person in connection with the subscription to its securities subject to such conditions as may be prescribed.

Global depository receipt.

41. A company may, after passing a special resolution in its general meeting, issue depository receipts in any foreign country in such manner, and subject to such conditions, as may be prescribed.

PART II.—*Private placement*

Offer or invitation for subscription of securities on private placement.

42. (*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.

(*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.

Explanation 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 the provisions of Part I of this Chapter.

Explanation II.— For the purposes of this section, the expression—

(*i*) "qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirments) Regulations, 2009 as amended from time to time.

(*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.

(*3*) 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.

(*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 and the Securities and Exchange Board of India Act, 1992 shall be required to be complied with. 42 of 1956. 15 of 1992.

(*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.

(*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 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:

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—

(*a*) for adjustment against allotment of securities; or

(*b*) for the repayment of monies where the company is unable to allot securities.

(*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.

(*8*) No company offering 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 offer.

(*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.

(*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.

CHAPTER IV

SHARE CAPITAL AND DEBENTURES

Kinds of share capital.

43. The share capital of a company limited by shares shall be of two kinds, namely:—

(*a*) equity share capital—

(*i*) with voting rights; or

(*ii*) with differential rights as to dividend, voting or otherwise in accordance with such rules as may be prescribed; and

(*b*) preference share capital:

Provided that nothing contained in this Act shall affect the rights of the preference shareholders who are entitled to participate in the proceeds of winding up before the commencement of this Act.

Explanation.—For the purposes of this section,—

(*i*) "equity share capital", with reference to any company limited by shares, means all share capital which is not preference share capital;

(*ii*) "preference share capital", with reference to any company limited by shares, means that part of the issued share capital of the company which carries or would carry a preferential right with respect to—

(*a*) payment of dividend, either as a fixed amount or an amount calculated at a fixed rate, which may either be free of or subject to income-tax; and

(*b*) repayment, in the case of a winding up or repayment of capital, of the amount of the share capital paid-up or deemed to have been paid-up, whether or not, there is a preferential right to the payment of any fixed premium or premium on any fixed scale, specified in the memorandum or articles of the company;

(iii) capital shall be deemed to be preference capital, notwithstanding that it is entitled to either or both of the following rights, namely:—

(*a*) that in respect of dividends, in addition to the preferential rights to the amounts specified in sub-clause (*a*) of clause (*ii*), it has a right to participate, whether fully or to a limited extent, with capital not entitled to the preferential right aforesaid;

(*b*) that in respect of capital, in addition to the preferential right to the repayment, on a winding up, of the amounts specified in sub-clause (*b*) of clause (*ii*), it has a right to participate, whether fully or to a limited extent, with capital not entitled to that preferential right in any surplus which may remain after the entire capital has been repaid.

Nature of shares or debentures.

44. The shares or debentures or other interest of any member in a company shall be movable property transferable in the manner provided by the articles of the company.

Numbering of shares.

45. Every share in a company having a share capital shall be distinguished by its distinctive number:

Provided that nothing in this section shall apply to a share held by a person whose name is entered as holder of beneficial interest in such share in the records of a depository.

Certificate of shares.

46. (*1*) A certificate, issued under the common seal of the company, specifying the shares held by any person, shall be *prima facie* evidence of the title of the person to such shares.

(*2*) A duplicate certificate of shares may be issued, if such certificate —

(*a*) is proved to have been lost or destroyed; or

(*b*) has been defaced, mutilated or torn and is surrendered to the company.

(*3*) Notwithstanding anything contained in the articles of a company, the manner of issue of a certificate of shares or the duplicate thereof, the form of such certificate, the particulars to be entered in the register of members and other matters shall be such as may be prescribed.

(*4*) Where a share is held in depository form, the record of the depository is the *prima facie* evidence of the interest of the beneficial owner.

(*5*) If a company with intent to defraud issues a duplicate certificate of shares, the company shall be punishable with fine which shall not be less than five times the face value of the shares involved in the issue of the duplicate certificate but which may extend to ten times the face value of such shares or rupees ten crores whichever is higher and every officer of the company who is in default shall be liable for action under section 447.

Voting rights.

47. (*1*) Subject to the provisions of section 43 and sub-section (*2*) of section 50,—

(*a*) every member of a company limited by shares and holding equity share capital therein, shall have a right to vote on every resolution placed before the company; and

(*b*) his voting right on a poll shall be in proportion to his share in the paid-up equity share capital of the company.

(*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:

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:

Provided further that 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.

Variation of shareholders' rights.

48. (*1*) Where a share capital of the company is divided into different classes of shares, the rights attached to the shares of any class may be varied with the consent in writing of the holders of not less than three-fourths of the issued shares of that class or by means of a special resolution passed at a separate meeting of the holders of the issued shares of that class,—

(*a*) if provision with respect to such variation is contained in the memorandum or articles of the company; or

(*b*) in the absence of any such provision in the memorandum or articles, if such variation is not prohibited by the terms of issue of the shares of that class:

Provided that if variation by one class of shareholders affects the rights of any other class of shareholders, the consent of three-fourths of such other class of shareholders shall also be obtained and the provisions of this section shall apply to such variation.

(*2*) Where the holders of not less than ten per cent. of the issued shares of a class did not consent to such variation or vote in favour of the special resolution for the variation, they may apply to the Tribunal to have the variation cancelled, and where any such application is made, the variation shall not have effect unless and until it is confirmed by the Tribunal:

Provided that an application under this section shall be made within twenty-one days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(*3*) The decision of the Tribunal on any application under sub-section (*2*) shall be binding on the shareholders.

(*4*) The company shall, within thirty days of the date of the order of the Tribunal, file a copy thereof with the Registrar.

(*5*) Where any default is made in complying with 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 six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

Calls on shares of same class to be made on uniform basis.

49. Where any calls for further share capital are made on the shares of a class, such calls shall be made on a uniform basis on all shares falling under that class.

Explanation.—For the purposes of this section, shares of the same nominal value on which different amounts have been paid-up shall not be deemed to fall under the same class.

Company to accept unpaid share capital, although not called up.

50. (*1*) A company may, if so authorised by its articles, accept from any member, the whole or a part of the amount remaining unpaid on any shares held by him, even if no part of that amount has been called up.

(*2*) A member of the company limited by shares shall not be entitled to any voting rights in respect of the amount paid by him under sub-section (*1*) until that amount has been called up.

Payment of dividend in proportion to amount paid-up.

51. A company may, if so authorised by its articles, pay dividends in proportion to the amount paid-up on each share.

Application of premiums received on issue of shares.

52. (*1*) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount of the premium received on those shares shall be transferred to a "securities premium account" and the provisions of this Act relating to reduction of share capital of a company shall, except as provided in this section, apply as if the securities premium account were the paid-up share capital of the company.

(*2*) Notwithstanding anything contained in sub-section (*1*), the securities premium account may be applied by the company—

(*a*) towards the issue of unissued shares of the company to the members of the company as fully paid bonus shares;

(*b*) in writing off the preliminary expenses of the company;

(*c*) in writing off the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company;

(*d*) in providing for the premium payable on the redemption of any redeemable preference shares or of any debentures of the company; or

(*e*) for the purchase of its own shares or other securities under section 68.

(*3*) The securities premium account may, notwithstanding anything contained in sub-sections (*1*) and (*2*), be applied by such class of companies, as may be prescribed and whose financial statement comply with the accounting standards prescribed for such class of companies under section 133,—

(*a*) in paying up unissued equity shares of the company to be issued to members of the company as fully paid bonus shares; or

(*b*) in writing off the expenses of or the commission paid or discount allowed on any issue of equity shares of the company; or

(*c*) for the purchase of its own shares or other securities under section 68.

Prohibition on issue of shares at discount.

53. (*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 discounted price 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.

Issue of sweat equity shares.

54. (*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 by a special resolution passed by the company;

(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;

(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

(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.

(*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.

Issue and redemption of preference shares.

55. (*1*) No company limited by shares shall, after the commencement of this Act, issue any preference shares which are irredeemable.

(*2*) A company limited by shares may, if so authorised by its articles, issue preference shares which are liable to be redeemed within a period not exceeding twenty years from the date of their issue subject to such conditions as may be prescribed:

Provided that a company may issue preference shares for a period exceeding twenty years for infrastructure projects, subject to the redemption of such percentage of shares as may be prescribed on an annual basis at the option of such preferential shareholders:

Provided further that—

(*a*) no such shares shall be redeemed except out of the profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of such redemption;

(*b*) no such shares shall be redeemed unless they are fully paid;

(*c*) where such shares are proposed to be redeemed out of the profits of the company, there shall, out of such profits, be transferred, a sum equal to the nominal amount of the shares to be redeemed, to a reserve, to be called the Capital Redemption Reserve Account, and the provisions of this Act relating to reduction of share capital of a company shall, except as provided in this section, apply as if the Capital Redemption Reserve Account were paid-up share capital of the company; and

(*d*) (*i*) in case of such class of companies, as may be prescribed and whose financial statement comply with the accounting standards prescribed for such class of companies under section 133, the premium, if any, payable on redemption shall be provided for out of the profits of the company, before the shares are redeemed:

Provided also that premium, if any, payable on redemption of any preference shares issued on or before the commencement of this Act by any such company shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(*ii*) in a case not falling under sub-clause (*i*) above, the premium, if any, payable on redemption shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(*3*) Where a company is not in a position to redeem any preference shares or to pay dividend, if any, on such shares in accordance with the terms of issue (such shares hereinafter referred to as unredeemed preference shares), it may, with the consent of the holders of three-fourths in value of such preference shares and with the approval of the Tribunal on a petition made by it in this behalf, issue further redeemable preference shares equal to the amount due, including the dividend thereon, in respect of the unredeemed preference shares, and on the issue of such further redeemable preference shares, the unredeemed preference shares shall be deemed to have been redeemed:

Provided that the Tribunal shall, while giving approval under this sub-section, order the redemption forthwith of preference shares held by such persons who have not consented to the issue of further redeemable preference shares.

Explanation.—For the removal of doubts, it is hereby declared that the issue of further redeemable preference shares or the redemption of preference shares under this section shall not be deemed to be an increase or, as the case may be, a reduction, in the share capital of the company.

(*4*) The capital redemption reserve account may, notwithstanding anything in this section, be applied by the company, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

Explanation.—For the purposes of sub-section (*2*), the term "infrastructure projects" means the infrastructure projects specified in Schedule VI.

Transfer and transmission of securities.

56. (*1*) A company shall not register a transfer of securities of the company, or the interest of a member in the company in the case of a company having no share capital, other than the transfer between persons both of whose names are entered as holders of beneficial interest in the records of a depository, unless a proper instrument of transfer, in such form as

may be prescribed, duly stamped, dated and executed by or on behalf of the transferor and the transferee and specifying the name, address and occupation, if any, of the transferee has been delivered to the company by the transferor or the transferee within a period of sixty days from the date of execution, along with the certificate relating to the securities, or if no such certificate is in existence, along with the letter of allotment of securities:

Provided that where the instrument of transfer has been lost or the instrument of transfer has not been delivered within the prescribed period, the company may register the transfer on such terms as to indemnity as the Board may think fit.

(*2*) Nothing in sub-section (*1*) shall prejudice the power of the company to register, on receipt of an intimation of transmission of any right to securities by operation of law from any person to whom such right has been transmitted.

(*3*) Where an application is made by the transferor alone and relates to partly paid shares, the transfer shall not be registered, unless the company gives the notice of the application, in such manner as may be prescribed, to the transferee and the transferee gives no objection to the transfer within two weeks from the receipt of notice.

(*4*) Every company shall, unless prohibited by any provision of law or any order of Court, Tribunal or other authority, deliver the certificates of all securities allotted, transferred or transmitted—

(*a*) within a period of two months from the date of incorporation, in the case of subscribers to the memorandum;

(*b*) within a period of two months from the date of allotment, in the case of any allotment of any of its shares;

(*c*) within a period of one month from the date of receipt by the company of the instrument of transfer under sub-section (*1*) or, as the case may be, of the intimation of transmission under sub-section (*2*), in the case of a transfer or transmission of securities;

(*d*) within a period of six months from the date of allotment in the case of any allotment of debenture:

Provided that where the securities are dealt with in a depository, the company shall intimate the details of allotment of securities to depository immediately on allotment of such securities.

(*5*) The transfer of any security or other interest of a deceased person in a company made by his legal representative shall, even if the legal representative is not a holder thereof, be valid as if he had been the holder at the time of the execution of the instrument of transfer.

(*6*) Where any default is made in complying with the provisions of sub-sections (*1*) to (*5*), 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 fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(*7*) Without prejudice to any liability under the Depositories Act, 1996, where any depository or depository participant, with an intention to defraud a person, has transferred shares, it shall be liable under section 447. 22 of 1996.

Punishment for personation of shareholder.

57. If any person deceitfully personates as an owner of any security or interest in a company, or of any share warrant or coupon issued in pursuance of this Act, and thereby obtains or attempts to obtain any such security or interest or any such share warrant or coupon, or receives or attempts to receive any money due to any such owner, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Refusal of registration and appeal against refusal.

58. (*1*) If a private company limited by shares refuses, whether in pursuance of any power of the company under its articles or otherwise, to register the transfer of, or the transmission by operation of law of the right to, any securities or interest of a member in the company, it shall within a period of thirty days from the date on which the instrument of transfer, or the intimation of such transmission, as the case may be, was delivered to the company, send notice of the refusal to the transferor and the transferee or to the person giving intimation of such transmission, as the case may be, giving reasons for such refusal.

(*2*) Without prejudice to sub-section (*1*), the securities or other interest of any member in a public company shall be freely transferable:

Provided that any contract or arrangement between two or more persons in respect of transfer of securities shall be enforceable as a contract.

(*3*) The transferee may appeal to the Tribunal against the refusal within a period of thirty days from the date of receipt of the notice or in case no notice has been sent by the company, within a period of sixty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, was delivered to the company.

(*4*) If a public company without sufficient cause refuses to register the transfer of securities within a period of thirty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, is delivered to the company, the transferee may, within a period of sixty days of such refusal or where no intimation has been received from the company, within ninety days of the delivery of the instrument of transfer or intimation of transmission, appeal to the Tribunal.

(*5*) The Tribunal, while dealing with an appeal made under sub-section (*3*) or sub-section (*4*), may, after hearing the parties, either dismiss the appeal, or by order—

(a) direct that the transfer or transmission shall be registered by the company and the company shall comply with such order within a period of ten days of the receipt of the order; or

(b) direct rectification of the register and also direct the company to pay damages, if any, sustained by any party aggrieved.

(*6*) If a person contravenes the order of the Tribunal under this section, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Rectification of register of members.

59. (*1*) If the name of any person is, without sufficient cause, entered in the register of members of a company, or after having been entered in the register, is, without sufficient cause, omitted therefrom, or if a default is made, or unnecessary delay takes place in entering in the register, the fact of any person having become or ceased to be a member, the person aggrieved, or any member of the company, or the company may appeal in such form as may be prescribed, to the Tribunal, or to a competent court outside India, specified by the Central Government by notification, in respect of foreign members or debenture holders residing outside India, for rectification of the register.

(*2*) The Tribunal may, after hearing the parties to the appeal under sub-section (*1*) by order, either dismiss the appeal or direct that the transfer or transmission shall be registered by the company within a period of ten days of the receipt of the order or direct rectification of the records of the depository or the register and in the latter case, direct the company to pay damages, if any, sustained by the party aggrieved.

(*3*) The provisions of this section shall not restrict the right of a holder of securities, to transfer such securities and any person acquiring such securities shall be entitled to voting rights unless the voting rights have been suspended by an order of the Tribunal.

(*4*) Where the transfer of securities is in contravention of any of the provisions of the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 or this Act or any other law for the time being in force, the Tribunal may, on an application made by the depository, company, depository participant, the holder of the securities or the Securities and Exchange Board, direct any company or a depository to set right the contravention and rectify its register or records concerned.

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15 of 1992.

(*5*) If any default is made in complying with the order of the Tribunal under 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 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 one lakh rupees but which may extend to three lakh rupees, or with both.

Publication of authorised, subscribed and paid-up capital.

60. (*1*) Where any notice, advertisement or other official publication, or any business letter, billhead or letter paper of a company contains a statement of the amount of the authorised capital of the company, such notice, advertisement or other official publication, or such letter, billhead or letter paper shall also contain a statement, in an equally prominent position and in equally conspicuous characters, of the amount of the capital which has been subscribed and the amount paid-up.

(*2*) If any default is made in complying with the requirements of sub-section (*1*), the company shall be liable to pay a penalty of ten thousand rupees and every officer of the company who is in default shall be liable to pay a penalty of five thousand rupees, for each default.

Power of limited company to alter its share capital.

61. (*1*) A limited company having a share capital may, if so authorised by its articles, alter its memorandum in its general meeting to—

(*a*) increase its authorised share capital by such amount as it thinks expedient;

(*b*) consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares:

Provided that no consolidation and division which results in changes in the voting percentage of shareholders shall take effect unless it is approved by the Tribunal on an application made in the prescribed manner;

(c) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination;

(d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(*2*) The cancellation of shares under sub-section (*1*) shall not be deemed to be a reduction of share capital.

Further issue of share capital.

62. (*1*) Where at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such shares shall be offered—

(*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:—

(*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;

(*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;

(*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 declines to accept the shares offered, the Board of Directors may dispose of them in such manner which is not dis-advantageous to the shareholders and the company;

(*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

(*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 of a registered valuer subject to such conditions as may be prescribed.

(*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.

(*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 debentures issued or loan raised by the company to convert such debentures or loans into shares in the company:

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.

(*4*) Notwithstanding anything contained in sub-section (*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:

Provided that where the terms and conditions of such conversion are not acceptable to the company, it may, within 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.

(*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.

(*6*) Where the Government has, by an order made under sub-section (*4*), directed that any debenture or loan or any part thereof shall be converted into shares in a company and where no appeal has been preferred to the Tribunal under sub-section (*4*) or where such appeal has been dismissed, the memorandum of such company shall, where such order has the effect of increasing the authorised share capital of the company, stand altered and the authorised share capital of such company shall stand increased by an amount equal to the amount of the value of shares which such debentures or loans or part thereof has been converted into.

Issue of bonus shares.

63. (*1*) A company may issue fully paid-up bonus shares to its members, in any manner whatsoever, out of—

(*i*) its free reserves;

(*ii*) the securities premium account; or

(*iii*) the capital redemption reserve account:

Provided that no issue of bonus shares shall be made by capitalising reserves created by the revaluation of assets.

(*2*) No company shall capitalise its profits or reserves for the purpose of issuing fully paid-up bonus shares under sub-section (*1*), unless—

(*a*) it is authorised by its articles;

(*b*) it has, on the recommendation of the Board, been authorised in the general meeting of the company;

(*c*) it has not defaulted in payment of interest or principal in respect of fixed deposits or debt securities issued by it;

(*d*) it has not defaulted in respect of the payment of statutory dues of the employees, such as, contribution to provident fund, gratuity and bonus;

(*e*) the partly paid-up shares, if any outstanding on the date of allotment, are made fully paid-up;

(*f*) it complies with such conditions as may be prescribed.

(*3*) The bonus shares shall not be issued in lieu of dividend.

Notice to be given to Registrar for alteration of share capital.

64. (*1*) Where—

(a) a company alters its share capital in any manner specified in sub-section (*1*) of section 61;

(*b*) an order made by the Government under sub-section (*4*) read with sub-section (*6*) of section 62 has the effect of increasing authorised capital of a company; or

(*c*) a company redeems any redeemable preference shares,

the company shall file a notice in the prescribed form with the Registrar within a period of thirty days of such alteration or increase or redemption, as the case may be, along with an altered memorandum.

(*2*) If a company and any officer of the company who is in default contravenes the provisions of sub-section (*1*), it or he shall be punishable with fine which may extend to one thousand rupees for each day during which such default continues, or five lakh rupees, whichever is less.

Unlimited company to provide for reserve share capital on conversion into limited company.

65. An unlimited company having a share capital may, by a resolution for registration as a limited company under this Act, do either or both of the following things, namely—

(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;

(b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

Reduction of share capital.

66. (*1*) Subject to confirmation by the Tribunal on an application by the company, a company limited by shares or limited by guarantee and having a share capital may, by a special resolution, reduce the share capital in any manner and in particular, may—

(*a*) extinguish or reduce the liability on any of its shares in respect of the share capital not paid-up; or

(*b*) either with or without extinguishing or reducing liability on any of its shares,—

(*i*) cancel any paid-up share capital which is lost or is unrepresented by available assets; or

(*ii*) pay off any paid-up share capital which is in excess of the wants of the company,

alter its memorandum by reducing the amount of its share capital and of its shares accordingly:

Provided that no such reduction shall be made if the company is in arrears in the repayment of any deposits accepted by it, either before or after the commencement of this Act, or the interest payable thereon.

(*2*) The Tribunal shall give notice of every application made to it under sub-section (*1*) to the Central Government, Registrar and to the Securities and Exchange Board, in the case of listed companies, and the creditors of the company and shall take into consideration the representations, if any, made to it by that Government, Registrar, the Securities and Exchange Board and the creditors within a period of three months from the date of receipt of the notice:

Provided that where no representation has been received from the Central Government, Registrar, the Securities and Exchange Board or the creditors within the said period, it shall be presumed that they have no objection to the reduction.

(*3*) The Tribunal may, if it is satisfied that the debt or claim of every creditor of the company has been discharged or determined or has been secured or his consent is obtained, make an order confirming the reduction of share capital on such terms and conditions as it deems fit:

Provided that no application for reduction of share capital shall be sanctioned by the Tribunal unless the accounting treatment, proposed by the company for such reduction is in conformity with the accounting standards specified in section 133 or any other provision of this Act and a certificate to that effect by the company's auditor has been filed with the Tribunal.

(*4*) The order of confirmation of the reduction of share capital by the Tribunal under sub-section (*3*) shall be published by the company in such manner as the Tribunal may direct.

(*5*) The company shall deliver a certified copy of the order of the Tribunal under sub-section (*3*) and of a minute approved by the Tribunal showing—

(*a*) the amount of share capital;

(*b*) the number of shares into which it is to be divided;

(*c*) the amount of each share; and

(*d*) the amount, if any, at the date of registration deemed to be paid-up on each share,

to the Registrar within thirty days of the receipt of the copy of the order, who shall register the same and issue a certificate to that effect.

(*6*) Nothing in this section shall apply to buy-back of its own securities by a company under section 68.

(*7*) A member of the company, past or present, shall not be liable to any call or contribution in respect of any share held by him exceeding the amount of difference, if any, between the amount paid on the share, or reduced amount, if any, which is to be deemed to have been paid thereon, as the case may be, and the amount of the share as fixed by the order of reduction.

(*8*) Where the name of any creditor entitled to object to the reduction of share capital under this section is, by reason of his ignorance of the proceedings for reduction or of their nature and effect with respect to his debt or claim, not entered on the list of creditors, and after such reduction, the company is unable, within the meaning of sub-section (*2*) of section 271, to pay the amount of his debt or claim,—

(*a*) every person, who was a member of the company on the date of the registration of the order for reduction by the Registrar, shall be liable to contribute to the payment of that debt or claim, an amount not exceeding the amount which he would have been liable to contribute if the company had commenced winding up on the day immediately before the said date; and

(*b*) if the company is wound up, the Tribunal may, on the application of any such creditor and proof of his ignorance as aforesaid, if it thinks fit, settle a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.

(*9*) Nothing in sub-section (*8*) shall affect the rights of the contributories among themselves.

(*10*) If any officer of the company—

(*a*) knowingly conceals the name of any creditor entitled to object to the reduction;

(*b*) knowingly misrepresents the nature or amount of the debt or claim of any creditor; or

(*c*) abets or is privy to any such concealment or misrepresentation as aforesaid,

he shall be liable under section 447.

(*11*) If a company fails to comply with the provisions of sub-section (*4*), it shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees.

Restrictions on purchase by company or giving of loans by it for purchase of its shares.

67. (*1*) No company limited by shares or by guarantee and having a share capital shall have power to buy its own shares unless the consequent reduction of share capital is effected under the provisions of this Act.

(*2*) No public company shall give, whether directly or indirectly and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase or subscription made or to be made, by any person of or for any shares in the company or in its holding company.

(*3*) Nothing in sub-section (*2*) shall apply to—

(a) the lending of money by a banking company in the ordinary course of its business;

(*b*) the provision by a company of money in accordance with any scheme approved by company through special resolution and in accordance with such requirements as may be prescribed, for the purchase of, or subscription for, fully paid-up shares in the company or its holding company, if the purchase of, or the subscription for, the shares held by trustees for the benefit of the employees or such shares held by the employee of the company;

(*c*) the giving of loans by a company to persons in the employment of the company other than its directors or key managerial personnel, for an amount not exceeding their salary or wages for a period of six months with a view to enabling them to purchase or subscribe for fully paid-up shares in the company or its holding company to be held by them by way of beneficial ownership:

Provided that disclosures in respect of voting rights not exercised directly by the employees in respect of shares to which the scheme relates shall be made in the Board's report in such manner as may be prescribed.

(*4*) Nothing in this section shall affect the right of a company to redeem any preference shares issued by it under this Act or under any previous company law.

(*5*) If a company contravenes the provisions of this section, it shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-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 three years and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

Power of company to purchase its own securities.

68. (*1*) Notwithstanding anything contained in this Act, but subject to the provisions of sub-section (*2*), a company may purchase its own shares or other specified securities (hereinafter referred to as buy-back) out of—

(*a*) its free reserves;

(*b*) the securities premium account; or

(*c*) the proceeds of the issue of any shares or other specified securities:

Provided that no buy-back of any kind of shares or other specified securities shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

(*2*) No company shall purchase its own shares or other specified securities under sub-section (*1*), unless—

(*a*) the buy-back is authorised by its articles;

(*b*) a special resolution has been passed at a general meeting of the company authorising the buy-back:

Provided that nothing contained in this clause shall apply to a case where—

(*i*) the buy-back is, ten per cent. or less of the total paid-up equity capital and free reserves of the company; and

(*ii*) such buy-back has been authorised by the Board by means of a resolution passed at its meeting;

(*c*) the buy-back is twenty-five per cent. or less of the aggregate of paid-up capital and free reserves of the company:

Provided that in respect of the buy-back of equity shares in any financial year, the reference to twenty-five per cent. in this clause shall be construed with respect to its total paid-up equity capital in that financial year;

(*d*) the ratio of the aggregate of secured and unsecured debts owed by the company after buy-back is not more than twice the paid-up capital and its free reserves:

Provided that the Central Government may, by order, notify a higher ratio of the debt to capital and free reserves for a class or classes of companies;

(*e*) all the shares or other specified securities for buy-back are fully paid-up;

(*f*) the buy-back of the shares or other specified securities listed on any recognised stock exchange is in accordance with the regulations made by the Securities and Exchange Board in this behalf; and

(*g*) the buy-back in respect of shares or other specified securities other than those specified in clause (*f*) is in accordance with such rules as may be prescribed:

Provided that no offer of buy-back under this sub-section shall be made within a period of one year reckoned from the date of the closure of the preceding offer of buy-back, if any.

(*3*) The notice of the meeting at which the special resolution is proposed to be passed under clause (*b*) of sub-section (*2*) shall be accompanied by an explanatory statement stating—

(*a*) a full and complete disclosure of all material facts;

(*b*) the necessity for the buy-back;

(*c*) the class of shares or securities intended to be purchased under the buy-back;

(*d*) the amount to be invested under the buy-back; and

(*e*) the time-limit for completion of buy-back.

(*4*) Every buy-back shall be completed within a period of one year from the date of passing of the special resolution, or as the case may be, the resolution passed by the Board under clause (*b*) of sub-section (*2*).

(*5*) The buy-back under sub-section (*1*) may be—

(*a*) from the existing shareholders or security holders on a proportionate basis;

(*b*) from the open market;

(*c*) by purchasing the securities issued to employees of the company pursuant to a scheme of stock option or sweat equity.

(*6*) Where a company proposes to buy-back its own shares or other specified securities under this section in pursuance of a special resolution under clause (*b*) of sub-section (*2*) or a resolution under item (*ii*) of the proviso thereto, it shall, before making such buy-back, file with the Registrar and the Securities and Exchange Board, a declaration of solvency signed by at least two directors of the company, one of whom shall be the managing director, if any, in such form as may be prescribed and verified by an affidavit to the effect that the Board of Directors of the company has made a full inquiry into the affairs of the company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year from the date of declaration adopted by the Board:

Provided that no declaration of solvency shall be filed with the Securities and Exchange Board by a company whose shares are not listed on any recognised stock exchange.

(*7*) Where a company buys back its own shares or other specified securities, it shall extinguish and physically destroy the shares or securities so bought back within seven days of the last date of completion of buy-back.

(*8*) Where a company completes a buy-back of its shares or other specified securities under this section, it shall not make a further issue of the same kind of shares or other securities including allotment of new shares under clause (*a*) of sub-section (*1*) of section 62 or other specified securities within a period of six months except by way of a bonus issue or

in the discharge of subsisting obligations such as conversion of warrants, stock option schemes, sweat equity or conversion of preference shares or debentures into equity shares.

(*9*) Where a company buys back its shares or other specified securities under this section, it shall maintain a register of the shares or securities so bought, the consideration paid for the shares or securities bought back, the date of cancellation of shares or securities, the date of extinguishing and physically destroying the shares or securities and such other particulars as may be prescribed.

(*10*) A company shall, after the completion of the buy-back under this section, file with the Registrar and the Securities and Exchange Board a return containing such particulars relating to the buy-back within thirty days of such completion, as may be prescribed:

Provided that no return shall be filed with the Securities and Exchange Board by a company whose shares are not listed on any recognised stock exchange.

(*11*) If a company makes any default in complying with the provisions of this section or any regulation made by the Securities and Exchange Board, for the purposes of clause (*f*) of sub-section (*2*), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees, or with both.

Explanation I.—For the purposes of this section and section 70, "specified securities" includes employees' stock option or other securities as may be notified by the Central Government from time to time.

Explanation II.—For the purposes of this section, "free reserves" includes securities premium account.

Transfer of certain sums to capital redemption reserve account.

69. (*1*) Where a company purchases its own shares out of free reserves or securities premium account, a sum equal to the nominal value of the shares so purchased shall be transferred to the capital redemption reserve account and details of such transfer shall be disclosed in the balance sheet.

(*2*) The capital redemption reserve account may be applied by the company, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

Prohibition for buy-back in certain circum-stances.

70. (*1*) No company shall directly or indirectly purchase its own shares or other specified securities—

(*a*) through any subsidiary company including its own subsidiary companies;

(*b*) through any investment company or group of investment companies; or

(*c*) if a default, is made by the company, in the repayment of deposits accepted either before or after the commencement of this Act, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any financial institution or banking company:

Provided that the buy-back is not prohibited, if the default is remedied and a period of three years has lapsed after such default ceased to subsist.

(*2*) No company shall, directly or indirectly, purchase its own shares or other specified securities in case such company has not complied with the provisions of sections 92, 123, 127 and section 129.

Debentures.

71. (*1*) A company may issue debentures with an option to convert such debentures into shares, either wholly or partly at the time of redemption:

Provided that the issue of debentures with an option to convert such debentures into shares, wholly or partly, shall be approved by a special resolution passed at a general meeting.

(*2*) No company shall issue any debentures carrying any voting rights.

(*3*) Secured debentures may be issued by a company subject to such terms and conditions as may be prescribed.

(*4*) Where debentures are issued by a company under this section, the company shall create a debenture redemption reserve account out of the profits of the company available for payment of dividend and the amount credited to such account shall not be utilised by the company except for the redemption of debentures.

(*5*) No company shall issue a prospectus or make an offer or invitation to the public or to its members exceeding five hundred for the subscription of its debentures, unless the company has, before such issue or offer, appointed one or more debenture trustees and the conditions governing the appointment of such trustees shall be such as may be prescribed.

(*6*) A debenture trustee shall take steps to protect the interests of the debenture-holders and redress their grievances in accordance with such rules as may be prescribed.

(*7*) Any provision contained in a trust deed for securing the issue of debentures, or in any contract with the debenture-holders secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereof from, or indemnifying him against, any liability for breach of trust, where he fails to show the degree of care and due diligence required of him as a trustee, having regard to the provisions of the trust deed conferring on him any power, authority or discretion:

Provided that the liability of the debenture trustee shall be subject to such exemptions as may be agreed upon by a majority of debenture-holders holding not less than three-fourths in value of the total debentures at a meeting held for the purpose.

(*8*) A company shall pay interest and redeem the debentures in accordance with the terms and conditions of their issue.

(*9*) Where at any time the debenture trustee comes to a conclusion that the assets of the company are insufficient or are likely to become insufficient to discharge the principal amount as and when it becomes due, the debenture trustee may file a petition before the Tribunal and the Tribunal may, after hearing the company and any other person interested in the matter, by order, impose such restrictions on the incurring of any further liabilities by the company as the Tribunal may consider necessary in the interests of the debenture-holders.

(*10*) Where a company fails to redeem the debentures on the date of their maturity or fails to pay interest on the debentures when it is due, the Tribunal may, on the application of any or all of the debenture-holders, or debenture trustee and, after hearing the parties concerned, direct, by order, the company to redeem the debentures forthwith on payment of principal and interest due thereon.

(*11*) If any default is made in complying with the order of the Tribunal under this section, every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than two lakh rupees but which may extend to five lakh rupees, or with both.

(*12*) A contract with the company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

(*13*) The Central Government may prescribe the procedure, for securing the issue of debentures, the form of debenture trust deed, the procedure for the debenture-holders to inspect the trust deed and to obtain copies thereof, quantum of debenture redemption reserve required to be created and such other matters.

Power to nominate.

72. (*1*) Every holder of securities of a company may, at any time, nominate, in the prescribed manner, any person to whom his securities shall vest in the event of his death.

(*2*) Where the securities of a company are held by more than one person jointly, the joint holders may together nominate, in the prescribed manner, any person to whom all the rights in the securities shall vest in the event of death of all the joint holders.

(*3*) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of the securities of a company, where a nomination made in the prescribed manner purports to confer on any person the right to vest the securities of the company, the nominee shall, on the death of the holder of securities or, as the case may be, on the death of the joint holders, become entitled to all the rights in the securities, of the holder or, as the case may be, of all the joint holders, in relation to such securities; to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(*4*) Where the nominee is a minor, it shall be lawful for the holder of the securities, making the nomination to appoint, in the prescribed manner, any person to become entitled to the securities of the company, in the event of the death of the nominee during his minority.

CHAPTER V

ACCEPTANCE OF DEPOSITS BY COMPANIES

Prohibition on acceptance of deposits from public.

73. (*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:

Provided that nothing in this sub-section shall apply to a banking company and non-banking financial company as defined in the Reserve Bank of India Act, 1934 and to such other company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

2 of 1934.

(*2*) A company may, subject to the passing of a 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:—

(*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;

(*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;

(*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 next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account;

(*d*) providing such deposit insurance in such manner and to such extent as may be prescribed;

(*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 such deposits; and

(*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:

Provided that in case where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as "unsecured deposits" and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.

(*3*) Every deposit accepted by a company under sub-section (*2*) shall be repaid with interest in accordance with the terms and conditions of the agreement referred to in that sub-section.

(*4*) Where a company fails to repay the deposit or part thereof or any interest thereon under sub-section (*3*), the depositor concerned may apply to the Tribunal for an order directing the company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment and for such other orders as the Tribunal may deem fit.

(*5*) The deposit repayment reserve account referred to in clause (*c*) of sub-section (*2*) shall not be used by the company for any purpose other than repayment of deposits.

Repayment of deposits, etc., accepted before commencement of this Act.

74. (*1*) Where in respect of any deposit 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—

(*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

(*b*) repay within one year from such commencement or from the date on which such payments are due, whichever is earlier.

(*2*) The Tribunal may on an application made by the company, after considering the financial condition of the company, the amount of deposit or part thereof and the interest payable thereon and such other matters, allow further time as considered reasonable to the company to repay the deposit.

(*3*) If a company fails to repay the deposit or part thereof or any interest thereon within the time specified in sub-section (*1*) or such further time as may be allowed by the Tribunal under sub-section (*2*), 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 one crore rupees but which may extend to ten crore rupees and 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.

Damages for fraud.

75. (*1*) Where a company fails to repay the deposit or part thereof or any interest thereon referred to in section 74 within the time specified in sub-section (*1*) of that section or such further time as may be allowed by the Tribunal under sub-section (*2*) of that section, and it is proved that the deposits had been accepted with intent to defraud the depositors or for any fraudulent purpose, every officer of the company who was responsible for the acceptance of such deposit shall, without prejudice to the provisions contained in sub-section (*3*) of that section and liability under section 447, be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by the depositors.

(*2*) Any suit, proceedings or other action may be taken by any person, group of persons or any association of persons who had incurred any loss as a result of the failure of the company to repay the deposits or part thereof or any interest thereon.

Acceptance of deposits from public by certain companies.

76. (*1*) Notwithstanding anything contained in section 73, a public company, having such net worth or turnover as may be prescribed, may accept deposits from persons other than its members subject to compliance with the requirements provided in sub-section (*2*) of section 73 and subject to such rules as the Central Government may, in consultation with the Reserve Bank of India, prescribe:

Provided that such a company shall be required to obtain the rating (including its networth, liquidity and ability to pay its deposits on due date) from a recognised credit rating agency for informing the public the rating given to the company at the time of invitation of deposits from the public which ensures adequate safety and the rating shall be obtained for every year during the tenure of deposits:

Provided further that every company accepting secured deposits from the public shall within thirty days of such acceptance, create a charge on its assets of an amount not less than the amount of deposits accepted in favour of the deposit holders in accordance with such rules as may be prescribed.

(*2*) The provisions of this Chapter shall, *mutatis mutandis*, apply to the acceptance of deposits from public under this section.

CHAPTER VI

REGISTRATION OF CHARGES

Duty to register charges, etc.

77. (*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 charge-holder 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:

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:

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:

Provided also that any subsequent registration of a charge shall not prejudice any right acquired in respect of any property before the charge is actually registered.

(*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.

(*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*).

(*4*) Nothing in sub-section (*3*) shall prejudice any contract or obligation for the repayment of the money secured by a charge.

Application for registration of charge.

78. Where a company fails to register the charge within the period specified in section 77, without prejudice to its liability in respect of any offence under this Chapter, the person in 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:

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.

Section 77 to apply in certain matters.

79. The provisions of section 77 relating to registration of charges shall, so far as may be, apply to—

(a) a company acquiring any property subject to a charge within the meaning of that section; or

(b) any modification in the terms or conditions or the extent or operation of any charge registered under that section.

Date of notice of charge.

80. Where any charge on any property or assets of a company or any of its undertakings is registered under section 77, any person acquiring such property, assets, undertakings or part thereof or any share or interest therein shall be deemed to have notice of the charge from the date of such registration.

Register of charges to be kept by Registrar.

81. (*1*) The Registrar shall, in respect of every company, keep a register containing particulars of the charges registered under this Chapter in such form and in such manner as may be prescribed.

(*2*) A register kept in pursuance of this section shall be open to inspection by any person on payment of such fees as may be prescribed for each inspection.

Company to report satisfaction of charge.

82. (*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 and the provisions of sub-section (*1*) of section 77 shall, as far as may be, apply to an intimation given under this section.

(*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:

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.

(*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.

(*4*) Nothing in this section shall be deemed to affect the powers of the Registrar to make an entry in the register of charges under section 83 or otherwise than on receipt of an intimation from the company.

Power of Registrar to make entries of satisfaction and release in absence of intimation from company.

83. (*1*) The Registrar may, on evidence being given to his satisfaction with respect to any registered charge,—

(*a*) that the debt for which the charge was given has been paid or satisfied in whole or in part; or

(*b*) that part of the property or undertaking charged has been released from the charge or has ceased to form part of the company's property or undertaking,

enter in the register of charges a memorandum of satisfaction in whole or in part, or of the fact that part of the property or undertaking has been released from the charge or has ceased to form part of the company's property or undertaking, as the case may be, notwithstanding the fact that no intimation has been received by him from the company.

(*2*) The Registrar shall inform the affected parties within thirty days of making the entry in the register of charges kept under sub-section (*1*) of section 81.

Intimation of appointment of receiver or manager.

84. (*1*) If any person obtains an order for the appointment of a receiver of, or of a person to manage, the property, subject to a charge, of a company or if any person appoints such receiver or person under any power contained in any instrument, he shall, within a period of thirty days from the date of the passing of the order or of the making of the appointment, give notice of such appointment to the company and the Registrar along with a copy of the order or instrument and the Registrar shall, on payment of the prescribed fees, register particulars of the receiver, person or instrument in the register of charges.

(*2*) Any person appointed under sub-section (*1*) shall, on ceasing to hold such appointment, give to the company and the Registrar a notice to that effect and the Registrar shall register such notice.

Company's register of charges.

85. (*1*) Every company shall keep at its registered office a register of charges in such form and in such manner as may be prescribed, which shall include therein all charges and floating charges affecting any property or assets of the company or any of its undertakings, indicating in each case such particulars as may be prescribed:

Provided that a copy of the instrument creating the charge shall also be kept at the registered office of the company along with the register of charges.

(*2*) The register of charges and instrument of charges, kept under sub-section (*1*) shall be open for inspection during business hours—

(*a*) by any member or creditor without any payment of fees; or

(*b*) by any other person on payment of such fees as may be prescribed,

subject to such reasonable restrictions as the company may, by its articles, impose.

Punishment for contravention.

86. If any company contravenes any provision of this Chapter, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh 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 twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

Rectification by Central Government in register of charges.

87. (*1*) The Central Government on being satisfied that—

(*i*) (*a*) the omission to file with the Registrar the particulars of any charge created by a company or any charge subject to which any property has been acquired by a company or any modification of such charge; or

(*b*) the omission to register any charge within the time required under this Chapter or the omission to give intimation to the Registrar of the payment or the satisfaction of a charge, within the time required under this Chapter; or

(*c*) the omission or mis-statement of any particular with respect to any such charge or modification or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83,

was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors or shareholders of the company; or

(*ii*) on any other grounds, it is just and equitable to grant relief,

it may on the application of the company or any person interested and on such terms and conditions as it may seem to the Central Government just and expedient, direct that the time

for the filing of the particulars or for the registration of the charge or for the giving of intimation of payment or satisfaction shall be extended or, as the case may require, that the omission or mis-statement shall be rectified.

(*2*) Where the Central Government extends the time for the registration of a charge, the order shall not prejudice any rights acquired in respect of the property concerned before the charge is actually registered.

CHAPTER VII

MANAGEMENT AND ADMINISTRATION

Register of members, etc.

88. (*1*) Every company shall keep and maintain the following registers in such form and in such manner as may be prescribed, namely:—

(*a*) register of members indicating separately for each class of equity and preference shares held by each member residing in or outside India;

(*b*) register of debenture-holders; and

(*c*) register of any other security holders.

(*2*) Every register maintained under sub-section (*1*) shall include an index of the names included therein.

(*3*) The register and index of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996, shall be deemed to be the corresponding register and index for the purposes of this Act. 22 of 1996.

(*4*) A company may, if so authorised by its articles, keep in any country outside India, in such manner as may be prescribed, a part of the register referred to in sub-section (*1*), called "foreign register" containing the names and particulars of the members, debenture-holders, other security holders or beneficial owners residing outside India.

(*5*) If a company does not maintain a register of members or debenture-holders or other security holders or fails to maintain them in accordance with the provisions of sub-section (*1*) or sub-section (*2*), the company and every officer of the company who is in default shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three 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.

Declaration in respect of beneficial interest in any share.

89. (*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.

(*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.

(*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 days from the date of such change, make a declaration to the company in such form and containing such particulars as may be prescribed.

(*4*) The Central Government may make rules to provide for the manner of holding and disclosing beneficial interest and beneficial ownership under this section.

(*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.

(*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 time specified under section 403.

(*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.

(*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.

(*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.

Investigation of beneficial ownership of shares in certain cases.

90. 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.

Power to close register of members or debenture-holders or other security holders.

91. (*1*) A company may close the register of members or the register of debenture-holders or the register of other security holders for any period or periods not exceeding in the aggregate forty-five days in each year, but not exceeding thirty days at any one time, subject to giving of previous notice of at least seven days or such lesser period as may be specified by Securities and Exchange Board for listed companies or the companies which intend to get their securities listed, in such manner as may be prescribed.

(*2*) If the register of members or of debenture-holders or of other security holders is closed without giving the notice as provided in sub-section (*1*), or after giving shorter notice than that so provided, or for a continuous or an aggregate period in excess of the limits specified in that sub-section, the company and every officer of the company who is in default shall be liable to a penalty of five thousand rupees for every day subject to a maximum of one lakh rupees during which the register is kept closed.

Annual return.

92. (*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;

(*c*) its indebtedness;

(*d*) its members and debenture-holders along with changes therein since the close of the previous financial year;

(*e*) its promoters, directors, key managerial personnel along with changes therein since the close of the previous financial year;

(*f*) meetings of members or a class thereof, Board and its various committees along with attendance details;

(*g*) remuneration of directors and key managerial personnel;

(*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;

(*i*) matters relating to certification of compliances, disclosures as may be prescribed;

(*j*) details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them; and

(*k*) such other matters as may be prescribed,

and signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice:

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.

(*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.

(*3*) An extract of the annual return in such form as may be prescribed shall form part of the Board's report.

(*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 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.

(*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 fee, 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.

(*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.

Return to be filed with Registrar in case promoters' stake changes.

93. 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.

Place of keeping and inspection of registers, returns, etc.

94. (*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 and the Registrar has been given a copy of the proposed special resolution in advance:

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 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.

(*3*) Any such member, debenture-holder, other security holder or beneficial owner or any other person may—

(*a*) take extracts from any register, or index or return without payment of any fee; or

(*b*) require a copy of any such register or entries therein or return on payment of such fees as may be prescribed.

(*4*) If any inspection or the making of any extract or copy required under this section is refused, the company and every officer of the company who is in default shall be liable, for each such default, to a penalty of one thousand rupees for every day subject to a maximum of one lakh rupees during which the refusal or default continues.

(*5*) The Central Government may also, by order, direct an immediate inspection of the document, or direct that the extract required shall forthwith be allowed to be taken by the person requiring it.

Registers, etc., to be evidence.

95. The registers, their indices and copies of annual returns maintained under sections 88 and 94 shall be *prima facie* evidence of any matter directed or authorised to be inserted therein by or under this Act.

Annual general meeting.

96. (*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:

Provided that 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 year of the company and in any other case, within a period of six months, from the date of closing of the financial year:

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:

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.

(*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:

Provided that the Central Government may exempt any company from the provisions of this sub-section subject to such conditions as it may impose.

Explanation.—For the purposes of this sub-section, "National Holiday" means and includes a day declared as National Holiday by the Central Government.

Power of Tribunal to call annual general meeting.

97. (*1*) If any default is made in holding the annual general meeting of a company under section 96, the Tribunal may, notwithstanding anything contained in this Act or the articles of the company, on the application of any member of the company, call, or direct the calling of, an annual general meeting of the company and give such ancillary or consequential directions as the Tribunal thinks expedient:

Provided that such directions may include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(*2*) A general meeting held in pursuance of sub-section (*1*) shall, subject to any directions of the Tribunal, be deemed to be an annual general meeting of the company under this Act.

Power of Tribunal to call meetings of members, etc.

98. (*1*) If for any reason it is impracticable to call a meeting of a company, other than an annual general meeting, in any manner in which meetings of the company may be called, or to hold or conduct the meeting of the company in the manner prescribed by this Act or the articles of the company, the Tribunal may, either *suo motu* or on the application of any director or member of the company who would be entitled to vote at the meeting,—

(*a*) order a meeting of the company to be called, held and conducted in such manner as the Tribunal thinks fit; and

(*b*) give such ancillary or consequential directions as the Tribunal thinks expedient, including directions modifying or supplementing in relation to the calling, holding and conducting of the meeting, the operation of the provisions of this Act or articles of the company:

Provided that such directions may include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(*2*) Any meeting called, held and conducted in accordance with any order made under sub-section (*1*) shall, for all purposes, be deemed to be a meeting of the company duly called, held and conducted.

Punishment for default in complying with provisions of sections 96 to 98.

99. If any default is made in holding a meeting of the company in accordance with section 96 or section 97 or section 98 or in complying with any directions of the Tribunal, the company and every officer of the company who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues.

Calling of extraordinary general meeting.

100. (*1*) The Board may, whenever it deems fit, call an extraordinary general meeting of the company.

(*2*) The Board shall, at the requisition made by,—

(*a*) in the case of a company having a share 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;

(*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,

call an extraordinary general meeting of the company within the period specified in sub-section (*4*).

(*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.

(*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 and held by the requisitonists themselves within a period of three months from the date of the requisition.

(*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.

(*6*) Any reasonable expenses incurred by the requisitionists in calling a meeting under sub-section (*4*) shall be reimbursed to the requisitionists by the company and the sums so paid shall be deducted from any fee or other remuneration under section 197 payable to such of the directors who were in default in calling the meeting.

Notice of meeting.

101. (*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:

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.

(*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.

(*3*) The notice of every meeting of the company shall be given to—

(*a*) every member of the company, legal representative of any deceased member or the assignee of an insolvent member;

(*b*) the auditor or auditors of the company; and

(*c*) every director of the company.

(*4*) Any accidental omission to give notice to, or the non-receipt of such notice by, any member or other person who is entitled to such notice for any meeting shall not invalidate the proceedings of the meeting.

Statement to be annexed to notice.

102. (*1*) A statement setting out the following material facts concerning each item of special business to be transacted at a general meeting, shall be annexed to the notice calling such meeting, namely:—

(*a*) the nature of concern or interest, financial or otherwise, if any, in respect of each items of—

(*i*) every director and the manager, if any;

(*ii*) every other key managerial personnel; and

(*iii*) relatives of the persons mentioned in sub-clauses (*i*) and (*ii*);

(*b*) any other information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decision thereon.

(*2*) For the purposes of sub-section (*1*),—

(*a*) in the case of an annual general meeting, all business to be transacted thereat shall be deemed special, other than—

(*i*) the consideration of financial statements and the reports of the Board of Directors and auditors;

(*ii*) the declaration of any dividend;

(*iii*) the appointment of directors in place of those retiring;

(*iv*) the appointment of, and the fixing of the remuneration of, the auditors; and

(*b*) in the case of any other meeting, all business shall be deemed to be special:

Provided that where any item of special business to be transacted at a meeting of the company relates to or affects any other company, the extent of shareholding interest in that other company of every promoter, director, manager, if any, and of every other key managerial personnel of the first mentioned company shall, if the extent of such shareholding is not less than two per cent. of the paid-up share capital of that company, also be set out in the statement.

(*3*) Where any item of business refers to any document, which is to be considered at the meeting, the time and place where such document can be inspected shall be specified in the statement under sub-section (*1*).

(*4*) Where as a result of the non-disclosure or insufficient disclosure in any statement referred to in sub-section (*1*), being made by a promoter, director, manager, if any, or other key managerial personnel, any benefit which accrues to such promoter, director, manager or other key managerial personnel or their relatives, either directly or indirectly, the promoter, director, manager or other key managerial personnel, as the case may be, shall hold such benefit in trust for the company, and shall, without prejudice to any other action being taken against him under this Act or under any other law for the time being in force, be liable to compensate the company to the extent of the benefit received by him.

(*5*) If any default is made in complying with the provisions of this section, every promoter, director, manager or other key managerial personnel who is in default shall be punishable with fine which may extend to fifty thousand rupees or five times the amount of benefit accruing to the promoter, director, manager or other key managerial personnel or any of his relatives, whichever is more.

Quorum for meetings.

103. (*1*) Unless the articles of the company provide for a larger number,—

(*a*) in case of a public company,—

(*i*) five members personally present if the number of members as on the date of meeting is not more than one thousand;

(*ii*) fifteen members personally present if the number of members as on the date of meeting is more than one thousand but up to five thousand;

(*iii*) thirty members personally present if the number of members as on the date of the meeting exceeds five thousand;

(*b*) in the case of a private company, two members personally present, shall be the quorum for a meeting of the company.

(*2*) If the quorum is not present within half-an-hour from the time appointed for holding a meeting of the company—

(*a*) the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other date and such other time and place as the Board may determine; or

(*b*) the meeting, if called by requisitionists under section 100, shall stand cancelled:

Provided that in case of an adjourned meeting or of a change of day, time or place of meeting under clause (*a*), the company shall give not less than three days notice to the members either individually or by publishing an advertisement in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated.

(*3*) If at the adjourned meeting also, a quorum is not present within half-an-hour from the time appointed for holding meeting, the members present shall be the quorum.

Chairman of meetings.

104. (*1*) Unless the articles of the company otherwise provide, the members personally present at the meeting shall elect one of themselves to be the Chairman thereof on a show of hands.

(*2*) If a poll is demanded on the election of the Chairman, it shall be taken forthwith in accordance with the provisions of this Act and the Chairman elected on a show of hands under sub-section (*1*) shall continue to be the Chairman of the meeting until some other person is elected as Chairman as a result of the poll, and such other person shall be the Chairman for the rest of the meeting.

Proxies.

105. (*1*) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person as a proxy to attend and vote at the meeting on his behalf:

Provided that a proxy shall not have the right to speak at such meeting and shall not be entitled to vote except on a poll:

Provided further that, unless the articles of a company otherwise provide, this sub-section shall not apply in the case of a company not having a share capital:

Provided also that the Central Government may prescribe a class or classes of companies whose members shall not be entitled to appoint another person as a proxy:

Provided also that a person appointed as proxy shall act on behalf of such member or number of members not exceeding fifty and such number of shares as may be prescribed.

(*2*) In every notice calling a meeting of a company which has a share capital, or the articles of which provide for voting by proxy at the meeting, there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy, or, where that is allowed, one or more proxies, to attend and vote instead of himself, and that a proxy need not be a member.

(*3*) If default is made in complying with sub-section (*2*), every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees.

(*4*) Any provision contained in the articles of a company which specifies or requires a longer period than forty-eight hours before a meeting of the company, for depositing with the company or any other person any instrument appointing a proxy or any other document necessary to show the validity or otherwise relating to the appointment of a proxy in order that the appointment may be effective at such meeting, shall have effect as if a period of forty-eight hours had been specified in or required by such provision for such deposit.

(*5*) If for the purpose of any meeting of a company, invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company's expense to any member entitled to have a notice of the meeting sent to him and to vote thereat by proxy, every officer of the company who knowingly issues the invitations as aforesaid or wilfully authorises or permits their issue shall be punishable with fine which may extend to one lakh rupees:

Provided that an officer shall not be punishable under this sub-section by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy, or of a list of persons willing to act as proxies, if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

(*6*) The instrument appointing a proxy shall—

(*a*) be in writing; and

(*b*) be signed by the appointer or his attorney duly authorised in writing or, if the appointer is a body corporate, be under its seal or be signed by an officer or an attorney duly authorised by it.

(*7*) An instrument appointing a proxy, if in the form as may be prescribed, shall not be questioned on the ground that it fails to comply with any special requirements specified for such instrument by the articles of a company.

(*8*) Every member entitled to vote at a meeting of the company, or on any resolution to be moved thereat, shall be entitled during the period beginning twenty-four hours before the time fixed for the commencement of the meeting and ending with the conclusion of the meeting, to inspect the proxies lodged, at any time during the business hours of the company, provided not less than three days' notice in writing of the intention so to inspect is given to the company.

Restriction on voting rights.

106. (*1*) Notwithstanding anything contained in this Act, the articles of a company may provide that no member shall exercise any voting right in respect of any shares registered in his name on which any calls or other sums presently payable by him have not been paid, or in regard to which the company has exercised any right of lien.

(*2*) A company shall not, except on the grounds specified in sub-section (*1*), prohibit any member from exercising his voting right on any other ground.

(*3*) On a poll taken at a meeting of a company, a member entitled to more than one vote, or his proxy, where allowed, or other person entitled to vote for him, as the case may be, need not, if he votes, use all his votes or cast in the same way all the votes he uses.

Voting by show of hands.

107. (*1*) At any general meeting, a resolution put to the vote of the meeting shall, unless a poll is demanded under section 109 or the voting is carried out electronically, be decided on a show of hands.

(*2*) A declaration by the Chairman of the meeting of the passing of a resolution or otherwise by show of hands under sub-section (*1*) and an entry to that effect in the books containing the minutes of the meeting of the company shall be conclusive evidence of the fact of passing of such resolution or otherwise.

Voting through electronic means.

108. The Central Government may prescribe the class or classes of companies and manner in which a member may exercise his right to vote by the electronic means.

Demand for poll.

109. (*1*) Before or on the declaration of the result of the voting on any resolution on show of hands, a poll may be ordered to be taken by the Chairman of the meeting on his own motion, and shall be ordered to be taken by him on a demand made in that behalf,—

(*a*) in the case a company having a share capital, by the members present in person or by proxy, where allowed, and having not less than one-tenth of the total voting power or holding shares on which an aggregate sum of not less than five lakh rupees or such higher amount as may be prescribed has been paid-up; and

(*b*) in the case of any other company, by any member or members present in person or by proxy, where allowed, and having not less than one-tenth of the total voting power.

(*2*) The demand for a poll may be withdrawn at any time by the persons who made the demand.

(*3*) A poll demanded for adjournment of the meeting or appointment of Chairman of the meeting shall be taken forthwith.

(*4*) A poll demanded on any question other than adjournment of the meeting or appointment of Chairman shall be taken at such time, not being later than forty-eight hours from the time when the demand was made, as the Chairman of the meeting may direct.

(*5*) Where a poll is to be taken, the Chairman of the meeting shall appoint such number of persons, as he deems necessary, to scrutinise the poll process and votes given on the poll and to report thereon to him in the manner as may be prescribed.

(*6*) Subject to the provisions of this section, the Chairman of the meeting shall have power to regulate the manner in which the poll shall be taken.

(*7*) The result of the poll shall be deemed to be the decision of the meeting on the resolution on which the poll was taken.

Postal ballot.

110. (*1*) Notwithstanding anything contained in this Act, a company—

(*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*) 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.

(*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.

Circulation of members' resolution.

111. (*1*) A company shall, on requisition in writing of such number of members, as required in section 100,—

(*a*) give notice to members of any resolution which may properly be moved and is intended to be moved at a meeting; and

(*b*) circulate to members any statement with respect to the matters referred to in proposed resolution or business to be dealt with at that meeting.

(*2*) A company shall not be bound under this section to give notice of any resolution or to circulate any statement unless —

(*a*) a copy of the requisition signed by the requisitionists (or two or more copies which, between them, contain the signatures of all the requisitionists) is deposited at the registered office of the company,—

(*i*) in the case of a requisition requiring notice of a resolution, not less than six weeks before the meeting;

(*ii*) in the case of any other requisition, not less than two weeks before the meeting; and

(*b*) there is deposited or tendered with the requisition, a sum reasonably sufficient to meet the company's expenses in giving effect thereto:

Provided that if, after a copy of a requisition requiring notice of a resolution has been deposited at the registered office of the company, an annual general meeting is called on a date within six weeks after the copy has been deposited, the copy, although not deposited within the time required by this sub-section, shall be deemed to have been properly deposited for the purposes thereof.

(*3*) The company shall not be bound to circulate any statement as required by clause (*b*) of sub-section (*1*), if on the application either of the company or of any other person who claims to be aggrieved, the Central Government, by order, declares that the rights conferred by this section are being abused to secure needless publicity for defamatory matter.

(*4*) An order made under sub-section (*3*) may also direct that the cost incurred by the company by virtue of this section shall be paid to the company by the requisitionists, notwithstanding that they are not parties to the application.

(*5*) If any default is made in complying with the provisions of this section, the company and every officer of the company who is in default shall be liable to a penalty of twenty-five thousand rupees.

Representation of President and Governors in meetings.

112. (*1*) The President of India or the Governor of a State, if he is a member of a company, may appoint such person as he thinks fit to act as his representative at any meeting of the company or at any meeting of any class of members of the company.

(*2*) A person appointed to act under sub-section (*1*) shall, for the purposes of this Act, be deemed to be a member of such a company and shall be entitled to exercise the same rights and powers, including the right to vote by proxy and postal ballot, as the President or, as the case may be, the Governor could exercise as a member of the company.

Representation of corporations at meeting of companies and of creditors.

113. (*1*) A body corporate, whether a company within the meaning of this Act or not, may, —

(*a*) if it is a member of a company within the meaning of this Act, by resolution of its Board of Directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the company, or at any meeting of any class of members of the company;

(*b*) if it is a creditor, including a holder of debentures, of a company within the meaning of this Act, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(*2*) A person authorised by resolution under sub-section (*1*) shall be entitled to exercise the same rights and powers, including the right to vote by proxy and by postal ballot, on behalf of the body corporate which he represents as that body could exercise if it were an individual member, creditor or holder of debentures of the company.

Ordinary and special resolutions.

114. (*1*) A resolution shall be an ordinary resolution if the notice required under this Act has been duly given and it is required to be passed by the votes cast, whether on a show of hands, or electronically or on a poll, as the case may be, in favour of the resolution, including the casting vote, if any, of the Chairman, by members who, being entitled so to do, vote in person, or where proxies are allowed, by proxy or by postal ballot, exceed the votes, if any, cast against the resolution by members, so entitled and voting.

(*2*) A resolution shall be a special resolution when—

(*a*) the intention to propose the resolution as a special resolution has been duly specified in the notice calling the general meeting or other intimation given to the members of the resolution;

(*b*) the notice required under this Act has been duly given; and

(*c*) the votes cast in favour of the resolution, whether on a show of hands, or electronically or on a poll, as the case may be, by members who, being entitled so to do, vote in person or by proxy or by postal ballot, are required to be not less than three times the number of the votes, if any, cast against the resolution by members so entitled and voting.

Resolutions requiring special notice.

115. Where, by any provision contained in this Act or in the articles of a company, special notice is required of any resolution, notice of the intention to move such resolution shall be given to the company by such number of members holding not less than one per cent. of total voting power or holding shares on which such aggregate sum not exceeding five lakh rupees, as may be prescribed, has been paid-up and the company shall give its members notice of the resolution in such manner as may be prescribed.

Resolutions passed at adjourned meeting.

116. Where a resolution is passed at an adjourned meeting of—

(*a*) a company; or

(*b*) the holders of any class of shares in a company; or

(*c*) the Board of Directors of a company,

the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Resolutions and agreements to be filed.

117. (*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 fee, 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 every officer of the company who is in default, including liquidator of the company, if any, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(*3*) The provisions of this section shall apply to—

(*a*) special resolutions;

(*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;

(*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;

(*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 agreed to by all those members;

(*e*) 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;

(*f*) resolutions requiring a company to be wound up voluntarily passed in pursuance of section 304;

(*g*) resolutions passed in pursuance of sub-section (*3*) of section 179; and

(*h*) any other resolution or agreement as may be prescribed and placed in the public domain.

Minutes of proceedings of general meeting, meeting of Board of Directors and other meeting and resolutions passed by postal ballot.

118. (*1*) Every company shall cause minutes of the proceedings of every general meeting of any class of shareholders or creditors, and every resolution passed by postal ballot and every meeting of its Board of Directors or of every committee of the Board, to be prepared and signed in such manner as may be prescribed and kept within thirty days of the conclusion of every such meeting concerned, or passing of resolution by postal ballot in books kept for that purpose with their pages consecutively numbered.

(*2*) The minutes of each meeting shall contain a fair and correct summary of the proceedings thereat.

(*3*) All appointments made at any of the meetings aforesaid shall be included in the minutes of the meeting.

(*4*) In the case of a meeting of the Board of Directors or of a committee of the Board, the minutes shall also contain—

(*a*) the names of the directors present at the meeting; and

(*b*) in the case of each resolution passed at the meeting, the names of the directors, if any, dissenting from, or not concurring with the resolution.

(*5*) There shall not be included in the minutes, any matter which, in the opinion of the Chairman of the meeting,—

(*a*) is or could reasonably be regarded as defamatory of any person; or

(*b*) is irrelevant or immaterial to the proceedings; or

(*c*) is detrimental to the interests of the company.

(*6*) The Chairman shall exercise absolute discretion in regard to the inclusion or non-inclusion of any matter in the minutes on the grounds specified in sub-section (*5*).

(*7*) The minutes kept in accordance with the provisions of this section shall be evidence of the proceedings recorded therein.

(*8*) Where the minutes have been kept in accordance with sub-section (*1*) then, until the contrary is proved, the meeting shall be deemed to have been duly called and held, and all proceedings thereat to have duly taken place, and the resolutions passed by postal ballot to have been duly passed and in particular, all appointments of directors, key managerial personnel, auditors or company secretary in practice, shall be deemed to be valid.

(*9*) No document purporting to be a report of the proceedings of any general meeting of a company shall be circulated or advertised at the expense of the company, unless it includes the matters required by this section to be contained in the minutes of the proceedings of such meeting.

(*10*) Every company shall observe secretarial standards with respect to general and Board meetings specified by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980, and approved as such by the Central Government. 56 of 1980.

(*11*) If any default is made in complying with the provisions of this section in respect of any meeting, 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.

(*12*) If a person is found guilty of tampering with the minutes of the proceedings of meeting, he 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.

Inspection of minute-books of general meeting.

119. (*1*) The books containing the minutes of the proceedings of any general meeting of a company or of a resolution passed by postal ballot, shall—

(*a*) be kept at the registered office of the company; and

(*b*) be open, during business hours, to the inspection by any member without charge, subject to such reasonable restrictions as the company may, by its articles or in general meeting, impose, so, however, that not less than two hours in each business day are allowed for inspection.

(*2*) Any member shall be entitled to be furnished, within seven working days after he has made a request in that behalf to the company, and on payment of such fees as may be prescribed, with a copy of any minutes referred to in sub-section (*1*).

(*3*) If any inspection under sub-section (*1*) is refused, or if any copy required under sub-section (*2*) is not furnished within the time specified therein, 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 for each such refusal or default, as the case may be.

(*4*) In the case of any such refusal or default, the Tribunal may, without prejudice to any action being taken under sub-section (*3*), by order, direct an immediate inspection of the minute-books or direct that the copy required shall forthwith be sent to the person requiring it.

Maintenance and inspection of documents in electronic form.

120. Without prejudice to any other provisions of this Act, any document, record, register, minutes, etc.,—

(*a*) required to be kept by a company; or

(*b*) allowed to be inspected or copies to be given to any person by a company under this Act, may be kept or inspected or copies given, as the case may be, in electronic form in such form and manner as may be prescribed.

Report on annual general meeting.

121. (*1*) Every listed public company shall prepare in the prescribed manner a report on each annual general meeting including the confirmation to the effect that the meeting was convened, held and conducted as per the provisions of this Act and the rules made thereunder.

(*2*) The company shall file with the Registrar a copy of the report referred to in sub-section (*1*) within thirty days of the conclusion of the annual general meeting with such fees as may be prescribed, or with such additional fees as may be prescribed, within the time as specified, under section 403.

(*3*) If the company fails to file the report under sub-section (*2*) before the expiry of the period specified under section 403 with additional fee, 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 of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

Applicability of this Chapter to One Person Company.

122. (*1*) The provisions of section 98 and sections 100 to 111 (both inclusive) shall not apply to a One Person Company.

(*2*) The ordinary businesses as mentioned under clause (*a*) of sub-section (*2*) of section 102 which a company, other than a One Person Company, is required to transact at its annual general meeting, shall be transacted, in case of One Person Company, as provided in sub-section (*3*).

(*3*) For the purposes of section 114, any business which is required to be transacted at an annual general meeting or other general meeting of a company by means of an ordinary or special resolution, it shall be sufficient if, in case of One Person Company, the resolution is communicated by the member to the company and entered in the minutes-book required to be maintained under section 118 and signed and dated by the member and such date shall be deemed to be the date of the meeting for all the purposes under this Act.

(*4*) Notwithstanding anything in this Act, where there is only one director on the Board of Director of a One Person Company, any business which is required to be transacted at the meeting of the Board of Directors of a company, it shall be sufficient if, in case of such One Person Company, the resolution by such director is entered in the minutes-book required to be maintained under section 118 and signed and dated by such director and such date shall be deemed to be the date of the meeting of the Board of Directors for all the purposes under this Act.

CHAPTER VIII

DECLARATION AND PAYMENT OF DIVIDEND

Declaration of dividend.

123. (*1*) No dividend shall be declared or paid by a company for any financial year except—

(*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 both; or

(*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:

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:

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:

Provided also that no dividend shall be declared or paid by a company from its reserves other than free reserves.

(*2*) For the purposes of clause (*a*) of sub-section (*1*), depreciation shall be provided in accordance with the provisions of Schedule II.

(*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.

(*4*) The amount of the dividend, including interim dividend, shall be deposited in a scheduled bank in a separate account within five days from the date of declaration of such dividend.

(*5*) No dividend shall be paid by a company in respect of any share therein except to the registered shareholder of such share or to his order or to his banker and shall not be payable except in cash:

Provided that nothing in this sub-section shall be deemed to prohibit the capitalisation of profits or reserves of a company for the purpose of issuing fully paid-up bonus shares or paying up any amount for the time being unpaid on any shares held by the members of the company:

Provided further that any dividend payable in cash may be paid by cheque or warrant or in any electronic mode to the shareholder entitled to the payment of the dividend.

(*6*) A company which fails to comply with the provisions of sections 73 and 74 shall not, so long as such failure continues, declare any dividend on its equity shares.

Unpaid Dividend Account.

124. (*1*) Where a dividend has been declared by a company but has not been paid or claimed within thirty days from the date of the declaration to any shareholder entitled to the payment of the dividend, the company shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in that behalf in any scheduled bank to be called the Unpaid Dividend Account.

(*2*) The company shall, within a period of ninety days of making any transfer of an amount under sub-section (*1*) to the Unpaid Dividend Account, prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the website of the company, if any, and also on any other website approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed.

(*3*) If any default is made in transferring the total amount referred to in sub-section (*1*) or any part thereof to the Unpaid Dividend Account of the company, it shall pay, from the date of such default, interest on so much of the amount as has not been transferred to the said account, at the rate of twelve per cent. per annum and the interest accruing on such amount shall enure to the benefit of the members of the company in proportion to the amount remaining unpaid to them.

(*4*) Any person claiming to be entitled to any money transferred under sub-section (*1*) to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed.

(*5*) Any money transferred to the Unpaid Dividend Account of a company in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company along with interest accrued, if any, thereon to the Fund established under sub-section (*1*) of section 125 and the company shall send a statement in the prescribed form of the details of such transfer to the authority which administers the said Fund and that authority shall issue a receipt to the company as evidence of such transfer.

(*6*) All shares in respect of which unpaid or unclaimed dividend has been transferred under sub-section (*5*) shall also be transferred by the company in the name of Investor Education and Protection Fund along with a statement containing such details as may be prescribed:

Provided that any claimant of shares transferred above shall be entitled to claim the transfer of shares from Investor Education and Protection Fund in accordance with such procedure and on submission of such documents as may be prescribed.

(*7*) If a company fails to comply with any of the requirements 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 every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Investor Education and Protection Fund.

125. (*1*) The Central Government shall establish a Fund to be called the Investor Education and Protection Fund (herein referred to as the Fund).

(*2*) There shall be credited to the Fund—

(*a*) the amount given by the Central Government by way of grants after due appropriation made by Parliament by law in this behalf for being utilised for the purposes of the Fund;

(*b*) donations given to the Fund by the Central Government, State Governments, companies or any other institution for the purposes of the Fund;

(*c*) the amount in the Unpaid Dividend Account of companies transferred to the Fund under sub-section (*5*) of section 124;

(*d*) the amount in the general revenue account of the Central Government which had been transferred to that account under sub-section (*5*) of section 205A of the Companies Act, 1956, as it stood immediately before the commencement of the Companies (Amendment) Act, 1999, and remaining unpaid or unclaimed on the commencement of this Act;

1 of 1956.
21 of 1999.

(*e*) the amount lying in the Investor Education and Protection Fund under section 205C of the Companies Act, 1956;

1 of 1956.

(*f*) the interest or other income received out of investments made from the Fund;

(*g*) the amount received under sub-section (*4*) of section 38;

(*h*) the application money received by companies for allotment of any securities and due for refund;

(*i*) matured deposits with companies other than banking companies;

(*j*) matured debentures with companies;

(*k*) interest accrued on the amounts referred to in clauses (*h*) to (*j*);

(*l*) sale proceeds of fractional shares arising out of issuance of bonus shares, merger and amalgamation for seven or more years;

(*m*) redemption amount of preference shares remaining unpaid or unclaimed for seven or more years; and

(*n*) such other amount as may be prescribed:

Provided that no such amount referred to in clauses (*h*) to (*j*) shall form part of the Fund unless such amount has remained unclaimed and unpaid for a period of seven years from the date it became due for payment.

(*3*) The Fund shall be utilised for—

(*a*) the refund in respect of unclaimed dividends, matured deposits, matured debentures, the application money due for refund and interest thereon;

(*b*) promotion of investors' education, awareness and protection;

(*c*) distribution of any disgorged amount among eligible and identifiable applicants for shares or debentures, shareholders, debenture-holders or depositors who have suffered losses due to wrong actions by any person, in accordance with the orders made by the Court which had ordered disgorgement;

(*d*) reimbursement of legal expenses incurred in pursuing class action suits under sections 37 and 245 by members, debenture-holders or depositors as may be sanctioned by the Tribunal; and

(*e*) any other purpose incidental thereto,

in accordance with such rules as may be prescribed:

Provided that the person whose amounts referred to in clauses (*a*) to (*d*) of sub-section (*2*) of section 205C transferred to Investor Education and Protection Fund, after the expiry of the period of seven years as per provisions of the Companies Act, 1956, shall be entitled to get refund out of the Fund in respect of such claims in accordance with rules made under this section. 1 of 1956.

Explanation.—The disgorged amount refers to the amount received through disgorgement or disposal of securities.

(*4*) Any person claiming to be entitled to the amount referred in sub-section (*2*) may apply to the authority constituted under sub-section (*5*) for the payment of the money claimed.

(*5*) The Central Government shall constitute, by notification, an authority for administration of the Fund consisting of a chairperson and such other members, not exceeding seven and a chief executive officer, as the Central Government may appoint.

(*6*) The manner of administration of the Fund, appointment of chairperson, members and chief executive officer, holding of meetings of the authority shall be in accordance with such rules as may be prescribed.

(*7*) The Central Government may provide to the authority such offices, officers, employees and other resources in accordance with such rules as may be prescribed.

(*8*) The authority shall administer the Fund and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed after consultation with the Comptroller and Auditor-General of India.

(*9*) It shall be competent for the authority constituted under sub-section (*5*) to spend money out of the Fund for carrying out the objects specified in sub-section (*3*).

(*10*) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually by the authority to the Central Government.

(*11*) The authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.

Right to dividend, rights shares and bonus shares to be held in abeyance pending registration of transfer of shares.

126. Where any instrument of transfer of shares has been delivered to any company for registration and the transfer of such shares has not been registered by the company, it shall, notwithstanding anything contained in any other provision of this Act,—

(*a*) transfer the dividend in relation to such shares to the Unpaid Dividend Account referred to in section 124 unless the company is authorised by the registered holder of such shares in writing to pay such dividend to the transferee specified in such instrument of transfer; and

(*b*) keep in abeyance in relation to such shares, any offer of rights shares under clause (*a*) of sub-section (*1*) of section 62 and any issue of fully paid-up bonus shares in pursuance of first proviso to sub-section (*5*) of section 123.

Punishment for failure to distribute dividends.

127. Where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within thirty days from the date of declaration to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment which may extend to two years and with fine which shall not be less than one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of eighteen per cent. per annum during the period for which such default continues:

Provided that no offence under this section shall be deemed to have been committed:—

(*a*) where the dividend could not be paid by reason of the operation of any law;

(*b*) where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with and the same has been communicated to him;

(*c*) where there is a dispute regarding the right to receive the dividend;

(*d*) where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder; or

(*e*) where, for any other reason, the failure to pay the dividend or to post the warrant within the period under this section was not due to any default on the part of the company.

CHAPTER IX

ACCOUNTS OF COMPANIES

Books of account, etc., to be kept by company.

128. (*1*) Every company shall prepare and keep at its registered office books of account and other relevant books and papers and financial statement for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any, and explain the transactions effected both at the registered office and its branches and such books shall be kept on accrual basis and according to the double entry system of accounting:

Provided that all or any of the books of account aforesaid and other relevant papers may be kept at such other place in India as the Board of Directors may decide and where such a decision is taken, the company shall, within seven days thereof, file with the Registrar a notice in writing giving the full address of that other place:

Provided further that the company may keep such books of account or other relevant papers in electronic mode in such manner as may be prescribed.

(*2*) Where a company has a branch office in India or outside India, it shall be deemed to have complied with the provisions of sub-section (*1*), if proper books of account relating to the transactions effected at the branch office are kept at that office and proper summarised returns periodically are sent by the branch office to the company at its registered office or the other place referred to in sub-section (*1*).

(*3*) The books of account and other books and papers maintained by the company within India shall be open for inspection at the registered office of the company or at such other place in India by any director during business hours, and in the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions as may be prescribed:

Provided that the inspection in respect of any subsidiary of the company shall be done only by the person authorised in this behalf by a resolution of the Board of Directors.

(*4*) Where an inspection is made under sub-section (*3*), the officers and other employees of the company shall give to the person making such inspection all assistance in connection with the inspection which the company may reasonably be expected to give.

(*5*) The books of account of every company relating to a period of not less than eight financial years immediately preceding a financial year, or where the company had been in existence for a period less than eight years, in respect of all the preceding years together with the vouchers relevant to any entry in such books of account shall be kept in good order:

Provided that where an investigation has been ordered in respect of the company under Chapter XIV, the Central Government may direct that the books of account may be kept for such longer period as it may deem fit.

(*6*) If the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person of a company charged by the Board with the duty of complying with the provisions of this section, contravenes such provisions, such managing director, whole-time director in charge of finance, Chief Financial officer or such other person of the company shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.

Financial statement.

129. (*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 forms as may be provided for different class or classes of companies in Schedule III:

Provided that the items contained in such financial statements shall be in accordance with the accounting standards:

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:

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—

(*a*) in the case of an insurance company, any matters which are not required to be disclosed by the Insurance Act, 1938, or the Insurance Regulatory and Development Authority Act, 1999; 4 of 1938. 41 of 1999.

(*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.

(*c*) in the case of a 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.

(*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.

(*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.

(*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*):

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:

Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed.

Explanation.—For the purposes of this sub-section, the word "subsidiary" shall include associate company and joint venture.

(*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*).

(*5*) Without prejudice to sub-section (*1*), where the financial statements of a company do not comply with the accounting standards referred to in sub-section (*1*), the company shall disclose in its financial statements, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.

(*6*) The Central Government may, on its own or on an application by a class or classes of companies, by notification, exempt any class or classes of companies from complying with any of the requirements of this section or the rules made thereunder, if it is considered necessary to grant such exemption in the public interest and any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification.

(*7*) If a company contravenes the provisions of this section, the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person charged by the Board with the duty of complying with the requirements of this section and in the absence of any of the officers mentioned above, all the directors shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Explanation.—For the purposes of this section, except where the context otherwise requires, any reference to the financial statement shall include any notes annexed to or forming part of such financial statement, giving information required to be given and allowed to be given in the form of such notes under this Act.

Re-opening of accounts on court's or Tribunal's orders.

130. (*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 the Tribunal to the effect that—

(*i*) the relevant earlier accounts were prepared in a fraudulent manner; or

(*ii*) the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements:

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 regulatory body or authority concerned and shall take into consideration the representations, if any, made by that Government or the authorities, Securities and Exchange Board or the body or authority concerned before passing any order under this section.

(*2*) Without prejudice to the provisions contained in this Act the accounts so revised or re-cast under sub-section (*1*) shall be final.

Voluntary revision of financial statements or Board's report.

131. (*1*) If it appears to the directors of a company that—

(*a*) the financial statement of the company; or

(*b*) the report of the Board,

do not comply with the provisions of section 129 or section 134 they may prepare revised financial statement or a revised report in respect of any of the three preceding financial years after obtaining approval of the Tribunal on an application made by the company in such form and manner as may be prescribed and a copy of the order passed by the Tribunal shall be filed with the Registrar:

Provided that the Tribunal shall give notice to the Central Government and the Income-tax authorities and shall take into consideration the representations, if any, made by that Government or the authorities before passing any order under this section:

Provided further that such revised financial statement or report shall not be prepared or filed more than once in a financial year:

Provided also that the detailed reasons for revision of such financial statement or report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made.

(*2*) Where copies of the previous financial statement or report have been sent out to members or delivered to the Registrar or laid before the company in general meeting, the revisions must be confined to—

(*a*) the correction in respect of which the previous financial statement or report do not comply with the provisions of section 129 or section 134; and.

(*b*) the making of any necessary consequential alternation.

(*3*) The Central Government may make rules as to the application of the provisions of this Act in relation to revised financial statement or a revised director's report and such rules may, in particular—

(*a*) make different provisions according to which the previous financial statement or report are replaced or are supplemented by a document indicating the corrections to be made;

(*b*) make provisions with respect to the functions of the company's auditor in relation to the revised financial statement or report;

(*c*) require the directors to take such steps as may be prescribed.

Constitution of National Financial Reporting Authority.

132. (*1*) The Central Government may, by notification, constitute a National Financial Reporting Authority to provide for matters relating to accounting and auditing standards under this Act.

(*2*) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—

(*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;

(*b*) monitor and enforce the compliance with accounting standards and auditing standards in such manner as may be prescribed;

(*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

(*d*) perform such other functions relating to clauses (*a*), (*b*) and (*c*) as may be prescribed.

(*3*) The National Financial Reporting Authority shall consist of a chairperson, who shall be a person of eminence and having expertise in accountancy, 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:

Provided that the terms and conditions and the manner of appointment of the chairperson and members shall be such as may be prescribed:

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:

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.

(*4*) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—

(*a*) have the power to investigate, either *suo motu* or on a reference 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;

(*b*) have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*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;

(*ii*) summoning and enforcing the attendance of persons and examining them on oath;

(*iii*) inspection of any books, registers and other documents of any person 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 ten lakh rupees, but which may extend to ten times of the fees received, in case of firms;

(*B*) debarring the member or the firm from engaging himself or itself from practice as member of the Institute of Chartered Accountant of India referred to in clause (*e*) of sub-section (*1*) of section 2 of the Chartered Accountants Act, 1949 for a minimum period of six months or for such higher period not exceeding ten years as may be decided by the National Financial Reporting Authority. 38 of 1949.

Explanation.—For the purposes of his sub-section, the expression "professional or other misconduct" shall have the same meaning assigned to it under section 22 of the Chartered Accountants Act, 1949. 38 of 1949.

(*5*) Any person aggrieved by any order of the National Financial Reporting Authority issued under clause (*c*) of sub-section (*4*), may prefer an appeal before the Appellate Authority constituted under sub-section (*6*) in such manner as may be prescribed.

(*6*) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, an Appellate Authority consisting of a chairperson and not more then two other members, to be appointed by the Central Government, for hearing appeals arising out of the orders of the National Financial Reporting Authority.

(*7*) The qualifications for appointment of the chairperson and members of the Appellate Authority, the manner of selection, the terms and conditions of their service and the requirement of the supporting staff and procedure (including places of hearing the appeals, form and manner in which the appeals shall be filed) to be followed by the Appellate Authority shall be such as may be prescribed.

(*8*) The fee for filing the appeal shall be such as may be prescribed.

(*9*) The officer authorised by the Appellate Authority shall prepare in such form and at such time as may be prescribed its annual report giving a full account of its activities and forward a copy thereof to the Central Government and the Central Government shall cause the annual report to be laid before each House of Parliament.

(*10*) The National Financial Reporting Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings in such manner as may be prescribed.

(*11*) The Central Government may appoint a secretary and such other employees as it may consider necessary for the efficient performance of functions by the National Financial Reporting Authority under this Act and the terms and conditions of service of the secretary and employees shall be such as may be prescribed.

(*12*) The head office of the National Financial Reporting Authority shall be at New Delhi and the National Financial Reporting Authority may, meet at such other places in India as it deems fit.

(*13*) The National Financial Reporting Authority shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as the Central Government may, in consultation with the Comptroller and Auditor-General of India prescribe.

(*14*) The accounts of the National Financial Reporting Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such accounts as certified by the Comptroller and Auditor-General of India together with the audit report thereon shall be forwarded annually to the Central Government by the National Financial Reporting Authority.

(*15*) The National Financial Reporting Authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.

Central Government to prescribe accounting standards.

133. The Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under section 3 of the Chartered Accountants Act, 1949, in consultation with and after examination of the recommendations made by the National Financial Reporting Authority. 38 of 1949.

Financial statement, Board's report, etc.

134. (*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 director, for submission to the auditor for his report thereon.

(*2*) The auditors' report shall be attached to every financial statement.

(*3*) There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include—

(*a*) the extract of the annual return as provided under sub-section (*3*) of section 92;

(*b*) number of meetings of the Board;

(*c*) Directors' Responsibility Statement;

(*d*) a statement on declaration given by independent directors under sub-section (*6*) of section 149;

(*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;

(*f*) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made—

(*i*) by the auditor in his report; and

(*ii*) by the company secretary in practice in his secretarial audit report;

(*g*) particulars of loans, guarantees or investments under section 186;

(*h*) particulars of contracts or arrangements with related parties referred to in sub-section (*1*) of section 188 in the prescribed form;

(*i*) the state of the company's affairs;

(*j*) the amounts, if any, which it proposes to carry to any reserves;

(*k*) the amount, if any, which it recommends should be paid by way of dividend;

(*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;

(*m*) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed;

(*n*) a statement indicating development and 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;

(*o*) the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;

(*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 annual evaluation has been made by the Board of its own performance and that of its committees and individual directors;

(*q*) such other matters as may be prescribed.

(*4*) The report of the Board of Directors to be attached to the financial statement under this section shall, in case of a One Person Company, mean a report containing explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report.

(*5*) The Directors' Responsibility Statement referred to in clause (*c*) of sub-section (*3*) shall state that—

(*a*) in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;

(*b*) the directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period;

(*c*) the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;

(*d*) the directors had prepared the annual accounts on a going concern basis; and

(*e*) the directors, in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.

Explanation.—For the purposes of this clause, the term "internal financial controls" means the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its business, including adherence to company's policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information;

(*f*) the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.

(*6*) The Board's report and any annexures thereto under sub-section (*3*) shall be signed by its chairperson of the company if he is authorised by the Board and where he is not so authorised, shall be signed by at least two directors, one of whom shall be a managing director, or by the director where there is one director.

(*7*) A signed copy of every financial statement, including consolidated financial statement, if any, shall be issued, circulated or published along with a copy each of—

(*a*) any notes annexed to or forming part of such financial statement;

(*b*) the auditor's report; and

(*c*) the Board's report referred to in sub-section (*3*).

(*8*) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-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 three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Corporate Social Responsibility.

135. (*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 any financial year 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 an independent director.

(*2*) The Board's report under sub-section (*3*) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.

(*3*) The Corporate Social Responsibility Committee shall,—

(*a*) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;

(*b*) recommend the amount of expenditure to be incurred on the activities referred to in clause (*a*); and

(*c*) monitor the Corporate Social Responsibility Policy of the company from time to time.

(*4*) The Board of every company referred to in sub-section (*1*) shall,—

(*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

(*b*) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

(*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:

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:

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.

Explanation.—For the purposes of this section "average net profit" shall be calculated in accordance with the provisions of section 198.

Right of member to copies of audited financial statement.

136. (*1*) Without prejudice to the provisions of section 101, 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:

Provided that 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 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:

Provided further 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:

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:

Provided also that every company having a subsidiary or subsidiaries shall,—

(*a*) place separate audited accounts in respect of each of its subsidiary on its website, if any;

(*b*) provide a copy of separate audited financial statements in respect of each of its subsidiary, to any shareholder of the company who asks for it.

(*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.

(*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.

Copy of financial statement to be filed with Registrar.

137. (*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:.

Provided that where the financial statements under 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:

Provided also that a company shall, along 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.

(*2*) Where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (*1*), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under section 403.

(*3*) If a company fails to file the copy of the financial statements under sub-section (*1*) or sub-section (*2*), as the case may be, before the expiry of the period specified in section 403, the company shall be punishable with fine of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, 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.

Internal audit.

138. (*1*) Such class or classes of companies as may be prescribed shall be required to appoint an internal auditor, who shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.

(*2*) The Central Government may, by rules, prescribe the manner and the intervals in which the internal audit shall be conducted and reported to the Board.

CHAPTER X

AUDIT AND AUDITORS

Appointment of auditors.

139. (*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:

Provided that the company shall place the matter relating to such appointment for ratification by members at every annual general meeting:

Provided further that before such appointment is made, the written consent of the auditor to such appointment, and a certificate from him or it that the appointment, if made, shall be in accordance with the conditions as may be prescribed, shall be obtained from the auditor:

Provided also that the certificate shall also indicate whether the auditor satisfies the criteria provided in section 141:

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.

Explanation.—For the purposes of this Chapter, "appointment" includes re-appointment.

(*2*) No listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint—

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

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

Provided that—

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

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

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

Provided also that every company, existing on or before the commencement of this Act which is required to comply with provisions of this sub-section, shall comply with the requirements of this sub-section within three years from the date of commencement of this Act:

Provided also that, nothing contained in this sub-section shall prejudice the right of the company to remove an auditor or the right of the auditor to resign from such office of the company.

(*3*) Subject to the provisions of this Act, members of a company may resolve to provide that—

(*a*) in the audit firm appointed by it, the auditing partner and his team shall be rotated at such intervals as may be resolved by members; or

(*b*) the audit shall be conducted by more than one auditor.

(*4*) The Central Government may, by rules, prescribe the manner in which the companies shall rotate their auditors in pursuance of sub-section (*2*).

Explanation.—For the purposes of this Chapter, the word "firm" shall include a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008. 6 of 2009.

(*5*) Notwithstanding anything contained in sub-section (*1*), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor-General of India shall, in respect of a financial year, appoint an auditor duly qualified to be appointed as an auditor of companies under this Act, within a period of one hundred and eighty days from the commencement of the financial year, who shall hold office till the conclusion of the annual general meeting.

(*6*) Notwithstanding anything contained in sub-section (*1*), the first auditor of a company, other than a Government company, shall be appointed by the Board of Directors within thirty days from the date of registration of the company and in the case of failure of the Board to appoint such auditor, it shall inform the members of the company, who shall within ninety days at an extraordinary general meeting appoint such auditor and such auditor shall hold office till the conclusion of the first annual general meeting.

(*7*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*5*), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government, or Governments, or partly by the Central Government and partly by one or more State Governments, the first auditor shall be appointed by the Comptroller and Auditor-General of India within sixty days from the date of registration of the company and in case the Comptroller and Auditor-General of India does not appoint such auditor within the said period, the Board of Directors of the company shall appoint such auditor within the next thirty days; and in the case of failure of the Board to appoint such auditor within the next thirty days, it shall inform the members of the company who shall appoint such auditor within the sixty days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting.

(*8*) Any casual vacancy in the office of an auditor shall—

(*i*) in the case of a company other than a company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Board of Directors within thirty days, but if such casual vacancy is as a result of the resignation of an auditor, such appointment shall also be approved by the company at a general meeting convened within three months of the recommendation of the Board and he shall hold the office till the conclusion of the next annual general meeting;

(*ii*) in the case of a company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Comptroller and Auditor-General of India within thirty days:

Provided that in case the Comptroller and Auditor-General of India does not fill the vacancy within the said period, the Board of Directors shall fill the vacancy within next thirty days.

(*9*) Subject to the provisions of sub-section (*1*) and the rules made thereunder, a retiring auditor may be re-appointed at an annual general meeting, if—

(*a*) he is not disqualified for re-appointment;

(*b*) he has not given the company a notice in writing of his unwillingness to be re-appointed; and

(*c*) a special resolution has not been passed at that meeting appointing some other auditor or providing expressly that he shall not be re-appointed.

(*10*) Where at any annual general meeting, no auditor is appointed or re-appointed, the existing auditor shall continue to be the auditor of the company.

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

Removal, resignation of auditor and giving of special notice.

140. (*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:

Provided that before taking any action under this sub-section, the auditor concerned shall be given a reasonable opportunity of being heard.

(*2*) The auditor who has resigned from the 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.

(*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 fifty thousand rupees but which may extend to five lakh rupees.

(*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.

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

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

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

(*b*) send a copy of the representation to every member of the company to whom notice of the meeting is sent, whether before or after the receipt of the representation by the company,

and if a copy of the representation is not sent as aforesaid because it was received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representation shall be read out at the meeting:

Provided that if a copy of representation is not sent as aforesaid, a copy thereof shall be filed with the Registrar:

Provided further that if the Tribunal is satisfied on an application either of the company or of any other aggrieved person that the rights conferred by this sub-section are being abused by the auditor, then, the copy of the representation may not be sent and the representation need not be read out at the meeting.

(*5*) Without prejudice to any action under the provisions of this Act or any other law for the time being in force, the Tribunal either *suo motu* or on an application made to it by the Central Government or by any person concerned, if it is satisfied that the auditor of a company has, whether directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, it may, by order, direct the company to change its auditors:

Provided that if the application is made by the Central Government and the Tribunal is satisfied that any change of the auditor is required, it shall within fifteen days of receipt of such application, make an order that he shall not function as an auditor and the Central Government may appoint another auditor in his place:

Provided further that an auditor, whether individual or firm, against whom final order has been passed by the Tribunal under this section shall not be eligible to be appointed as an auditor of any company for a period of five years from the date of passing of the order and the auditor shall also be liable for action under section 447.

Explanation I.—It is hereby clarified that the case of a firm, the liability shall be of the firm and that of every partner or partners who acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its director or officers.

Explanation II.—For the purposes of this Chapter the word "auditor" includes a firm of auditors.

Eligibility, qualifications and disqualifications of auditors.

141. (*1*) A person shall be eligible for 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.

(*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.

(*3*) The following persons shall not be eligible for appointment as an auditor of a company, namely:—

(*a*) a body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008; 6 of 2009.

(*b*) an officer or employee of the company;

(*c*) a person who is a partner, or who is in the employment, of an officer or employee of the company;

(*d*) a person who, or his relative or partner—

(*i*) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company:

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;

(*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;

(*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;

(*f*) a person whose relative is a director or is in the employment of the company as a director or key managerial personnel;

(*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;

(*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;

(*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.

(*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.

Remuneration of auditors.

142. (*1*) The remuneration of the auditor of a company shall be fixed in its general meeting or in such manner as may be determined therein:

Provided that the Board may fix remuneration of the first auditor appointed by it.

(*2*) The remuneration under sub-section (*1*) shall, in addition to the fee payable to an auditor, include the expenses, if any, incurred by the auditor in connection with the audit of the company and any facility extended to him but does not include any remuneration paid to him for any other service rendered by him at the request of the company.

Powers and duties of auditors and auditing standards.

143. (*1*) Every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company, whether kept at the registered office of the company or at any other place and shall be entitled to require from the officers of the company such information and explanation as he may consider necessary for the performance of his duties as auditor and amongst other matters inquire into the following matters, namely:—

(*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;

(*b*) whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company;

(*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;

(*d*) whether loans and advances made by the company have been shown as deposits;

(*e*) whether personal expenses have been charged to revenue account;

(*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:

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 subsidiaries in so far as it relates to the consolidation of its financial statements with that of its subsidiaries.

(*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 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 sub-section (*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.

(*3*) The auditor's report shall also state—

(*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;

(*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;

(*c*) whether the report on the accounts of any 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;

(*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;

(*e*) whether, in his opinion, the financial statements comply with the accounting standards;

(*f*) the observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company;

(*g*) whether any director is disqualified from being appointed as a director under sub-section (*2*) of section 164;

(*h*) any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith;

(*i*) whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls;

(*j*) such other matters as may be prescribed.

(*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.

(*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.

(*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,—

(*a*) conduct a supplementary audit of the financial statement of the company by such person or persons as he may 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

(*b*) comment upon or supplement such audit report:

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.

(*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 of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, shall apply to the report of such test audit.

56 of 1971.

(*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:

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 who shall deal with it in his report in such manner as he considers necessary.

(*9*) Every auditor shall comply with the auditing standards.

(*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, in consultation with and after examination of the recommendations made by the National Financial Reporting Authority:

38 of 1949.

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.

(*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.

(*12*) Notwithstanding anything contained in this 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.

(*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.

(*14*) The provisions of this section shall *mutatis mutandis* apply to—

(*a*) the cost accountant in practice conducting cost audit under section 148; or

(*b*) the company secretary in practice conducting secretarial audit under section 204.

(*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 rupees.

Auditor not to render certain services.

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

(*a*) accounting and book keeping services;

(*b*) internal audit;

(*c*) design and implementation of any financial information system;

(*d*) actuarial services;

(*e*) investment advisory services;

(*f*) investment banking services;

(*g*) rendering of outsourced financial services;

(*h*) management services; and

(*i*) any other kind of services as may be prescribed:

Provided that an auditor or audit firm who or which has been performing any non-audit services on or before the commencement of this Act shall comply with the provisions of this section before the closure of the first financial year after the date of such commencement.

Explanation.—For the purposes of this sub-section, the term "directly or indirectly" shall include rendering of services by the auditor,—

(*i*) in case of auditor being an individual, either himself or through his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual;

(*ii*) in case of auditor being a firm, either itself or through any of its partners or through its parent, subsidiary or associate entity or through any other entity, whatsoever, in which the firm or any partner of the firm has significant influence or control, or whose name or trade mark or brand is used by the firm or any of its partners.

Auditor to sign audit reports, etc.

145. The person appointed as an auditor of the company shall sign the auditor's report or sign or certify any other document of the company in accordance with the provisions of sub-section (*2*) of section 141, and the qualifications, observations or comments on financial transactions or matters, which have any adverse effect on the functioning of the company mentioned in the auditor's report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

Auditors to attend general meeting.

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

Punishment for contravention.

147. (*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.

(*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 five lakh rupees:

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 and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

(*3*) Where an auditor has been convicted under sub-section (*2*), he shall be liable to—

(*i*) refund the remuneration received by him to the company; and

(*ii*) pay for damages to the company, statutory bodies or authorities or to any other persons for loss arising out of incorrect or misleading statements of particulars made in his audit report.

(*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.

(*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 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.

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

148. (*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 necessary to do so, it may, by order, direct that the audit of cost records of class of companies, which are covered under sub-section (*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.

(*3*) The audit under sub-section (*2*) shall be conducted by a Cost Accountant in practice who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed:

Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records:

Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.

Explanation.—For the purposes of this sub-section, the expression "cost auditing standards" mean such standards as are issued by the Institute of Cost and Works Accountants of India, constituted under the Cost and Works Accountants Act, 1959, with the approval of the Central Government. 23 of 1959.

(*4*) An audit conducted under this section shall be in addition to the audit conducted under section 143.

(*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:

Provided that the report on the audit of cost records shall be submitted by the cost accountant in practice to the Board of Directors of the company.

(*6*) A company shall within thirty days from the date of receipt of a copy of the cost audit report prepared in pursuance of a direction under sub-section (*2*) furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein.

(*7*) If, after considering the cost audit report referred to under this section and the information and explanation furnished by the company under sub-section (*6*), the Central Government is of the opinion that any further information or explanation is necessary, it may call for such further information and explanation and the company shall furnish the same within such time as may be specified by that Government.

(*8*) If any default is made in complying with the provisions of this section,—

(*a*) the company and every officer of the company who is in default shall be punishable in the manner as provided in sub-section (*1*) of section 147;

(*b*) the cost auditor of the company who is in default shall be punishable in the manner as provided in sub-sections (*2*) to (*4*) of section 147.

CHAPTER XI

APPOINTMENT AND QUALIFICATIONS OF DIRECTORS

Company to have Board of Directors.

149. (*1*) Every company shall have a Board of Directors consisting of individuals as directors and shall have—

(*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

(*b*) a maximum of fifteen directors:

Provided that a company may appoint more than 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.

(*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*).

(*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.

(*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.

Explanation.—For the purposes of this sub-section, any fraction contained in such one-third number shall be rounded off as one.

(*5*) Every company existing on or before the date of commencement of 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*).

(*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,—

(*a*) who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;

(*b*) (*i*) who is or was not a promoter of the company or its holding, subsidiary or associate company;

(*ii*) who is not related to promoters or directors in the company, its holding, subsidiary or associate company;

(*c*) who has or had no pecuniary relationship 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;

(*d*) none of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate 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;

(*e*) who, neither himself nor any of his relatives—

(*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;

(*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—

(*A*) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or

(*B*) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent. or more of the gross turnover of such firm;

(*iii*) holds together with his relatives two per cent. or more of the total voting power of the company; or

(*iv*) is a Chief Executive or director, by whatever name called, of any non-profit organisation that receives twenty-five per cent. or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. or more of the total voting power of the company; or

(*f*) who possesses such other qualifications as may be prescribed.

(*7*) Every independent 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 circumstances which may affect his status as an independent director, give a declaration that he meets the criteria of independence as provided in sub-section (*6*).

Explanation.—For the purposes of this section, "nominee director" means a director nominated by any financial institution in pursuance of the provisions of any law for the time being in force, or of any agreement, or appointed by any Government, or any other person to represent its interests.

(*8*) The company and independent directors shall abide by the provisions specified in Schedule IV.

(*9*) Notwithstanding anything contained in any other provision of this Act, but subject to the provisions of sections 197 and 198, an independent director shall not be entitled to any stock option and may receive remuneration by way of fee provided under sub-section (*5*) of section 197, reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.

(*10*) Subject to the provisions of section 152, an independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for re-appointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.

(*11*) Notwithstanding anything contained in sub-section (*10*), no independent director shall hold office for more than two consecutive terms, but such independent director shall be eligible for appointment after the expiration of three years of ceasing to become an independent director:

Provided that an independent director shall not, during the said period of three years, be appointed in or be associated with the company in any other capacity, either directly or indirectly.

Explanation.—For the purposes of sub-sections (*10*) and (*11*), any tenure of an independent director on the date of commencement of this Act shall not be counted as a term under those sub-sections.

(*12*) Notwithstanding anything contained in this Act,—

(*i*) an independent director;

(*ii*) a non-executive director not being promoter or key managerial personnel,

shall be held liable, only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently.

(*13*) The provisions of sub-sections (*6*) and (*7*) of section 152 in respect of retirement of directors by rotation shall not be applicable to appointment of independent directors.

Manner of selection of independent directors and maintenance of databank of independent directors.

150. (*1*) Subject to the provisions contained in sub-section (*5*) of section 149, an independent director may be selected from a data bank containing names, addresses and qualifications of persons who are eligible and willing to act as independent directors, maintained by any body, institute or association, as may by notified by the Central Government, having expertise in creation and maintenance of such data bank and put on their website for the use by the company making the appointment of such directors:

Provided that responsibility of exercising due diligence before selecting a person from the data bank referred to above, as an independent director shall lie with the company making such appointment.

(*2*) The appointment of independent director shall be approved by the company in general meeting as provided in sub-section (*2*) of section 152 and the explanatory statement annexed to the notice of the general meeting called to consider the said appointment shall indicate the justification for choosing the appointee for appointment as independent director.

(*3*) The data bank referred to in sub-section (*1*), shall create and maintain data of persons willing to act as independent director in accordance with such rules as may be prescribed.

(*4*) The Central Government may prescribe the manner and procedure of selection of independent directors who fulfil the qualifications and requirements specified under section 149.

Appointment of director elected by small shareholders.

151. A listed company may have one director elected by such small shareholders in such manner and with such terms and conditions as may be prescribed.

Explanation.—For the purposes of this section "small shareholders" means a shareholder holding shares of nominal value of not more than twenty thousand rupees or such other sum as may be prescribed.

Appointment of directors.

152. (*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 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.

(*2*) Save as otherwise expressly provided in this Act, every director shall be appointed by the company in general meeting.

(*3*) No person shall be appointed as a director of a company unless he has been allotted the Director Identification Number under section 154.

(*4*) Every person proposed to be appointed as a director by the company in general meeting or otherwise, shall furnish his Director Identification Number and a declaration that he is not disqualified to become a director under this Act.

(*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:

Provided that in the case of appointment of an 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.

(*6*) (*a*) Unless the articles provide for the retirement of all directors at every annual general meeting, not less than two-thirds of the total number of directors of a public company shall—

(*i*) be persons whose period of office is liable to determination by retirement of directors by rotation; and

(*ii*) save as otherwise expressly provided in this Act, be appointed by the company in general meeting.

(*b*) The remaining directors in the case of any such company shall, in default of, and subject to any regulations in the articles of the company, also be appointed by the company in general meeting.

(*c*) At the first annual general meeting of a public company held next after the date of the general meeting at which the first directors are appointed in accordance with clauses (*a*) and (*b*) and at every subsequent annual general meeting, one-third of such of the directors for the time being as are liable to retire by rotation, or if their number is neither three nor a multiple of three, then, the number nearest to one-third, shall retire from office.

(*d*) The directors to retire by rotation at every annual general meeting shall be those who have been longest in office since their last appointment, but as between persons who became directors on the same day, those who are to retire shall, in default of and subject to any agreement among themselves, be determined by lot.

(*e*) At the annual general meeting at which a director retires as aforesaid, the company may fill up the vacancy by appointing the retiring director or some other person thereto.

Explanation.—For the purposes of this sub-section, "total number of directors" shall not include independent directors, whether appointed under this Act or any other law for the time being in force, on the Board of a company.

(*7*) (*a*) If the vacancy of the retiring director is not so filled-up and the meeting has not expressly resolved not to fill the vacancy, the meeting shall stand adjourned till the same day in the next week, at the same time and place, or if that day is a national holiday, till the next succeeding day which is not a holiday, at the same time and place.

(*b*) If at the adjourned meeting also, the vacancy of the retiring director is not filled up and that meeting also has not expressly resolved not to fill the vacancy, the retiring director shall be deemed to have been re-appointed at the adjourned meeting, unless—

(*i*) at that meeting or at the previous meeting a resolution for the re-appointment of such director has been put to the meeting and lost;

(*ii*) the retiring director has, by a notice in writing addressed to the company or its Board of directors, expressed his unwillingness to be so re-appointed;

(*iii*) he is not qualified or is disqualified for appointment;

(*iv*) a resolution, whether special or ordinary, is required for his appointment or re-appointment by virtue of any provisions of this Act; or

(*v*) section 162 is applicable to the case.

Explanation.—For the purposes of this section and section 160, the expression "retiring director" means a director retiring by rotation.

Application for allotment of Director Identification Number.

153. 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.

Allotment of Director Identification Number.

154. The Central Government shall, within one month from the receipt of the application under section 153, allot a Director Identification Number to an applicant in such manner as may be prescribed.

Prohibition to obtain more than one Director Identification Number.

155. No individual, who has already been allotted a Director Identification Number under section 154, shall apply for, obtain or possess another Director Identification Number.

Director to intimate Director Identification Number.

156. Every existing director shall, within one month of the receipt of Director Identification Number from the Central Government, intimate his Director Identification Number to the company or all companies wherein he is a director.

Company to inform Director Identification Number to Registrar.

157. (*1*) Every company shall, within fifteen days of the receipt of intimation under section 156, furnish the Director Identification Number of all its directors to the Registrar or any other officer or authority as may be specified by the Central Government with such fees as may be prescribed or with such additional fees as may be prescribed within the time specified under section 403 and every such intimation shall be furnished in such form and manner as may be prescribed.

(2) If a company fails to furnish Director Identification Number under sub-section (1), before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

Obligation to indicate Director Identification Number.

158. Every person or company, while furnishing any return, information or particulars as are required to be furnished under this Act, shall mention the Director Identification Number in such return, information or particulars in case such return, information or particulars relate to the director or contain any reference of any director.

Punishment for contravention.

159. If any individual or director of a company, contravenes any of the provisions of section 152, section 155 and section 156, such individual or director of the company shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which the contravention continues.

Right of persons other than retiring directors to stand for directorship.

160. (1) 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 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.

(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.

Appointment of additional director, alternate director and nominee director.

161. (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 annual general meeting should have been held, whichever is earlier.

(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 alternate directorship for any other director in the company, to act as an alternate director for a director during his absence for a period of not less than three months from India:

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:

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:

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 directors in default of another appointment shall apply to the original, and not to the alternate director.

(*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.

(*4*) In the case of a public company, 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 may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board:

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.

Appointment of directors to be voted individually.

162. (*1*) At a general meeting of a company, a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be moved unless a proposal to move such a motion has first been agreed to at the meeting without any vote being cast against it.

(*2*) A resolution moved in contravention of sub-section (*1*) shall be void, whether or not any objection was taken when it was moved.

(*3*) A motion for approving a person for appointment, or for nominating a person for appointment as a director, shall be treated as a motion for his appointment.

Option to adopt principle of proportional representation for appointment of directors.

163. Notwithstanding anything contained in this Act, the articles of a company may provide for the appointment of not less than two-thirds of the total number of the directors of a company in accordance with the principle of proportional representation, whether by the single transferable vote or by a system of cumulative voting or otherwise and such appointments may be made once in every three years and casual vacancies of such directors shall be filled as provided in sub-section (*4*) of section 161.

Disqualifications for appointment of director.

164. (*1*) A person shall not be eligible for appointment as a director of a company, if—

(*a*) he is of unsound mind and stands so declared by a competent court;

(*b*) he is an undischarged insolvent;

(*c*) he has applied to be adjudicated as an insolvent and his application is pending;

(*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:

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;

(*e*) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;

(*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;

(*g*) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or

(*h*) he has not complied with sub-section (*3*) of section 152.

(*2*) No person who is or has been a director of a company which—

(*a*) has not filed financial statements or annual returns for any continuous period of three financial years; or

(*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,

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.

(*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*):

Provided that the disqualifications referred to in clauses (*d*), (*e*) and (*g*) of sub-section (*1*) shall not take effect—

(*i*) for thirty days from the date of conviction or order of disqualification;

(*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

(*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.

Number of directorships.

165. (*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:

Provided that the maximum number of public companies in which a person can be appointed as a director shall not exceed ten.

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 public company shall be included.

(*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.

(*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,—

(*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;

(*b*) resign his office as director in the other remaining companies; and

(*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.

(*4*) Any resignation made in pursuance of clause (*b*) of sub-section (*3*) shall become effective immediately on the despatch thereof to the company concerned.

(*5*) No such person shall act as director in more than the specified number of companies,—

(*a*) after despatching the resignation of his office as director or non-executive director thereof, in pursuance of clause (*b*) of sub-section (*3*); or

(*b*) after the expiry of one year from the commencement of this Act,

whichever is earlier.

(*6*) If a person accepts an appointment as a director in contravention of sub-section (*1*), he shall be punishable with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees for every day after the first during which the contravention continues.

Duties of directors.

166. (*1*) Subject to the provisions of this Act, a director of a company shall act in accordance with the articles of the company.

(*2*) A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.

(*3*) A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.

(*4*) A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.

(*5*) A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.

(*6*) A director of a company shall not assign his office and any assignment so made shall be void.

(*7*) If a director of the company contravenes the provisions of this section such director shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Vacation of office of director.

167. (*1*) The office of a director shall become vacant in case—

(*a*) he incurs any of the disqualifications specified in section 164;

(*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;

(*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;

(*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;

(*e*) he becomes disqualified by an order of a court or the Tribunal;

(*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:

Provided that the office shall be vacated by the director even if he has filed an appeal against the order of such court;

(*g*) he is removed in pursuance of the provisions of this Act;

(*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.

(*2*) If a person, functions as a director even when he knows that the office of director held by him has become vacant on account of any of the disqualifications specified in sub-section (*1*), he shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

(*3*) Where all the directors of a company vacate their offices under any of the disqualifications specified in sub-section (*1*), the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in the general meeting.

(*4*) A private company may, by its articles, provide any other ground for the vacation of the office of a director in addition to those specified in sub-section (*1*).

Resignation of director.

168. (*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:

Provided that a director shall also forward 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.

(*2*) The resignation of a director shall take effect from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later:

Provided that the director who has resigned shall be liable even after his resignation for the offences which occurred during his tenure.

(*3*) Where all the directors of a company resign from their offices, or vacate their offices under section 167, the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in general meeting.

Removal of directors.

169. (*1*) A company may, by ordinary resolution, remove a director, not being a director appointed by the Tribunal under section 242, before the expiry of the period of his office after giving him a reasonable opportunity of being heard:

Provided that nothing contained in this sub-section shall apply where the company has availed itself of the option given to it under section 163 to appoint not less than two-thirds of the total number of directors according to the principle of proportional representation.

(*2*) A special notice shall be required of any resolution, to remove a director under this section, or to appoint somebody in place of a director so removed, at the meeting at which he is removed.

(*3*) On receipt of notice of a resolution to remove a director under this section, the company shall forthwith send a copy thereof to the director concerned, and the director, whether or not he is a member of the company, shall be entitled to be heard on the resolution at the meeting.

(*4*) Where notice has been given of a resolution to remove a director under this section and the director concerned makes with respect thereto representation in writing to the company and requests its notification to members of the company, the company shall, if the time permits it to do so,—

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

(*b*) send a copy of the representation to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representation by the company),

and if a copy of the representation is not sent as aforesaid due to insufficient time or for the company's default, the director may without prejudice to his right to be heard orally require that the representation shall be read out at the meeting:

Provided that copy of the representation need not be sent out and the representation need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the Tribunal is satisfied that the rights conferred by this sub-section are being abused to secure needless publicity for defamatory matter; and the Tribunal may order the company's costs on the application to be paid in whole or in part by the director notwithstanding that he is not a party to it.

(*5*) A vacancy created by the removal of a director under this section may, if he had been appointed by the company in general meeting or by the Board, be filled by the appointment of another director in his place at the meeting at which he is removed, provided special notice of the intended appointment has been given under sub-section (*2*).

(*6*) A director so appointed shall hold office till the date up to which his predecessor would have held office if he had not been removed.

(*7*) If the vacancy is not filled under sub-section (*5*), it may be filled as a casual vacancy in accordance with the provisions of this Act:

Provided that the director who was removed from office shall not be re-appointed as a director by the Board of Directors.

(*8*) Nothing in this section shall be taken—

(*a*) as depriving a person removed under this section of any compensation or damages payable to him in respect of the termination of his appointment as director as per the terms of contract or terms of his appointment as director, or of any other appointment terminating with that as director; or

(*b*) as derogating from any power to remove a director under other provisions of this Act.

Register of directors and key managerial personnel and their shareholding.

170. (*1*) Every company shall keep at its registered office a register containing such particulars of its directors and key managerial personnel as may be prescribed, which shall include the details of securities held by each of them in the company or its holding, subsidiary, subsidiary of company's holding company or associate companies.

(*2*) A return containing such particulars and documents as may be prescribed, of the directors and the key managerial personnel shall be filed with the Registrar within thirty days from the appointment of every director and key managerial personnel, as the case may be, and within thirty days of any change taking place.

Members' right to inspect.

171. (*1*) The register kept under sub-section (*1*) of section 170,—

(*a*) shall be open for inspection during business hours and the members shall have a right to take extracts therefrom and copies thereof, on a request by the members, be provided to them free of cost within thirty days; and

(*b*) shall also be kept open for inspection at every annual general meeting of the company and shall be made accessible to any person attending the meeting.

(*2*) If any inspection as provided in clause (*a*) of sub-section (*1*) is refused, or if any copy required under that clause is not sent within thirty days from the date of receipt of such request, the Registrar shall on an application made to him order immediate inspection and supply of copies required thereunder.

Punishment.

172. If a company contravenes any of the provisions of this Chapter and for which no specific punishment is 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 fifty thousand rupees but which may extend to five lakh rupees.

CHAPTER XII

MEETINGS OF BOARD AND ITS POWERS

Meetings of Board.

173. (*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 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 sub-section 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.

(*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:

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.

(*3*) A meeting of the Board shall be called by giving 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:

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:

Provided further that in case of absence of independent directors from such a meeting of the Board, decisions taken at such a meeting shall be circulated to all the directors and shall be final only on ratification thereof by at least one independent director, if any.

(*4*) Every officer of the company whose duty is to give notice under this section and who fails to do so shall be liable to a penalty of twenty-five thousand rupees.

(*5*) A One Person Company, small company and dormant company shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days:

Provided that nothing contained in this sub-section and in section 174 shall apply to One Person Company in which there is only one director on its Board of Directors.

Quorum for meetings of Board.

174. (*1*) The quorum for a meeting of the Board of Directors of a company shall be one-third of its total strength or two directors, whichever is higher, and the participation of the directors by video conferencing or by other audio visual means shall also be counted for the purposes of quorum under this sub-section.

(*2*) The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company and for no other purpose.

(*3*) Where at any time the number of interested directors exceeds or is equal to two-thirds of the total strength of the Board of Directors, the number of directors who are not interested directors and present at the meeting, being not less than two, shall be the quorum during such time.

Explanation.—For the purposes of this sub-section, "interested director" means a director within the meaning of sub-section (*2*) of section 184.

(*4*) Where a meeting of the Board could not be held for want of quorum, then, unless the articles of the company otherwise provide, the meeting shall automatically stand adjourned to the same day at the same time and place in the next week or if that day is a national holiday, till the next succeeding day, which is not a national holiday, at the same time and place.

Explanation.—For the purposes of this section,—

(*i*) any fraction of a number shall be rounded off as one;

(*ii*) "total strength" shall not include directors whose places are vacant.

Passing of resolution by circulation.

175. (*1*) No resolution shall be deemed to have been duly passed by the Board or by a committee thereof by circulation, unless the resolution has been circulated in draft, together with the necessary papers, if any, to all the directors, or members of the committee, as the case may be, at their addresses registered with the company in India by hand delivery or by post or by courier, or through such electronic means as may be prescribed and has been approved by a majority of the directors or members, who are entitled to vote on the resolution:

Provided that, where not less than one-third of the total number of directors of the company for the time being require that any resolution under circulation must be decided at a meeting, the chairperson shall put the resolution to be decided at a meeting of the Board.

(*2*) A resolution under sub-section (*1*) shall be noted at a subsequent meeting of the Board or the committee thereof, as the case may be, and made part of the minutes of such meeting.

Defects in appointment of directors not to invalidate actions taken.

176. No act done by a person as a director shall be deemed to be invalid, notwithstanding that it was subsequently noticed that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in this Act or in the articles of the company:

Provided that nothing in this section shall be deemed to give validity to any act done by the director after his appointment has been noticed by the company to be invalid or to have terminated.

Audit Committee.

177. (*1*) The Board of Directors of every listed company and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.

(*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.

(*3*) Every Audit Committee of a company existing immediately before the commencement of this Act shall, within one year of such commencement, be reconstituted in accordance with sub-section (*2*).

(*4*) Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, *inter alia,* include,—

(*i*) the recommendation for appointment, remuneration and terms of appointment of auditors of the company;

(*ii*) review and monitor the auditor's independence and performance, and effectiveness of audit process;

(*iii*) examination of the financial statement and the auditors' report thereon;

(*iv*) approval or any subsequent modification of transactions of the company with related parties;

(*v*) scrutiny of inter-corporate loans and investments;

(*vi*) valuation of undertakings or assets of the company, wherever it is necessary;

(*vii*) evaluation of internal financial controls and risk 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 discuss any related issues with the internal and statutory auditors and the management of the company.

(*6*) The Audit Committee shall have authority to investigate into any matter in relation to the items specified in sub-section (*4*) or referred to it by the Board and for this purpose shall have power to obtain professional advice from external sources and have full access to information contained in the records of the company.

(*7*) The auditors of a company and the key managerial personnel shall have a right to be heard in the meetings of the Audit Committee when it considers the auditor's report but shall not have the right to vote.

(*8*) The Board's report under sub-section (*3*) of section 134 shall disclose the composition of an Audit Committee and where the Board had not accepted any recommendation of the Audit Committee, the same shall be disclosed in such report along with the reasons therefor.

(*9*) Every listed company or such class or classes of companies, as may be prescribed, shall establish a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed.

(*10*) The vigil mechanism under sub-section (*9*) shall provide for adequate safeguards against victimisation of persons who use such mechanism and make provision for direct access to the chairperson of the Audit Committee in appropriate or exceptional cases:

Provided that the details of establishment of such mechanism shall be disclosed by the company on its website, if any, and in the Board's report.

Nomination and Remuneration Committee and Stakeholders Relationship Committee.

178. (*1*) The Board of Directors of every listed company 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 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 shall carry out evaluation of every director's performance.

(*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.

(*4*) The Nomination and Remuneration Committee shall, while formulating the policy under sub-section (*3*) ensure that—

(*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;

(*b*) relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and

(*c*) remuneration to directors, key managerial personnel and senior 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:

Provided that such policy shall be disclosed in the Board's report.

(*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.

(*6*) The Stakeholders Relationship Committee shall consider and resolve the grievances of security holders of the company.

(*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.

(*8*) In case of any contravention of the provisions of section 177 and 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 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:

Provided that non-consideration of resolution of any grievance by the Stakeholders Relationship Committee in good faith shall not constitute a contravention of this section.

Explanation.—The expression "senior management" means personnel of the company who are members of its core management team excluding Board of Directors comprising all members of management one level below the executive directors, including the functional heads.

Powers of Board.

179. (*1*) The Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorised to exercise and do:

Provided that in exercising such power or doing such act or thing, the Board shall be subject to the provisions contained in that behalf in this Act, or in the memorandum or articles, or in any regulations not inconsistent therewith and duly made thereunder, including regulations made by the company in general meeting:

Provided further that the Board shall not exercise any power or do any act or thing which is directed or required, whether under this Act or by the memorandum or articles of the company or otherwise, to be exercised or done by the company in general meeting.

(*2*) No regulation made by the company in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made.

(*3*) The Board of Directors of a company shall exercise the following powers on behalf of the company by means of resolutions passed at meetings of the Board, namely:—

(*a*) to make calls on shareholders in respect of money unpaid on their shares;

(*b*) to authorise buy-back of securities under section 68;

(*c*) to issue securities, including debentures, whether in or outside India;

(*d*) to borrow monies;

(*e*) to invest the funds of the company;

(*f*) to grant loans or give guarantee or provide security in respect of loans;

(*g*) to approve financial statement and the Board's report;

(*h*) to diversify the business of the company;

(*i*) to approve amalgamation, merger or reconstruction;

(*j*) to take over a company or acquire a controlling or substantial stake in another company;

(*k*) any other matter which may be prescribed:

Provided that the Board may, by a resolution passed at a meeting, delegate to any committee of directors, the managing director, the manager or any other principal officer of the company or in the case of a branch office of the company, the principal officer of the branch office, the powers specified in clauses (*d*) to (*f*) on such conditions as it may specify:

Provided further 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 withdrawable by cheque, draft, order or otherwise, or the placing of monies on deposit by a banking company with another banking company on such conditions as the Board may prescribe, shall not be deemed to be a borrowing of monies or, as the case may be, a making of loans by a banking company within the meaning of this section.

Explanation I.—Nothing in clause (*d*) shall apply to borrowings by a banking company from other banking companies or from the Reserve Bank of India, the State Bank of India or any other banks established by or under any Act.

Explanation II.—In respect of dealings between a company and its bankers, the exercise by the company of the power specified in clause (*d*) shall mean the arrangement made by the company with its bankers for the borrowing of money by way of overdraft or cash credit or otherwise and not the actual day-to-day operation on overdraft, cash credit or other accounts by means of which the arrangement so made is actually availed of.

(*4*) Nothing in this section shall be deemed to affect the right of the company in general meeting to impose restrictions and conditions on the exercise by the Board of any of the powers specified in this section.

Restrictions on powers of Board.

180. (*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:—

(*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.

Explanation.—For the purposes of this clause,—

(*i*) "undertaking" shall mean an undertaking in 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;

(*ii*) the expression "substantially the whole of the undertaking" 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;

(*b*) to invest otherwise in trust securities the amount of compensation received by it as a result of any merger or amalgamation;

(*c*) to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital and free reserves, apart from temporary loans obtained from the company's bankers in the ordinary course of business:

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 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.

Explanation.—For the purposes of this clause, the expression "temporary loans" 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;

(*d*) to remit, or give time for the repayment of, any debt due from a director.

(*2*) Every special resolution passed by the company in general meeting in relation to the exercise of the powers referred to in clause (*c*) of sub-section (*1*) shall specify the total amount up to which monies may be borrowed by the Board of Directors.

(*3*) Nothing contained in clause (*a*) of sub-section (*1*) shall affect—

(*a*) the title of a buyer or other person who buys or takes on lease any property, investment or undertaking as is referred to in that clause, in good faith; or

(*b*) the sale or lease of any property of the company where the ordinary business of the company consists of, or comprises, such selling or leasing.

(*4*) Any special resolution passed by the company consenting to the transaction as is referred to in clause (*a*) of sub-section (*1*) may stipulate such conditions as may be specified in such resolution, including conditions regarding the use, disposal or investment of the sale proceeds which may result from the transactions:

Provided that this sub-section shall not be deemed to authorise the company to effect any reduction in its capital except in accordance with the provisions contained in this Act.

(*5*) No debt incurred by the company in excess of the limit imposed by clause (*c*) of sub-section (*1*) shall be valid or effectual, unless the lender proves that he advanced the loan in good faith and without knowledge that the limit imposed by that clause had been exceeded.

Company to contribute to *bona fide* and charitable funds, etc.

181. The Board of Directors of a company may contribute to *bona fide* charitable and other funds:

Provided that prior permission of the company in general meeting shall be required for such contribution in case any amount the aggregate of which, in any financial year, exceed five per cent. of its average net profits for the three immediately preceding financial years.

Prohibitions and restrictions regarding political contributions.

182. (*1*) Notwithstanding anything contained in any other provision of this Act, a company, other than a Government company and a company which has been in existence for less than three financial years, may contribute any amount directly or indirectly to any political party:

Provided that the amount referred to in sub-section (*1*) or, as the case may be, the aggregate of the amount which may be so contributed by the company in any financial year shall not exceed seven and a half per cent. of its average net profits during the three immediately preceding financial years:

Provided further that no such contribution shall be made by a company unless a resolution authorising the making of such contribution is passed at a meeting of the Board of Directors and such resolution shall, subject to the other provisions of this section, be deemed to be justification in law for the making and the acceptance of the contribution authorised by it.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*),—

(*a*) a donation or subscription or payment caused to be given by a company on its behalf or on its account to a person who, to its knowledge, is carrying on any activity which, at the time at which such donation or subscription or payment was given or made, can reasonably be regarded as likely to affect public support for a

political party shall also be deemed to be contribution of the amount of such donation, subscription or payment to such person for a political purpose;

(*b*) the amount of expenditure incurred, directly or indirectly, by a company on an advertisement in any publication, being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like, shall also be deemed,—

(*i*) where such publication is by or on behalf of a political party, to be a contribution of such amount to such political party, and

(*ii*) where such publication is not by or on behalf of, but for the advantage of a political party, to be a contribution for a political purpose.

(*3*) Every company shall disclose in its profit and loss account any amount or amounts contributed by it to any political party during the financial year to which that account relates, giving particulars of the total amount contributed and the name of the party to which such amount has been contributed.

(*4*) If a company makes any contribution in contravention of the provisions of this section, the company shall be punishable with fine which may extend to five times the amount so contributed and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to five times the amount so contributed.

Explanation.—For the purposes of this section, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951.

43 of 1951.

Power of Board and other persons to make contributions to national defence fund, etc.

183. (*1*) The Board of Directors of any company or any person or authority exercising the powers of the Board of Directors of a company, or of the company in general meeting, may, notwithstanding anything contained in sections 180, 181 and section 182 or any other provision of this Act or in the memorandum, articles or any other instrument relating to the company, contribute such amount as it thinks fit to the National Defence Fund or any other Fund approved by the Central Government for the purpose of national defence.

(*2*) Every company shall disclose in its profits and loss account the total amount or amounts contributed by it to the Fund referred to in sub-section (*1*) during the financial year to which the amount relates.

Disclosure of interest by director.

184. (*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 individuals which shall include the shareholding, in such manner as may be prescribed.

(*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—

(*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

(*b*) with a firm or other entity in which, such director is a partner, owner or member, as the case may be,

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:

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 forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested.

(*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.

(*4*) If a director of the company contravenes the provisions of sub-section (*1*) or sub-section (*2*), such director shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees, or with both.

(*5*) Nothing in this section—

(*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;

(*b*) shall apply to any contract or arrangement entered into or to be entered into between two companies where 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.

Loan to directors, etc.

185. (*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 sub-section shall apply to—

(*a*) the giving of any loan to a managing or whole-time director—

(*i*) as a part of the conditions of service extended by the company to all its employees; or

(*ii*) pursuant to any scheme approved by the members by a special resolution; or

(*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 bank rate declared by the Reserve Bank of India.

Explanation.—For the purposes of this section, the expression "to any other person in whom director is interested" means—

(*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;

(*b*) any firm in which any such director or relative is a partner;

(*c*) any private company of which any such director is a director or member;

(*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

(*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.

(*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 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.

Loan and investment by company.

186. (*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,—

(*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;

(*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.

(*2*) No company shall directly or indirectly —

(*a*) give any loan to any person or other body corporate;

(*b*) give any guarantee or provide security in connection with a loan to any other body corporate or person; and

(*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.

(*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.

(*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 security.

(*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:

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.

(*6*) No company, which is registered under section 12 of the Securities and Exchange Board of India Act, 1992 and covered under such class or classes of companies 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. 15 of 1992.

(*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.

(*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.

(*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.

(*10*) The register referred to in sub-section (*9*) shall be kept at the registered office of the company and —

(*a*) shall be open to inspection at such office; and

(*b*) extracts may be taken 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.

(*11*) Nothing contained in this section, except sub-section (*1*), shall apply—

(*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*) to any acquisition—

(*i*) made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 and whose principal business is acquisition of securities:

2 of 1934.

Provided that exemption to non-banking financial company shall be in respect of its investment and lending activities;

(*ii*) made by a company whose principal business is the acquisition of securities;

(*iii*) of shares allotted in pursuance of clause (*a*) of sub-section (*1*) of section 62.

(*12*) The Central Government may make rules for the purposes of this section.

(*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.

Explanation.—For the purposes of this section,—

(*a*) the expression "investment company" means a company whose principal business is the acquisition of shares, debentures or other securities;

(*b*) the expression "infrastructure facilities" means the facilities specified in Schedule VI.

Investments of company to be held in its own name.

187. (*1*) All investments made or held by a company in any property, security or other asset shall be made and held by it in its own name:

Provided that the company may hold any shares in its subsidiary company in the name of any nominee or nominees of the company, if it is necessary to do so, to ensure that the number of members of the subsidiary company is not reduced below the statutory limit.

(*2*) Nothing in this section shall be deemed to prevent a company—

(*a*) from depositing with a bank, being the bankers of the company, any shares or securities for the collection of any dividend or interest payable thereon; or

(*b*) from depositing with, or transferring to, or holding in the name of, the State Bank of India or a scheduled bank, being the bankers of the company, shares or securities, in order to facilitate the transfer thereof:

Provided that if within a period of six months from the date on which the shares or securities are transferred by the company to, or are first held by the company in the name of, the State Bank of India or a scheduled bank as aforesaid, no transfer of such shares or securities takes place, the company shall, as soon as practicable after the expiry of that period, have the shares or securities re-transferred to it from the State Bank of India or the scheduled bank or, as the case may be, again hold the shares or securities in its own name; or

(*c*) from depositing with, or transferring to, any person any shares or securities, by way of security for the repayment of any loan advanced to the company or the performance of any obligation undertaken by it;

(*d*) from holding investments in the name of a depository when such investments are in the form of securities held by the company as a beneficial owner.

(*3*) Where in pursuance of clause (*d*) of sub-section (*2*), any shares or securities in which investments have been made by a company are not held by it in its own name, the company shall maintain a register which shall contain such particulars as may be prescribed and such register shall be open to inspection by any member or debenture-holder of the company without any charge during business hours subject to such reasonable restrictions as the company may by its articles or in general meeting impose.

(*4*) 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 twenty-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 six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

Related party transactions.

188. (*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 arrangement with a related party with respect to—

(*a*) sale, purchase or supply of any goods or materials;

(*b*) selling or otherwise disposing of, or buying, property of any kind;

(*c*) leasing of property of any kind;

(*d*) availing or rendering of any services;

(*e*) appointment of any agent for purchase or sale of goods, materials, services or property;

(*f*) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and

(*g*) underwriting the subscription of any securities or derivatives thereof, of the company:

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 not exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a special resolution:

Provided further that no member of the company shall vote on such special resolution, to approve any contract or arrangement which may be entered into by the 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.

Explanation.— In this sub-section,—

(*a*) the expression "office or place of profit" 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 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;

(b) the expression "arm's length transaction" means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

(*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.

(*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 special 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 was entered into, such contract or arrangement shall be voidable at the option of the Board 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.

(*4*) Without prejudice to anything contained in sub-section (*3*), it shall be open to the company to proceed against a director or any other employee who had entered into such contract or arrangement in contravention of the provisions of this section for recovery of any loss sustained by it as a result of such contract or arrangement.

(*5*) Any director or any other employee of a company, who had entered into or authorised the contract or arrangement in violation of the provisions of this section shall,—

(*i*) in case of listed company, 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 five lakh rupees, or with both; and

(*ii*) in case of any other company, be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

Register of contracts or arrangements in which directors are interested.

189. (*1*) Every company shall keep one or more registers giving separately the particulars of all contracts or arrangements to which sub-section (*2*) of section 184 or section 188 applies, in such manner and containing such particulars as may be prescribed and after entering the particulars, such register or registers shall be placed before the next meeting of the Board and signed by all the directors present at the meeting.

(*2*) Every director or key managerial personnel shall, within a period of thirty days of his appointment, or relinquishment of his office, as the case may be, disclose to the company the particulars specified in sub-section (*1*) of section 184 relating to his concern or interest in the other associations which are required to be included in the register under that sub-section or such other information relating to himself as may be prescribed.

(*3*) The register referred to in sub-section (*1*) shall be kept at the registered office of the company and it shall be open for inspection at such office during business hours and extracts may be taken therefrom, and copies thereof as may be required by any member of the company shall be furnished by the company to such extent, in such manner, and on payment of such fees as may be prescribed.

(*4*) The register to be kept under this section shall also be produced at the commencement of every annual general meeting of the company and shall remain open and accessible during the continuance of the meeting to any person having the right to attend the meeting.

(*5*) Nothing contained in sub-section (*1*) shall apply to any contract or arrangement—

(*a*) for the sale, purchase or supply of any goods, materials or services if the value of such goods and materials or the cost of such services does not exceed five lakh rupees in the aggregate in any year; or

(*b*) by a banking company for the collection of bills in the ordinary course of its business.

(*6*) Every director who fails to comply with the provisions of this section and the rules made thereunder shall be liable to a penalty of twenty-five thousand rupees.

Contract of employment with managing or whole-time directors.

190. (*1*) Every company shall keep at its registered office,—

(*a*) where a contract of service with a managing or whole-time director is in writing, a copy of the contract; or

(*b*) where such a contract is not in writing, a written memorandum setting out its terms.

(*2*) The copies of the contract or the memorandum kept under sub-section (*1*) shall be open to inspection by any member of the company without payment of fee.

(*3*) If any default is made in complying with the provisions of sub-section (*1*) or sub-section (*2*), 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 for each default.

(*4*) The provisions of this section shall not apply to a private company.

Payment to director for loss of office, etc., in connection with transfer of undertaking, property or shares.

191. (*1*) No director of a company shall, in connection with—

(*a*) the transfer of the whole or any part of any undertaking or property of the company; or

(*b*) the transfer to any person of all or any of the shares in a company being a transfer resulting from—

(*i*) an offer made to the general body of shareholders;

(*ii*) an offer made by or on behalf of some other body corporate with a view to a company becoming a subsidiary company of such body corporate or a subsidiary company of its holding company;

(*iii*) an offer made by or on behalf of an individual with a view to his obtaining the right to exercise, or control the exercise of, not less than one-third of the total voting power at any general meeting of the company; or

(*iv*) any other offer which is conditional on acceptance to a given extent, receive any payment by way of compensation for loss of office or as consideration for retirement from office, or in connection with such loss or retirement from such company or from the transferee of such undertaking or property, or from the transferees of shares or from any other person, not being such company, unless particulars as may be prescribed with respect to the payment proposed to be made by such transferee or person, including the amount thereof, have been disclosed to the members of the company and the proposal has been approved by the company in general meeting.

(*2*) Nothing in sub-section (*1*) shall affect any payment made by a company to a managing director or whole-time director or manager of the company by way of compensation for loss of office or as consideration for retirement from office or in connection with such loss or retirement subject to limits or priorities, as may be prescribed.

(*3*) If the payment under sub-section (*1*) or sub-section (*2*) is not approved for want of quorum either in a meeting or an adjourned meeting, the proposal shall not be deemed to have been approved.

(*4*) Where a director of a company receives payment of any amount in contravention of sub-section (*1*) or the proposed payment is made before it is approved in the meeting, the amount so received by the director shall be deemed to have been received by him in trust for the company.

(*5*) If a director of the company contravenes the provisions of this section, such director shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(*6*) Nothing in this section shall be taken to prejudice the operation of any law requiring disclosure to be made with respect to any payment received under this section or such other like payments made to a director.

Restriction on non-cash transactions involving directors.

192. (*1*) No company shall enter into an arrangement by which—

(*a*) a director of the company or its holding, subsidiary or associate company or a person connected with him acquires or is to acquire assets for consideration other than cash, from the company; or

(*b*) the company acquires or is to acquire assets for consideration other than cash, from such director or person so connected,

unless prior approval for such arrangement is accorded by a resolution of the company in general meeting and if the director or connected person is a director of its holding company, approval under this sub-section shall also be required to be obtained by passing a resolution in general meeting of the holding company.

(*2*) The notice for approval of the resolution by the company or holding company in general meeting under sub-section (*1*) shall include the particulars of the arrangement along with the value of the assets involved in such arrangement duly calculated by a registered valuer.

(*3*) Any arrangement entered into by a company or its holding company in contravention of the provisions of this section shall be voidable at the instance of the company unless—

(*a*) the restitution of any money or other consideration which is the subject-matter of the arrangement is no longer possible and the company has been indemnified by any other person for any loss or damage caused to it; or

(*b*) any rights are acquired *bona fide* for value and without notice of the contravention of the provisions of this section by any other person.

Contract by One Person Company.

193. (*1*) Where One Person Company limited by shares or by guarantee enters into a contract with the sole member of the company who is also the director of the company, the company shall, unless the contract is in writing, ensure that the terms of the contract or offer are contained in a memorandum or are recorded in the minutes of the first meeting of the Board of Directors of the company held next after entering into contract:

Provided that nothing in this sub-section shall apply to contracts entered into by the company in the ordinary course of its business.

(*2*) The company shall inform the Registrar about every contract entered into by the company and recorded in the minutes of the meeting of its Board of Directors under sub-section (*1*) within a period of fifteen days of the date of approval by the Board of Directors.

Prohibition on forward dealings in securities of company by director or key managerial personnel.

194. (*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—

(*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*) 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.

(*2*) If a director or any key managerial personnel of the 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.

(*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.

Explanation.—For the purposes of this section, "relevant shares" and "relevant debentures" mean shares and debentures of the company in which the concerned person is a whole-time director or other key managerial personnel or shares and debentures of its holding and subsidiary companies.

Prohibition on insider trading of securities.

195. (*1*) No person including any director or key managerial personnel of a company shall enter into insider trading:

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.

Explanation.—For the purposes of this section,—

(*a*) "insider trading" means—

(*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

(*ii*) an act of counselling about procuring or communicating directly or indirectly any non-public price-sensitive information to any person;

(*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.

(*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.

CHAPTER XIII

APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL

Appointment of managing director, whole-time director or manager.

196. (*1*) No company shall appoint or employ at the same time a managing director and a manager.

(*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 at a time:

Provided that no re-appointment shall be made earlier than one year before the expiry of his term.

(*3*) No company shall appoint or continue the employment of any person as managing director, whole-time director or manager who —

(*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;

(*b*) is an undischarged insolvent or has at any time been adjudged as an insolvent;

(*c*) has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them; or

(*d*) has at any time been convicted by a court of an offence and sentenced for a period of more than six months.

(*4*) Subject to the provisions of section 197 and Schedule V, a managing director, whole-time director or manager 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 specified in that Schedule:

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:

Provided further that a return in the prescribed form shall be filed within sixty days of such appointment with the Registrar.

(*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.

Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits.

197. (*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, with the approval of the Central Government, authorise the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V:

Provided further that, except with the approval of the company in general meeting,—

(*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 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;

(*ii*) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,—

(*A*) one per cent. of the net profits of the company, if there is a managing or whole-time director or manager;

(*B*) three per cent. of the net profits in any other case.

(*2*) The percentages aforesaid shall be exclusive of any fees payable to directors under sub-section (*5*).

(*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 provisions, with the previous approval of the Central Government.

(*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—

(*a*) the services rendered are of a professional nature; and

(*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.

(*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.

(*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.

(*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.

(*8*) The net profits for the purposes of this section shall be computed in the manner referred to in section 198.

(*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.

(*10*) The company shall not waive the recovery of any sum refundable to it under sub-section (*9*) unless permitted by the Central Government.

(*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 conditions specified in that Schedule and if such conditions are not being complied, the approval of the Central Government had been obtained.

(*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.

(*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.

(*14*) Subject to the provisions of this section, any director who is in receipt of any commission 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.

(*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.

Calculation of profits.

198. (*1*) In computing the net profits of a company in any financial year for the purpose of section 197,—

(*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

(*b*) the sums specified in sub-section (*4*) shall be deducted, and those specified in sub-section (*5*) shall not be deducted.

(*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, by any Government, unless and except in so far as the Central Government otherwise directs.

(*3*) In making the computation aforesaid, credit shall not be given for the following sums, namely:—

(*a*) profits, by way of premium on shares or debentures of the company, which are issued or sold by the company;

(*b*) profits on sales by the company of forfeited shares;

(*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;

(*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:

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 between the original cost of that fixed asset and its written-down value;

(*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.

(*4*) In making the computation aforesaid, the following sums shall be deducted, namely:—

(*a*) all the usual working charges;

(*b*) directors' remuneration;

(*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;

(*d*) any tax notified by the Central Government as being in the nature of a tax on excess or abnormal profits;

(*e*) any tax on business profits imposed for special reasons or in special circumstances and notified by the Central Government in this behalf;

(*f*) interest on debentures issued by the company;

(*g*) interest on mortgages executed by the company and on loans and advances secured by a charge on its fixed or floating assets;

(*h*) interest on unsecured loans and advances;

(*i*) expenses on repairs, whether to immovable or to movable property, provided the repairs are not of a capital nature;

(*j*) outgoings inclusive of contributions made under section 181;

(*k*) depreciation to the extent specified in section 123;

(*l*) the excess of expenditure over income, which had arisen in computing the net profits in accordance with this section in any year which begins at or after the commencement of this Act, 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;

(*m*) any compensation or damages to be paid in virtue of any legal liability including a liability arising from a breach of contract;

(*n*) any sum paid by way of insurance against the risk of meeting any liability such as is referred to in clause (*m*);

(*o*) debts considered bad and written off or adjusted during the year of account.

(*5*) In making the computation aforesaid, the following sums shall not be deducted, namely:—

43 of 1961.

(*a*) income-tax and super-tax payable by the company under the Income-tax Act, 1961, or any other tax on the income of the company not falling under clauses (*d*) and (*e*) of sub-section (*4*);

(*b*) any compensation, damages or payments made voluntarily, that is to say, otherwise than in virtue of a liability such as is referred to in clause (*m*) of sub-section (*4*);

(*c*) loss of a capital nature including loss on sale of the undertaking or any of the undertakings of the company or of any part thereof not including any excess of the written-down value of any asset which is sold, discarded, demolished or destroyed over its sale proceeds or its scrap value;

(*d*) 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.

Recovery of remuneration in certain cases.

199. Without prejudice to any liability incurred under the provisions of this Act or any other law for the time being in force, where a company is required to re-state its financial statements due to fraud or non-compliance with any requirement under this Act and the rules made thereunder, the company shall recover from any past or present managing director or whole-time director or manager or Chief Executive Officer (by whatever name called) who, during the period for which the financial statements are required to be re-stated, received the remuneration (including stock option) in excess of what would have been payable to him as per restatement of financial statements.

Central Government or company to fix limit with regard to remuneration.

200. Notwithstanding anything contained in this Chapter, the Central Government 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 Central Government or the company shall have regard to—

(*a*) the financial position of the company;

(*b*) the remuneration or commission drawn by the individual concerned in any other capacity;

(*c*) the remuneration or commission drawn by him from any other company;

(*d*) professional qualifications and experience of the individual concerned;

(*e*) such other matters as may be prescribed.

Forms of, and procedure in relation to, certain applications.

201. (*1*) Every application made to the Central Government under this Chapter shall be in such form as may be prescribed.

(*2*) (*a*) Before any application is made by a company to the Central Government under any of the sections aforesaid, 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.

(*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.

(*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.

Compensation for loss of office of managing or whole-time director or manager.

202. (*1*) A company may make payment to a managing or whole-time director or manager, but not to any other director, by way of compensation for loss of office, or as consideration for retirement from office or in connection with such loss or retirement.

(*2*) No payment shall be made under sub-section (*1*) in the following cases, namely:—

(*a*) where the director resigns from his office as a result of the reconstruction of the company, or of its amalgamation with any other body corporate or bodies corporate,

and is appointed as the managing or whole-time director, manager or other officer of the reconstructed company or of the body corporate resulting from the amalgamation;

(*b*) where the director resigns from his office otherwise than on the reconstruction of the company or its amalgamation as aforesaid;

(*c*) where the office of the director is vacated under sub-section (*1*) of section 167;

(*d*) where the company is being wound up, whether by an order of the Tribunal or voluntarily, provided the winding up was due to the negligence or default of the director;

(*e*) where the director has been guilty of fraud or breach of trust in relation to, or of gross negligence in or gross mismanagement of, the conduct of the affairs of the company or any subsidiary company or holding company thereof; and

(*f*) where the director has instigated, or has taken part directly or indirectly in bringing about, the termination of his office.

(*3*) Any payment made to a managing or whole-time director or manager in pursuance of sub-section (*1*) shall not exceed the remuneration which he would have earned if he had been in office for the remainder of his term or for three years, whichever is shorter, calculated on the basis of the average remuneration actually earned by him during a period of three years immediately preceding the date on which he ceased to hold office, or where he held the office for a lesser period than three years, during such period:

Provided that no such payment shall be made to the director in the event of the commencement of the winding up of the company, whether before or at any time within twelve months after, the date on which he ceased to hold office, if the assets of the company on the winding up, after deducting the expenses thereof, are not sufficient to repay to the shareholders the share capital, including the premiums, if any, contributed by them.

(*4*) Nothing in this section shall be deemed to prohibit the payment to a managing or whole-time director, or manager, of any remuneration for services rendered by him to the company in any other capacity.

Appointment of key managerial personnel.

203. (*1*) Every company belonging to such class or classes of companies as may be prescribed shall have the following whole-time key managerial personnel,—

(*i*) managing director, or Chief Executive Officer or manager and in their absence, a whole-time director;

(*ii*) company secretary; and

(*iii*) Chief Financial Officer :

Provided that an individual shall not be appointed or reappointed as the chairperson of the company, in pursuance of the articles of the company, as well as the managing director or Chief Executive Officer of the company at the same time after the date of commencement of this Act unless,—

(*a*) the articles of such a company provide otherwise; or

(*b*) the company does not carry multiple businesses:

Provided further that nothing contained in the first proviso shall apply to such class of companies engaged in multiple businesses and which has appointed one or more Chief Executive Officers for each such business as may be notified by the Central Government.

(*2*) Every whole-time key managerial personnel of a company shall be appointed by means of a resolution of the Board containing the terms and conditions of the appointment including the remuneration.

(*3*) A whole-time key managerial personnel shall not hold office in more than one company except in its subsidiary company at the same time:

Provided that nothing contained in this sub-section shall disentitle a key managerial personnel from being a director of any company with the permission of the Board:

Provided further that whole-time key managerial personnel holding office in more than one company at the same time on the date of commencement of this Act, shall, within a period of six months from such commencement, choose one company, in which he wishes to continue to hold the office of key managerial personnel:

Provided also that a company may appoint or employ a person as its managing director, if he is the managing director or manager of one, and of not more than one, other company and such appointment or employment is made or approved by a resolution passed at a meeting of the Board with the consent of all the directors present at the meeting and of which meeting, and of the resolution to be moved thereat, specific notice has been given to all the directors then in India.

(*4*) If the office of any whole-time key managerial personnel is vacated, the resulting vacancy shall be filled-up by the Board at a meeting of the Board within a period of six months from the date of such vacancy.

(*5*) If 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 director and key managerial personnel of the company who is in default shall be punishable with fine which may extend to fifty thousand rupees and where the contravention is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.

Secretarial audit for bigger companies.

204. (*1*) Every listed company and a company belonging to other class of companies as may be prescribed shall annex with its Board's report made in terms of sub-section (*3*) of section 134, a secretarial audit report, given by a company secretary in practice, in such form as may be prescribed.

(*2*) It shall be the duty of the company to give all assistance and facilities to the company secretary in practice, for auditing the secretarial and related records of the company.

(*3*) The Board of Directors, in their report made in terms of sub-section (*3*) of section 134, shall explain in full any qualification or observation or other remarks made by the company secretary in practice in his report under sub-section (*1*).

(*4*) If a company or any officer of the company or the company secretary in practice, contravenes the provisions of this section, the company, every officer of the comapny or the company secretary in practice, who is in default, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Functions of company secretary.

205. (*1*) The functions of the company secretary shall include,—

(*a*) to report to the Board about compliance with the provisions of this Act, the rules made thereunder and other laws applicable to the company;

(*b*) to ensure that the company complies with the applicable secretarial standards;

(*c*) to discharge such other duties as may be prescribed.

Explanation.—For the purpose of this section, the expression "secretarial standards" means secretarial standards issued by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 and approved by the Central Government. 56 of 1980.

(*2*) The provisions contained in section 204 and section 205 shall not affect the duties and functions of the Board of Directors, chairperson of the company, managing director or whole-time director under this Act, or any other law for the time being in force.

CHAPTER XIV

INSPECTION, INQUIRY AND INVESTIGATION

Power to call for information, inspect books and conduct inquiries.

206. (*1*) Where on a scrutiny of any document filed by a company or on any information received by him, the Registrar is of the opinion that any further information or explanation or any further documents relating to the company is necessary, he may by a written notice require the company—

(*a*) to furnish in writing such information or explanation; or

(*b*) to produce such documents,

within such reasonable time, as may be specified in the notice.

(*2*) On the receipt of a notice under sub-section (*1*), it shall be the duty of the company and of its officers concerned to furnish such information or explanation to the best of their knowledge and power and to produce the documents to the Registrar within the time specified or extended by the Registrar:

Provided that where such information or explanation relates to any past period, the officers who had been in the employment of the company for such period, if so called upon by the Registrar through a notice served on them in writing, shall also furnish such information or explanation to the best of their knowledge.

(*3*) If no information or explanation is furnished to the Registrar within the time specified under sub-section (*1*) or if the Registrar on an examination of the documents furnished is of the opinion that the information or explanation furnished is inadequate or if the Registrar is satisfied on a scrutiny of the documents furnished that an unsatisfactory state of affairs exists in the company and does not disclose a full and fair statement of the information required, he may, by another written notice, call on the company to produce for his inspection such further books of account, books, papers and explanations as he may require at such place and at such time as he may specify in the notice:

Provided that before any notice is served under this sub-section, the Registrar shall record his reasons in writing for issuing such notice.

(*4*) If the Registrar is satisfied on the basis of information available with or furnished to him or on a representation made to him by any person that the business of a company is being carried on for a fraudulent or unlawful purpose or not in compliance with the provisions of this Act or if the grievances of investors are not being addressed, the Registrar may, after informing the company of the allegations made against it by a written order, call on the company to furnish in writing any information or explanation on matters specified in the order within such time as he may specify therein and carry out such inquiry as he deems fit after providing the company a reasonable opportunity of being heard:

Provided that the Central Government may, if it is satisfied that the circumstances so warrant, direct the Registrar or an inspector appointed by it for the purpose to carry out the inquiry under this sub-section:

Provided further that where business of a company has been or is being carried on for a fraudulent or unlawful purpose, every officer of the company who is in default shall be punishable for fraud in the manner as provided in section 447.

(*5*) Without prejudice to the foregoing provisions of this section, the Central Government may, if it is satisfied that the circumstances so warrant, direct inspection of books and papers of a company by an inspector appointed by it for the purpose.

(*6*) The Central Government may, having regard to the circumstances by general or special order, authorise any statutory authority to carry out the inspection of books of account of a company or class of companies.

(7) If a company fails to furnish any information or explanation or produce any document required under this section, the company and every officer of the company, who is in default shall be punishable with a fine which may extend to one lakh rupees and in the case of a continuing failure, with an additional fine which may extend to five hundred rupees for every day after the first during which the failure continues.

Conduct of inspection and inquiry.

207. (1) Where a Registrar or inspector calls for the books of account and other books and papers under section 206, it shall be the duty of every director, officer or other employee of the company to produce all such documents to the Registrar or inspector and furnish him with such statements, information or explanations in such form as the Registrar or inspector may require and shall render all assistance to the Registrar or inspector in connection with such inspection.

(2) The Registrar or inspector, making an inspection or inquiry under section 206 may, during the course of such inspection or inquiry, as the case may be,—

(*a*) make or cause to be made copies of books of account and other books and papers; or

(*b*) place or cause to be placed any marks of identification in such books in token of the inspection having been made.

(3) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the Registrar or inspector making an inspection or inquiry shall have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:— 5 of 1908.

(*a*) the discovery and production of books of account and other documents, at such place and time as may be specified by such Registrar or inspector making the inspection or inquiry;

(*b*) summoning and enforcing the attendance of persons and examining them on oath; and

(*c*) inspection of any books, registers and other documents of the company at any place.

(4) (*i*) If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section, the director or the officer shall be punishable with imprisonment which may extend to one year and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(*ii*) If a director or an officer of the company has been convicted of an offence under this section, the director or the officer shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall be disqualified from holding an office in any company.

Report on inspection made.

208. The Registrar or inspector shall, after the inspection of the books of account or an inquiry under section 206 and other books and papers of the company under section 207, submit a report in writing to the Central Government along with such documents, if any, and such report may, if necessary, include a recommendation that further investigation into the affairs of the company is necessary giving his reasons in support.

Search and seizure.

209. (1) Where, upon information in his possession or otherwise, the Registrar or inspector has reasonable ground to believe that the books and papers of a company, or relating to the key managerial personnel or any director or auditor or company secretary in practice if the company has not appointed a company secretary, are likely to be destroyed, mutilated, altered, falsified or secreted, he may, after obtaining an order from the Special Court for the seizure of such books and papers,—

(*a*) enter, with such assistance as may be required, and search, the place or places where such books or papers are kept; and

(*b*) seize such books and papers as he considers necessary after allowing the company to take copies of, or extracts from, such books or papers at its cost.

(*2*) The Registrar or inspector shall return the books and papers seized under sub-section (*1*), as soon as may be, and in any case not later than one hundred and eightieth day after such seizure, to the company from whose custody or power such books or papers were seized:

Provided that the books and papers may be called for by the Registrar or inspector for a further period of one hundred and eighty days by an order in writing if they are needed again:

Provided further that the Registrar or inspector may, before returning such books and papers as aforesaid, take copies of, or extracts from them or place identification marks on them or any part thereof or deal with the same in such other manner as he considers necessary.

2 of 1974. (*3*) The provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures shall apply, *mutatis mutandis*, to every search and seizure made under this section.

Investigation into affairs of company.

210. (*1*) Where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company,—

(*a*) on the receipt of a report of the Registrar or inspector under section 208;

(*b*) on intimation of a special resolution passed by a company that the affairs of the company ought to be investigated; or

(*c*) in public interest,

it may order an investigation into the affairs of the company.

(*2*) Where an order is passed by a court or the Tribunal in any proceedings before it that the affairs of a company ought to be investigated, the Central Government shall order an investigation into the affairs of that company.

(*3*) For the purposes of this section, the Central Government may appoint one or more persons as inspectors to investigate into the affairs of the company and to report thereon in such manner as the Central Government may direct.

Establishment of Serious Fraud Investigation Office.

211. (*1*) The Central Government shall, by notification, establish an office to be called the Serious Fraud Investigation Office to investigate frauds relating to a company:

Provided that until the Serious Fraud Investigation Office is established under sub-section (*1*), the Serious Fraud Investigation Office set-up by the Central Government in terms of the Government of India Resolution No. 45011/16/2003-Adm-I, dated the 2nd July, 2003 shall be deemed to be the Serious Fraud Investigation Office for the purpose of this section.

(*2*) The Serious Fraud Investigation Office shall be headed by a Director and consist of such number of experts from the following fields to be appointed by the Central Government from amongst persons of ability, integrity and experience in,—

(*i*) banking;
(*ii*) corporate affairs;
(*iii*) taxation;
(*iv*) forensic audit;
(*v*) capital market;
(*vi*) information technology;
(*vii*) law; or
(*viii*) such other fields as may be prescribed.

(*3*) The Central Government shall, by notification, appoint a Director in the Serious Fraud Investigation Office, who shall be an officer not below the rank of a Joint Secretary to the Government of India having knowledge and experience in dealing with matters relating to corporate affairs.

(*4*) The Central Government may appoint such experts and other officers and employees in the Serious Fraud Investigation Office as it considers necessary for the efficient discharge of its functions under this Act.

(*5*) The terms and conditions of service of Director, experts, and other officers and employees of the Serious Fraud Investigation Office shall be such as may be prescribed.

Investigation into affairs of Company by Serious Fraud Investigation Office.

212. (*1*) Without prejudice to the provisions of section 210, where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company by the Serious Fraud Investigation Office—

(*a*) on receipt of a report of the Registrar or inspector under section 208;

(*b*) on intimation of a special resolution passed by a company that its affairs are required to be investigated;

(*c*) in the public interest; or

(*d*) on request from any Department of the Central Government or a State Government,

the Central Government may, by order, assign the investigation into the affairs of the said company to the Serious Fraud Investigation Office and its Director, may designate such number of inspectors, as he may consider necessary for the purpose of such investigation.

(*2*) Where any case has been assigned by the Central Government to the Serious Fraud Investigation Office for investigation under this Act, no other investigating agency of Central Government or any State Government shall proceed with investigation in such case in respect of any offence under this Act and in case any such investigation has already been initiated, it shall not be proceeded further with and the concerned agency shall transfer the relevant documents and records in respect of such offences under this Act to Serious Fraud Investigation Office.

(*3*) Where the investigation into the affairs of a company has been assigned by the Central Government to Serious Fraud Investigation Office, it shall conduct the investigation in the manner and follow the procedure provided in this Chapter; and submit its report to the Central Government within such period as may be specified in the order.

(*4*) The Director, Serious Fraud Investigation Office shall cause the affairs of the company to be investigated by an Investigating Officer who shall have the power of the inspector under section 217.

(*5*) The company and its officers and employees, who are or have been in employment of the company shall be responsible to provide all information, explanation, documents and assistance to the Investigating Officer as he may require for conduct of the investigation.

(*6*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences covered under sub-sections (*5*) and (*6*) of section 7, section 34, section 36, sub-section (*1*) of section 38, sub-section (*5*) of section 46, sub-section (*7*) of section 56, sub-section (*10*) of section 66, sub-section (*5*) of section 140, sub-section (*4*) of section 206, section 213, section 229, sub-section (*1*) of section 251, sub-section (*3*) of section 339 and section 448 which attract the punishment for fraud provided in section 447 of this Act shall be cognizable and no person accused of any offence under those sections shall be released on bail or on his own bond unless— 2 of 1974.

(*i*) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(*ii*) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs:

Provided further that the Special Court shall not take cognizance of any offence referred to this sub-section except upon a complaint in writing made by—

(*i*) the Director, Serious Fraud Investigation Office; or

(*ii*) any officer of the Central Government authorised, by a general or special order in writing in this behalf by that Government.

(*7*) The limitation on granting of bail specified in sub-section (*6*) is in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

2 of 1974.

(*8*) If the Director, Additional Director or Assistant Director of Serious Fraud Investigation Office authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of any offence punishable under sections referred to in sub-section (*6*), he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(*9*) The Director, Additional Director or Assistant Director of Serious Fraud Investigation Office shall, immediately after arrest of such person under sub-section (*8*), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Serious Fraud Investigation Office in a sealed envelope, in such manner as may be prescribed and the Serious Fraud Investigation Office shall keep such order and material for such period as may be prescribed.

(*10*) Every person arrested under sub-section (*8*) shall within twenty-four hours, be taken to a Judical Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the Magistrate's court.

(*11*) The Central Government if so directs, the Serious Fraud Investigation Office shall submit an interim report to the Central Government.

(*12*) On completion of the investigation, the Serious Fraud Investigation Office shall submit the investigation report to the Central Government.

(*13*) Notwithstanding anything contained in this Act or in any other law for the time being in force, a copy of the investigation report may be obtained by any person concerned by making an application in this regard to the court.

(*14*) On receipt of the investigation report, the Central Government may, after examination of the report (and after taking such legal advice, as it may think fit), direct the Serious Fraud Investigation Office to initiate prosecution against the company and its officers or employees, who are or have been in employment of the company or any other person directly or indirectly connected with the affairs of the company.

(*15*) Notwithstanding anything contained in this Act or in any other law for the time being in force, the investigation report filed with the Special Court for framing of charges shall be deemed to be a report filed by a police officer under section 173 of the Code of Criminal Procedure, 1973.

2 of 1974.

(*16*) Notwithstanding anything contained in this Act, any investigation or other action taken or initiated by Serious Fraud Investigation Office under the provisions of the Companies Act, 1956 shall continue to be proceeded with under that Act as if this Act had not been passed.

1 of 1956.

(*17*) (*a*) In case Serious Fraud Investigation Office has been investigating any offence under this Act, any other investigating agency, State Government, police authority, income-tax authorities having any information or documents in respect of such offence shall provide all such information or documents available with it to the Serious Fraud Investigation Office;

(*b*) The Serious Fraud Investigation Office shall share any information or documents available with it, with any investigating agency, State Government, police authority or income-tax authorities, which may be relevant or useful for such investigating agency, State Government, police authority or income-tax authorities in respect of any offence or matter being investigated or examined by it under any other law.

Investigation into company's affairs in other cases.

213. The Tribunal may,—

(*a*) on an application made by—

(*i*) not less than one hundred members or members holding not less than one-tenth of the total voting power, in the case of a company having a share capital; or

(*ii*) not less than one-fifth of the persons on the company's register of members, in the case of a company having no share capital,

and supported by such evidence as may be necessary for the purpose of showing that the applicants have good reasons for seeking an order for conducting an investigation into the affairs of the company; or

(*b*) on an application made to it by any other person or otherwise, if it is satisfied that there are circumstances suggesting that—

(*i*) the business of the company is being conducted with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose;

(*ii*) persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members; or

(*iii*) the members of the company have not been given all the information with respect to its affairs which they might reasonably expect, including information relating to the calculation of the commission payable to a managing or other director, or the manager, of the company,

order, after giving a reasonable opportunity of being heard to the parties concerned, that the affairs of the company ought to be investigated by an inspector or inspectors appointed by the Central Government and where such an order is passed, the Central Government shall appoint one or more competent persons as inspectors to investigate into the affairs of the company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct:

Provided that if after investigation it is proved that—

(*i*) the business of the company is being conducted with intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose, or that the company was formed for any fraudulent or unlawful purpose; or

(*ii*) any person concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud,

then, every officer of the company who is in default and the person or persons concerned in the formation of the company or the management of its affairs shall be punishable for fraud in the manner as provided in section 447.

Security for payment of costs and expenses of investigation.

214. Where an investigation is ordered by the Central Government in pursuance of clause (*b*) of sub-section (*1*) of section 210, or in pursuance of an order made by the Tribunal under section 213, the Central Government may before appointing an inspector under sub-section (*3*) of section 210 or clause (*b*) of section 213, require the applicant to give such security not exceeding twenty-five thousand rupees as may be prescribed, as it may think fit, for payment of the costs and expenses of the investigation and such security shall be refunded to the applicant if the investigation results in prosecution.

Firm, body corporate or association not to be appointed as inspector.

215. No firm, body corporate or other association shall be appointed as an inspector.

Investigation of ownership of company.

216. (*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—

(*a*) who are or have been financially interested in the success or failure, whether real or apparent, of the company; or

(*b*) who are or have been able to control or to materially influence the policy of the company.

(*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*).

(*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.

(*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 practice and which is relevant for the purposes of his investigation.

Procedure, powers, etc., of inspectors.

217. (*1*) It shall be the duty of all officers and other employees and agents including the former officers, employees and agents of a company which is under investigation in accordance with the provisions contained in this Chapter, and where the affairs of any other body corporate or a person are investigated under section 219, of all officers and other employees and agents including former officers, employees and agents of such body corporate or a person—

(*a*) to preserve and to produce to an inspector or any person authorised by him in this behalf all books and papers of, or relating to, the company or, as the case may be, relating to the other body corporate or the person, which are in their custody or power; and

(*b*) otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.

(*2*) The inspector may require any body corporate, other than a body corporate referred to in sub-section (*1*), to furnish such information to, or produce such books and papers before him or any person authorised by him in this behalf as he may consider necessary, if the furnishing of such information or the production of such books and papers is relevant or necessary for the purposes of his investigation.

(*3*) The inspector shall not keep in his custody any books and papers produced under sub-section (*1*) or sub-section (*2*) for more than one hundred and eighty days and return the

same to the company, body corporate, firm or individual by whom or on whose behalf the books and papers were produced:

Provided that the books and papers may be called for by the inspector if they are needed again for a further period of one hundred and eighty days by an order in writing.

(*4*) An inspector may examine on oath—

(*a*) any of the persons referred to in sub-section (*1*); and

(*b*) with the prior approval of the Central Government, any other person,

in relation to the affairs of the company, or other body corporate or person, as the case may be, and for that purpose may require any of those persons to appear before him personally:

Provided that in case of an investigation under section 212, the prior approval of Director, Serious Fraud Investigation Office shall be sufficient under clause (*b*).

(*5*) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the inspector, being an officer of the Central Government, making an investigation under this Chapter shall have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:— 5 of 1908.

(*a*) the discovery and production of books of account and other documents, at such place and time as may be specified by such person;

(*b*) summoning and enforcing the attendance of persons and examining them on oath; and

(*c*) inspection of any books, registers and other documents of the company at any place.

(*6*) (*i*) If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section, the director or the officer shall be punishable with imprisonment which may extend to one year and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(*ii*) If a director or an officer of the company has been convicted of an offence under this section, the director or the officer shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall be disqualified from holding an office in any company.

(*7*) The notes of any examination under sub-section (*4*) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

(*8*) If any person fails without reasonable cause or refuses—

(*a*) to produce to an inspector or any person authorised by him in this behalf any book or paper which is his duty under sub-section (*1*) or sub-section (*2*) to produce;

(*b*) to furnish any information which is his duty under sub-section (*2*) to furnish;

(*c*) to appear before the inspector personally when required to do so under sub-section (*4*) or to answer any question which is put to him by the inspector in pursuance of that sub-section; or

(*d*) to sign the notes of any examination referred to in sub-section (*7*),

he shall be punishable with imprisonment for a term which may extend to six months and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, and also with a further fine which may extend to two thousand rupees for every day after the first during which the failure or refusal continues.

(*9*) The officers of the Central Government, State Government, police or statutory authority shall provide assistance to the inspector for the purpose of inspection, inquiry or investigation, which the inspector may, with the prior approval of the Central Government, require.

(*10*) The Central Government may enter into an agreement with the Government of a foreign State for reciprocal arrangements to assist in any inspection, inquiry or investigation under this Act or under the corresponding law in force in that State and may, by notification, render the application of this Chapter in relation to a foreign State with which reciprocal arrangements have been made subject to such modifications, exceptions, conditions and qualifications as may be deemed expedient for implementing the agreement with that State.

(*11*) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973 if, in the course of an investigation into the affairs of the company, an application is made to the competent court in India by the inspector stating that evidence is, or may be, available in a country or place outside India, such court may issue a letter of request to a court or an authority in such country or place, competent to deal with such request, to examine orally, or otherwise, any person, supposed to be acquainted with the facts and circumstances of the case, to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing, which may be in his possession pertaining to the case, and to forward all the evidence so taken or collected or the authenticated copies thereof or the things so collected to the court in India which had issued such letter of request: 2 of 1974.

Provided that the letter of request shall be transmitted in such manner as the Central Government may specify in this behalf:

Provided further that every statement recorded or document or thing received under this sub-section shall be deemed to be the evidence collected during the course of investigation.

(*12*) Upon receipt of a letter of request from a court or an authority in a country or place outside India, competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to affairs of a company under investigation in that country or place, the Central Government may, if it thinks fit, forward such letter of request to the court concerned, which shall thereupon summon the person before it and record his statement or cause any document or thing to be produced, or send the letter to any inspector for investigation, who shall thereupon investigate into the affairs of company in the same manner as the affairs of a company are investigated under this Act and the inspector shall submit the report to such court within thirty days or such extended time as the court may allow for further action:

Provided that the evidence taken or collected under this sub-section or authenticated copies thereof or the things so collected shall be forwarded by the court, to the Central Government for transmission, in such manner as the Central Government may deem fit, to the court or the authority in country or place outside India which had issued the letter of request.

Protection of employees during investigation.

218. (*1*) Notwithstanding anything contained in any other law for the time being in force, if—

(*a*) during the course of any investigation of the affairs and other matters of or relating to a company, other body corporate or person under section 210, section 212, section 213 or section 219 or of the membership and other matters of or relating to a company, or the ownership of shares in or debentures of a company or body corporate, or the affairs and other matters of or relating to a company, other body corporate or person, under section 216; or

(*b*) during the pendency of any proceeding against any person concerned in the conduct and management of the affairs of a company under Chapter XVI,

such company, other body corporate or person proposes—

(*i*) to discharge or suspend any employee; or

(*ii*) to punish him, whether by dismissal, removal, reduction in rank or otherwise; or

(*iii*) to change the terms of employment to his disadvantage,

the company, other body corporate or person, as the case may be, shall obtain approval of the Tribunal of the action proposed against the employee and if the Tribunal has any objection to the action proposed, it shall send by post notice thereof in writing to the company, other body corporate or person concerned.

(*2*) If the company, other body corporate or person concerned does not receive within thirty days of making of application under sub-section (*1*), the approval of the Tribunal, then and only then, the company, other body corporate or person concerned may proceed to take against the employee, the action proposed.

(*3*) If the company, other body corporate or person concerned is dissatisfied with the objection raised by the Tribunal, it may, within a period of thirty days of the receipt of the notice of the objection, prefer an appeal to the Appellate Tribunal in such manner and on payment of such fees as may be prescribed.

(*4*) The decision of the Appellate Tribunal on such appeal shall be final and binding on the Tribunal and on the company, other body corporate or person concerned.

(*5*) For the removal of doubts, it is hereby declared that the provisions of this section shall have effect without prejudice to the provisions of any other law for the time being in force.

Power of inspector to conduct investigation into affairs of related companies, etc.

219. If an inspector appointed under section 210 or section 212 or section 213 to investigate into the affairs of a company considers it necessary for the purposes of the investigation, to investigate also the affairs of—

(*a*) any other body corporate which is, or has at any relevant time been the company's subsidiary company or holding company, or a subsidiary company of its holding company;

(*b*) any other body corporate which is, or has at any relevant time been managed by any person as managing director or as manager, who is, or was, at the relevant time, the managing director or the manager of the company;

(*c*) any other body corporate whose Board of Directors comprises nominees of the company or is accustomed to act in accordance with the directions or instructions of the company or any of its directors; or

(*d*) any person who is or has at any relevant time been the company's managing director or manager or employee,

he shall, subject to the prior approval of the Central Government, investigate into and report on the affairs of the other body corporate or of the managing director or manager, in so far as he considers that the results of his investigation are relevant to the investigation of the affairs of the company for which he is appointed.

Seizure of documents by inspector.

220. (*1*) Where in the course of an investigation under this Chapter, the inspector has reasonable grounds to believe that the books and papers of, or relating to, any company or other body corporate or managing director or manager of such company are likely to be destroyed, mutilated, altered, falsified or secreted, the inspector may—

(*a*) enter, with such assistance as may be required, the place or places where such books and papers are kept in such manner as may be required; and

(*b*) seize books and papers as he considers necessary after allowing the company to take copies of, or extracts from, such books and papers at its cost for the purposes of his investigation.

(*2*) The inspector shall keep in his custody the books and papers seized under this section for such a period not later than the conclusion of the investigation as he considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person from whose custody or power they were seized:

Provided that the inspector may, before returning such books and papers as aforesaid, take copies of, or extracts from them or place identification marks on them or any part thereof or deal with the same in such manner as he considers necessary.

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(*3*) The provisions of the Code of Criminal Procedure, 1973, relating to searches or seizures shall apply *mutatis mutandis* to every search or seizure made under this section.

Freezing of assets of company on inquiry and investigation.

221. (*1*) Where it appears to the Tribunal, on a reference made to it by the Central Government or in connection with any inquiry or investigation into the affairs of a company under this Chapter or on any complaint made by such number of members as specified under sub-section (*1*) of section 244 or a creditor having one lakh amount outstanding against the company or any other person having a reasonable ground to believe that the removal, transfer or disposal of funds, assets, properties of the company is likely to take place in a manner that is prejudicial to the interests of the company or its shareholders or creditors or in public interest, it may by order direct that such transfer, removal or disposal shall not take place during such period not exceeding three years as may be specified in the order or may take place subject to such conditions and restrictions as the Tribunal may deem fit.

(*2*) In case of any removal, transfer or disposal of funds, assets, or properties of the company in contravention of the order of the Tribunal under sub-section (*1*), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-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 three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Imposition of restrictions upon securities.

222. (*1*) Where it appears to the Tribunal, in connection with any investigation under section 216 or on a complaint made by any person in this behalf, that there is good reason to find out the relevant facts about any securities issued or to be issued by a company and the Tribunal is of the opinion that such facts cannot be found out unless certain restrictions, as it may deem fit, are imposed, the Tribunal may, by order, direct that the securities shall be subject to such restrictions as it may deem fit for such period not exceeding three years as may be specified in the order.

(*2*) Where securities in any company are issued or transferred or acted upon in contravention of an order of the Tribunal under sub-section (*1*), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-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 six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

Inspector's report.

223. (*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.

(*2*) Every report made under sub-section (*1*) shall be in writing or printed as the Central Government may direct.

(*3*) A copy of the report made under sub-section (*1*) may be obtained by making an application in this regard to the Central Government.

(*4*) The report of any inspector appointed under this Chapter shall be authenticated either—

(*a*) by the seal of the company whose affairs have been investigated; or

(*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.

(*5*) Nothing in this section shall apply to the report referred to in section 212.

Actions to be taken in pursuance of inspector's report.

224. (*1*) If, from an inspector's report, made under section 223, it appears to the Central Government that any person has, in relation to the company or in relation to any other body corporate or other person whose affairs have been investigated under this Chapter been guilty of any offence for which he is criminally liable, the Central Government may prosecute such person for the offence and it shall be the duty of all officers and other employees of the company or body corporate to give the Central Government the necessary assistance in connection with the prosecution.

(*2*) If any company or other body corporate is liable to be wound up under this Act and it appears to the Central Government from any such report made under section 223 that it is expedient so to do by reason of any such circumstances as are referred to in section 213, the Central Government may, unless the company or body corporate is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf—

(*a*) a petition for the winding up of the company or body corporate on the ground that it is just and equitable that it should be wound up;

(*b*) an application under section 241; or

(*c*) both.

(*3*) If from any such report as aforesaid, it appears to the Central Government that proceedings ought, in the public interest, to be brought by the company or any body corporate whose affairs have been investigated under this Chapter—

(*a*) for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation, or the management of the affairs, of such company or body corporate; or

(*b*) for the recovery of any property of such company or body corporate which has been misapplied or wrongfully retained,

the Central Government may itself bring proceedings for winding up in the name of such company or body corporate.

(*4*) The Central Government, shall be indemnified by such company or body corporate against any costs or expenses incurred by it in, or in connection with, any proceedings brought by virtue of sub-section (*3*).

(*5*) Where the report made by an inspector states that fraud has taken place in a company and due to such fraud any director, key managerial personnel, other officer of the company or any other person or entity, has taken undue advantage or benefit, whether in the form of any asset, property or cash or in any other manner, the Central Government may file an application before the Tribunal for appropriate orders with regard to disgorgement of such asset, property, or cash, as the case may be, and also for holding such director, key managerial personnel, officer or other person liable personally without any limitation of liability.

Expenses of investigation.

225. (*1*) The expenses of, and incidental to, an investigation by an inspector appointed by the Central Government under this Chapter other than expenses of inspection under section 214 shall be defrayed in the first instance by the Central Government, but shall be reimbursed by the following persons to the extent mentioned below, namely:—

(*a*) any person who is convicted on a prosecution instituted, or who is ordered to pay damages or restore any property in proceedings brought, under section 224, to the extent that he may in the same proceedings be ordered to pay the said expenses as may be specified by the court convicting such person, or ordering him to pay such damages or restore such property, as the case may be;

(*b*) any company or body corporate in whose name proceedings are brought as aforesaid, to the extent of the amount or value of any sums or property recovered by it as a result of such proceedings;

(*c*) unless, as a result of the investigation, a prosecution is instituted under section 224,—

(*i*) any company, body corporate, managing director or manager dealt with by the report of the inspector; and

(*ii*) the applicants for the investigation, where the inspector was appointed under section 213,

to such extent as the Central Government may direct.

(*2*) Any amount for which a company or body corporate is liable under clause (*b*) of sub-section (*1*) shall be a first charge on the sums or property mentioned in that clause.

Voluntary winding up of company, etc., not to stop investigation proceedings.

226. An investigation under this Chapter may be initiated notwithstanding, and no such investigation shall be stopped or suspended by reason only of, the fact that—

(*a*) an application has been made under section 241;

(*b*) the company has passed a special resolution for voluntary winding up; or

(*c*) any other proceeding for the winding up of the company is pending before the Tribunal:

Provided that where a winding up order is passed by the Tribunal in a proceeding referred to in clause (*c*), the inspector shall inform the Tribunal about the pendency of the investigation proceedings before him and the Tribunal shall pass such order as it may deem fit:

Provided further that nothing in the winding up order shall absolve any director or other employee of the company from participating in the proceedings before the inspector or any liability as a result of the finding by the inspector.

Legal advisers and bankers not to disclose certain information.

227. Nothing in this Chapter shall require the disclosure to the Tribunal or to the Central Government or to the Registrar or to an inspector appointed by the Central Government—

(*a*) by a legal adviser, of any privileged communication made to him in that capacity, except as respects the name and address of his client; or

(*b*) by the bankers of any company, body corporate, or other person, of any information as to the affairs of any of their customers, other than such company, body corporate, or person.

Investigation, etc., of foreign companies.

228. The provisions of this Chapter shall apply *mutatis mutandis* to inspection, inquiry or investigation in relation to foreign companies.

Penalty for furnishing false statement, mutilation, destruction of documents.

229. Where a person who is required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, or an officer or other employee of a company or other body corporate which is also under investigation,—

(*a*) destroys, mutilates or falsifies, or conceals or tampers or unauthorisedly removes, or is a party to the destruction, mutilation or falsification or concealment or tampering or unauthorised removal of, documents relating to the property, assets or affairs of the company or the body corporate;

(*b*) makes, or is a party to the making of, a false entry in any document concerning the company or body corporate; or

(*c*) provides an explanation which is false or which he knows to be false,

he shall be punishable for fraud in the manner as provided in section 447.

CHAPTER XV

COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS

Power to compromise or make arrangements with creditors and members.

230. (*1*) Where a compromise or arrangement is proposed—

(*a*) between a company and its creditors or any class of them; or

(*b*) between a company and its members or any class of them,

the Tribunal may, on the application of the company or of any creditor or member of the company, or in the case of a company which is being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal directs.

Explanation.—For the purposes of this sub-section, arrangement includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods.

(*2*) The company or any other person, by whom an application is made under sub-section (*1*), shall disclose to the Tribunal by affidavit—

(*a*) all material facts relating to the company, such as the latest financial position of the company, the latest auditor's report on the accounts of the company and the pendency of any investigation or proceedings against the company;

(*b*) reduction of share capital of the company, if any, included in the compromise or arrangement;

(*c*) any scheme of corporate debt restructuring consented to by not less than seventy-five per cent. of the secured creditors in value, including—

(*i*) a creditor's responsibility statement in the prescribed form;

(*ii*) safeguards for the protection of other secured and unsecured creditors;

(*iii*) report by the auditor that the fund requirements of the company after the corporate debt restructuring as approved shall conform to the liquidity test based upon the estimates provided to them by the Board;

(*iv*) where the company proposes to adopt the corporate debt restructuring guidelines specified by the Reserve Bank of India, a statement to that effect; and

(*v*) a valuation report in respect of the shares and the property and all assets, tangible and intangible, movable and immovable, of the company by a registered valuer.

(*3*) Where a meeting is proposed to be called in pursuance of an order of the Tribunal under sub-section (*1*), a notice of such meeting shall be sent to all the creditors or class of creditors and to all the members or class of members and the debenture-holders of the company, individually at the address registered with the company which shall be accompanied by a statement disclosing the details of the compromise or arrangement, a copy of the valuation report, if any, and explaining their effect on creditors, key managerial personnel, promoters and non-promoter members, and the debenture-holders and the effect of the compromise or arrangement on any material interests of the directors of the company or the debenture trustees, and such other matters as may be prescribed:

Provided that such notice and other documents shall also be placed on the website of the company, if any, and in case of a listed company, these documents shall be sent to the Securities and Exchange Board and stock exchange where the securities of the companies are listed, for placing on their website and shall also be published in newspapers in such manner as may be prescribed:

Provided further that where the notice for the meeting is also issued by way of an advertisement, it shall indicate the time within which copies of the compromise or arrangement shall be made available to the concerned persons free of charge from the registered office of the company.

(*4*) A notice under sub-section (*3*) shall provide that the persons to whom the notice is sent may vote in the meeting either themselves or through proxies or by postal ballot to the adoption of the compromise or arrangement within one month from the date of receipt of such notice:

Provided that any objection to the compromise or arrangement shall be made only by persons holding not less than ten per cent. of the shareholding or having outstanding debt amounting to not less than five per cent. of the total outstanding debt as per the latest audited financial statement.

(*5*) A notice under sub-section (*3*) along with all the documents in such form as may be prescribed shall also be sent to the Central Government, the income-tax authorities, the Reserve Bank of India, the Securities and Exchange Board, the Registrar, the respective stock exchanges, the Official Liquidator, the Competition Commission of India established under sub-section (*1*) of section 7 of the Competition Act, 2002, if necessary, and such other sectoral regulators or authorities which are likely to be affected by the compromise or arrangement and shall require that representations, if any, to be made by them shall be made within a period of thirty days from the date of receipt of such notice, failing which, it shall be presumed that they have no representations to make on the proposals.

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(*6*) Where, at a meeting held in pursuance of sub-section (*1*), majority of persons representing three-fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to any compromise or arrangement and if such compromise or arrangement is sanctioned by the Tribunal by an order, the same shall be binding on the company, all the creditors, or class of creditors or members or class of members, as the case may be, or, in case of a company being wound up, on the liquidator and the contributories of the company.

(*7*) An order made by the Tribunal under sub-section (*6*) shall provide for all or any of the following matters, namely:—

(*a*) where the compromise or arrangement provides for conversion of preference shares into equity shares, such preference shareholders shall be given an option to either obtain arrears of dividend in cash or accept equity shares equal to the value of the dividend payable;

(*b*) the protection of any class of creditors;

(*c*) if the compromise or arrangement results in the variation of the shareholders' rights, it shall be given effect to under the provisions of section 48;

(*d*) if the compromise or arrangement is agreed to by the creditors under sub-section (*6*), any proceedings pending before the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 shall abate; 1 of 1986.

(*e*) such other matters including exit offer to dissenting shareholders, if any, as are in the opinion of the Tribunal necessary to effectively implement the terms of the compromise or arrangement:

Provided that no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133.

(*8*) The order of the Tribunal shall be filed with the Registrar by the company within a period of thirty days of the receipt of the order.

(*9*) The Tribunal may dispense with calling of a meeting of creditor or class of creditors where such creditors or class of creditors, having at least ninety per cent. value, agree and confirm, by way of affidavit, to the scheme of compromise or arrangement.

(*10*) No compromise or arrangement in respect of any buy-back of securities under this section shall be sanctioned by the Tribunal unless such buy-back is in accordance with the provisions of section 68.

(*11*) Any compromise or arrangement may include takeover offer made in such manner as may be prescribed:

Provided that in case of listed companies, takeover offer shall be as per the regulations framed by the Securities and Exchange Board.

(*12*) An aggrieved party may make an application to the Tribunal in the event of any grievances with respect to the takeover offer of companies other than listed companies in such manner as may be prescribed and the Tribunal may, on application, pass such order as it may deem fit.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of section 66 shall not apply to the reduction of share capital effected in pursuance of the order of the Tribunal under this section.

Power of Tribunal to enforce compromise or arrangement.

231. (*1*) Where the Tribunal makes an order under section 230 sanctioning a compromise or an arrangement in respect of a company, it—

(*a*) shall have power to supervise the implementation of the compromise or arrangement; and

(*b*) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper implementation of the compromise or arrangement.

(*2*) If the Tribunal is satisfied that the compromise or arrangement sanctioned under section 230 cannot be implemented satisfactorily with or without modifications, and the company is unable to pay its debts as per the scheme, it may make an order for winding up the company and such an order shall be deemed to be an order made under section 273.

(*3*) The provisions of this section shall, so far as may be, also apply to a company in respect of which an order has been made before the commencement of this Act sanctioning a compromise or an arrangement.

Merger and amalgamation of companies.

232. (*1*) Where an application is made to the Tribunal under section 230 for the sanctioning of a compromise or an arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Tribunal—

(*a*) that the compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of the company or companies involving merger or the amalgamation of any two or more companies; and

(*b*) that under the scheme, the whole or any part of the undertaking, property or liabilities of any company (hereinafter referred to as the transferor company) is required to be transferred to another company (hereinafter referred to as the transferee company), or is proposed to be divided among and transferred to two or more companies,

the Tribunal may on such application, order a meeting of the creditors or class of creditors or the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal may direct and the provisions of sub-sections (*3*) to (*6*) of section 230 shall apply *mutatis mutandis*.

(*2*) Where an order has been made by the Tribunal under sub-section (*1*), merging companies or the companies in respect of which a division is proposed, shall also be required to circulate the following for the meeting so ordered by the Tribunal, namely:—

(*a*) the draft of the proposed terms of the scheme drawn up and adopted by the directors of the merging company;

(*b*) confirmation that a copy of the draft scheme has been filed with the Registrar;

(*c*) a report adopted by the directors of the merging companies explaining effect of compromise on each class of shareholders, key managerial personnel, promotors and non-promoter shareholders laying out in particular the share exchange ratio, specifying any special valuation difficulties;

(*d*) the report of the expert with regard to valuation, if any;

(*e*) a supplementary accounting statement if the last annual accounts of any of the merging company relate to a financial year ending more than six months before the first meeting of the company summoned for the purposes of approving the scheme.

(*3*) The Tribunal, after satisfying itself that the procedure specified in sub-sections (*1*) and (*2*) has been complied with, may, by order, sanction the compromise or arrangement or by a subsequent order, make provision for the following matters, namely:—

(*a*) the transfer to the transferee company of the whole or any part of the undertaking, property or liabilities of the transferor company from a date to be determined by the parties unless the Tribunal, for reasons to be recorded by it in writing, decides otherwise;

(*b*) the allotment or appropriation by the transferee company of any shares, debentures, policies or other like instruments in the company which, under the compromise or arrangement, are to be allotted or appropriated by that company to or for any person:

Provided that a transferee company shall not, as a result of the compromise or arrangement, hold any shares in its own name or in the name of any trust whether on

its behalf or on behalf of any of its subsidiary or associate companies and any such shares shall be cancelled or extinguished;

(*c*) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company on the date of transfer;

(*d*) dissolution, without winding-up, of any transferor company;

(*e*) the provision to be made for any persons who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement;

(*f*) where share capital is held by any non-resident shareholder under the foreign direct investment norms or guidelines specified by the Central Government or in accordance with any law for the time being in force, the allotment of shares of the transferee company to such shareholder shall be in the manner specified in the order;

(*g*) the transfer of the employees of the transferor company to the transferee company;

(*h*) where the transferor company is a listed company and the transferee company is an unlisted company,—

(*A*) the transferee company shall remain an unlisted company until it becomes a listed company;

(*B*) if shareholders of the transferor company decide to opt out of the transferee company, provision shall be made for payment of the value of shares held by them and other benefits in accordance with a pre-determined price formula or after a valuation is made, and the arrangements under this provision may be made by the Tribunal:

Provided that the amount of payment or valuation under this clause for any share shall not be less than what has been specified by the Securities and Exchange Board under any regulations framed by it;

(*i*) where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorised capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation; and

(*j*) such incidental, consequential and supplemental matters as are deemed necessary to secure that the merger or amalgamation is fully and effectively carried out:

Provided that no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133.

(*4*) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to the transferee company and the liabilities shall be transferred to and become the liabilities of the transferee company and any property may, if the order so directs, be freed from any charge which shall by virtue of the compromise or arrangement, cease to have effect.

(*5*) Every company in relation to which the order is made shall cause a certified copy of the order to be filed with the Registrar for registration within thirty days of the receipt of certified copy of the order.

(*6*) The scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date.

(*7*) Every company in relation to which the order is made shall, until the completion of the scheme, file a statement in such form and within such time as may be prescribed with the Registrar every year duly certified by a chartered accountant or a cost accountant or a company secretary in practice indicating whether the scheme is being complied with in accordance with the orders of the Tribunal or not.

(*8*) If a transferor company or a transferee company contravenes the provisions of this section, the transferor company or the transferee company, as the case may be, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of such transferor or transferee 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 one lakh rupees but which may extend to three lakh rupees, or with both.

Explanation.—For the purposes of this section,—

(*i*) in a scheme involving a merger, where under the scheme the undertaking, property and liabilities of one or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to another existing company, it is a merger by absorption, or where the undertaking, property and liabilities of two or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to a new company, whether or not a public company, it is a merger by formation of a new company;

(*ii*) references to merging companies are in relation to a merger by absorption, to the transferor and transferee companies, and, in relation to a merger by formation of a new company, to the transferor companies;

(*iii*) a scheme involves a division, where under the scheme the undertaking, property and liabilities of the company in respect of which the compromise or arrangement is proposed are to be divided among and transferred to two or more companies each of which is either an existing company or a new company; and

(*iv*) property includes assets, rights and interests of every description and liabilities include debts and obligations of every description.

Merger or amalgamation of certain companies.

233. (*1*) Notwithstanding the provisions of section 230 and section 232, a scheme of merger or amalgamation may be entered into between two or more small companies or between a holding company and its wholly-owned subsidiary company or such other class or classes of companies as may be prescribed, subject to the following, namely:—

(*a*) a notice of the proposed scheme inviting objections or suggestions, if any, from the Registrar and Official Liquidators where registered office of the respective companies are situated or persons affected by the scheme within thirty days is issued by the transferor company or companies and the transferee company;

(*b*) the objections and suggestions received are considered by the companies in their respective general meetings and the scheme is approved by the respective members or class of members at a general meeting holding at least ninety per cent. of the total number of shares;

(*c*) each of the companies involved in the merger files a declaration of solvency, in the prescribed form, with the Registrar of the place where the registered office of the company is situated; and

(*d*) the scheme is approved by majority representing nine-tenths in value of the creditors or class of creditors of respective companies indicated in a meeting convened by the company by giving a notice of twenty-one days along with the scheme to its creditors for the purpose or otherwise approved in writing.

(*2*) The transferee company shall file a copy of the scheme so approved in the manner as may be prescribed, with the Central Government, Registrar and the Official Liquidator where the registered office of the company is situated.

(*3*) On the receipt of the scheme, if the Registrar or the Official Liquidator has no objections or suggestions to the scheme, the Central Government shall register the same and issue a confirmation thereof to the companies.

(*4*) If the Registrar or Official Liquidator has any objections or suggestions, he may communicate the same in writing to the Central Government within a period of thirty days:

Provided that if no such communication is made, it shall be presumed that he has no objection to the scheme.

(*5*) If the Central Government after receiving the objections or suggestions or for any reason is of the opinion that such a scheme is not in public interest or in the interest of the creditors, it may file an application before the Tribunal within a period of sixty days of the receipt of the scheme under sub-section (*2*) stating its objections and requesting that the Tribunal may consider the scheme under section 232.

(*6*) On receipt of an application from the Central Government or from any person, if the Tribunal, for reasons to be recorded in writing, is of the opinion that the scheme should be considered as per the procedure laid down in section 232, the Tribunal may direct accordingly or it may confirm the scheme by passing such order as it deems fit:

Provided that if the Central Government does not have any objection to the scheme or it does not file any application under this section before the Tribunal, it shall be deemed that it has no objection to the scheme.

(*7*) A copy of the order under sub-section (*6*) confirming the scheme shall be communicated to the Registrar having jurisdiction over the transferee company and the persons concerned and the Registrar shall register the scheme and issue a confirmation thereof to the companies and such confirmation shall be communicated to the Registrars where transferor company or companies were situated.

(*8*) The registration of the scheme under sub-section (*3*) or sub-section (*7*) shall be deemed to have the effect of dissolution of the transferor company without process of winding-up.

(*9*) The registration of the scheme shall have the following effects, namely:—

(*a*) transfer of property or liabilities of the transferor company to the transferee company so that the property becomes the property of the transferee company and the liabilities become the liabilities of the transferee company;

(*b*) the charges, if any, on the property of the transferor company shall be applicable and enforceable as if the charges were on the property of the transferee company;

(*c*) legal proceedings by or against the transferor company pending before any court of law shall be continued by or against the transferee company; and

(*d*) where the scheme provides for purchase of shares held by the dissenting shareholders or settlement of debt due to dissenting creditors, such amount, to the extent it is unpaid, shall become the liability of the transferee company.

(*10*) A transferee company shall not on merger or amalgamation, hold any shares in its own name or in the name of any trust either on its behalf or on behalf of any of its subsidiary or associate company and all such shares shall be cancelled or extinguished on the merger or amalgamation.

(*11*) The transferee company shall file an application with the Registrar along with the scheme registered, indicating the revised authorised capital and pay the prescribed fees due on revised capital:

Provided that the fee, if any, paid by the transferor company on its authorised capital prior to its merger or amalgamation with the transferee company shall be set-off against the fees payable by the transferee company on its authorised capital enhanced by the merger or amalgamation.

(*12*) The provisions of this section shall *mutatis mutandis* apply to a company or companies specified in sub-section (*1*) in respect of a scheme of compromise or arrangement referred to in section 230 or division or transfer of a company referred to clause (*b*) of sub-section (*1*) of section 232.

(*13*) The Central Government may provide for the merger or amalgamation of companies in such manner as may be prescribed.

(*14*) A company covered under this section may use the provisions of section 232 for the approval of any scheme for merger or amalgamation.

Merger or amalgamation of company with foreign company.

234. (*1*) The provisions of this Chapter unless otherwise provided under any other law for the time being in force, shall apply *mutatis mutandis* to schemes of mergers and amalgamations between companies registered under this Act and companies incorporated in the jurisdictions of such countries as may be notified from time to time by the Central Government:

Provided that the Central Government may make rules, in consultation with the Reserve Bank of India, in connection with mergers and amalgamations provided under this section.

(*2*) Subject to the provisions of any other law for the time being in force, a foreign company, may with the prior approval of the Reserve Bank of India, merge into a company registered under this Act or *vice versa* and the terms and conditions of the scheme of merger may provide, among other things, for the payment of consideration to the shareholders of the merging company in cash, or in Depository Receipts, or partly in cash and partly in Depository Receipts, as the case may be, as per the scheme to be drawn up for the purpose.

Explanation.—For the purposes of sub-section (*2*), the expression "foreign company" means any company or body corporate incorporated outside India whether having a place of business in India or not.

Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.

235. (*1*) Where a scheme or contract involving the transfer of shares or any class of shares in a company (the transferor company) to another company (the transferee company) has, within four months after making of an offer in that behalf by the transferee company, been approved by the holders of not less than nine-tenths in value of the shares whose transfer is involved, other than shares already held at the date of the offer by, or by a nominee of the transferee company or its subsidiary companies, the transferee company may, at any time within two months after the expiry of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares.

(*2*) Where a notice under sub-section (*1*) is given, the transferee company shall, unless on an application made by the dissenting shareholder to the Tribunal, within one month from the date on which the notice was given and the Tribunal thinks fit to order

otherwise, be entitled to and bound to acquire those shares on the terms on which, under the scheme or contract, the shares of the approving shareholders are to be transferred to the transferee company.

(*3*) Where a notice has been given by the transferee company under sub-section (*1*) and the Tribunal has not, on an application made by the dissenting shareholder, made an order to the contrary, the transferee company shall, on the expiry of one month from the date on which the notice has been given, or, if an application to the Tribunal by the dissenting shareholder is then pending, after that application has been disposed of, send a copy of the notice to the transferor company together with an instrument of transfer, to be executed on behalf of the shareholder by any person appointed by the transferor company and on its own behalf by the transferee company, and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which, by virtue of this section, that company is entitled to acquire, and the transferor company shall—

(*a*) thereupon register the transferee company as the holder of those shares; and

(*b*) within one month of the date of such registration, inform the dissenting shareholders of the fact of such registration and of the receipt of the amount or other consideration representing the price payable to them by the transferee company.

(*4*) Any sum received by the transferor company under this section shall be paid into a separate bank account, and any such sum and any other consideration so received shall be held by that company in trust for the several persons entitled to the shares in respect of which the said sum or other consideration were respectively received and shall be disbursed to the entitled shareholders within sixty days.

(*5*) In relation to an offer made by a transferee company to shareholders of a transferor company before the commencement of this Act, this section shall have effect with the following modifications, namely:—

(*a*) in sub-section (*1*), for the words "the shares whose transfer is involved other than shares already held at the date of the offer by, or by a nominee of, the transferee company or its subsidiaries,", the words "the shares affected" shall be substituted; and

(*b*) in sub-section (*3*), the words "together with an instrument of transfer, to be executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferor company" shall be omitted.

Explanation.—For the purposes of this section, "dissenting shareholder" includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

Purchase of minority shareholding.

236. (*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.

(*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.

(*3*) Without prejudice to the provisions of sub-sections (*1*) and (*2*), the minority shareholders of the company may offer to the majority shareholders 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*).

(*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 transferor company for at least one year for payment to the minority shareholders and such amount shall be disbursed to the entitled shareholders within sixty days:

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.

(*5*) In the event of a purchase under this section, the transferor company shall act as a transfer agent for receiving and paying the price to the minority shareholders and for taking delivery of the shares and delivering such shares to the majority, as the case may be.

(*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 transferor company 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 despatch of such payment.

(*7*) In the event of a majority shareholder or shareholders requiring a full purchase and making payment of price by deposit with the company for any shareholder or shareholders who have died or ceased to exist, or whose heirs, successors, administrators or assignees have not been brought on record by transmission, the right of such shareholders to make an offer for sale of minority equity shareholding shall continue and be available for a period of three years from the date of majority acquisition or majority shareholding.

(*8*) Where the shares of minority shareholders have been acquired in pursuance of this section and as on or prior to the date of transfer following such acquisition, the shareholders holding seventy-five per cent. or more minority equity shareholding negotiate or reach an understanding on a higher price for any transfer, proposed or agreed upon, of the shares held by them without disclosing the fact or likelihood of transfer taking place on the basis of such negotiation, understanding or agreement, the majority shareholders shall share the additional compensation so received by them with such minority shareholders on a *pro rata* basis.

Explanation.—For the purposes of this section, the expressions "acquirer" and "person acting in concert" shall have the meanings respectively assigned to them in clause (*b*) and clause (*e*) of sub-regulation (*1*) of regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

(*9*) When a shareholder or the majority equity shareholder fails to acquire full purchase of the shares of the minority equity shareholders, then, the provisions of this section shall continue to apply to the residual minority equity shareholders, even though,—

(*a*) the shares of the company of the residual minority equity shareholder had been delisted; and

(*b*) the period of one year or the period specified in the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992, had elapsed. 15 of 1992.

Power of Central Government to provide for amalgamation of companies in public interest.

237. (*1*) Where the Central Government is satisfied that it is essential in the public interest that two or more companies should amalgamate, the Central Government may, by order notified in the Official Gazette, provide for the amalgamation of those companies into a single company with such constitution, with such property, powers, rights, interests, authorities and privileges, and with such liabilities, duties and obligations, as may be specified in the order.

(*2*) The order under sub-section (*1*) may also provide for the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company and such consequential, incidental and supplemental provisions as may, in the opinion of the Central Government, be necessary to give effect to the amalgamation.

(*3*) Every member or creditor, including a debenture holder, of each of the transferor companies before the amalgamation shall have, as nearly as may be, the same interest in or rights against the transferee company as he had in the company of which he was originally a member or creditor, and in case the interest or rights of such member or creditor in or against the transferee company are less than his interest in or rights against the original company, he shall be entitled to compensation to that extent, which shall be assessed by such authority as may be prescribed and every such assessment shall be published in the Official Gazette, and the compensation so assessed shall be paid to the member or creditor concerned by the transferee company.

(*4*) Any person aggrieved by any assessment of compensation made by the prescribed authority under sub-section (*3*) may, within a period of thirty days from the date of publication of such assessment in the Official Gazette, prefer an appeal to the Tribunal and thereupon the assessment of the compensation shall be made by the Tribunal.

(*5*) No order shall be made under this section unless—

(*a*) a copy of the proposed order has been sent in draft to each of the companies concerned;

(*b*) the time for preferring an appeal under sub-section (*4*) has expired, or where any such appeal has been preferred, the appeal has been finally disposed off; and

(*c*) the Central Government has considered, and made such modifications, if any, in the draft order as it may deem fit in the light of suggestions and objections which may be received by it from any such company within such period as the Central Government may fix in that behalf, not being less than two months from the date on which the copy aforesaid is received by that company, or from any class of shareholders therein, or from any creditors or any class of creditors thereof.

(*6*) The copies of every order made under this section shall, as soon as may be after it has been made, be laid before each House of Parliament.

Registration of offer of schemes involving transfer of shares.

238. (*1*) In relation to every offer of a scheme or contract involving the transfer of shares or any class of shares in the transferor company to the transferee company under section 235,—

(*a*) every circular containing such offer and recommendation to the members of the transferor company by its directors to accept such offer shall be accompanied by such information and in such manner as may be prescribed;

(*b*) every such offer shall contain a statement by or on behalf of the transferee company, disclosing the steps it has taken to ensure that necessary cash will be available; and

(*c*) every such circular shall be presented to the Registrar for registration and no such circular shall be issued until it is so registered:

Provided that the Registrar may refuse, for reasons to be recorded in writing, to register any such circular which does not contain the information required to be given under clause (*a*) or which sets out such information in a manner likely to give a false impression, and communicate such refusal to the parties within thirty days of the application.

(*2*) An appeal shall lie to the Tribunal against an order of the Registrar refusing to register any circular under sub-section (*1*).

(*3*) The director who issues a circular which has not been presented for registration and registered under clause (*c*) of sub-section (*1*), shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

Preservation of books and papers of amalgamated companies.

239. The books and papers of a company which has been amalgamated with, or whose shares have been acquired by, another company under this Chapter shall not be disposed of without the prior permission of the Central Government and before granting such permission, that Government may appoint a person to examine the books and papers or any of them for the purpose of ascertaining whether they contain any evidence of the commission of an offence in connection with the promotion or formation, or the management of the affairs, of the transferor company or its amalgamation or the acquisition of its shares.

Liability of officers in respect of offences committed prior to merger, amalgamation, etc.

240. Notwithstanding anything in any other law for the time being in force, the liability in respect of offences committed under this Act by the officers in default, of the transferor company prior to its merger, amalgamation or acquisition shall continue after such merger, amalgamation or acquisition.

CHAPTER XVI

PREVENTION OF OPPRESSION AND MISMANAGEMENT

Application to Tribunal for relief in cases of oppression, etc.

241. (*1*) Any member of a company who complains that—

(*a*) the affairs of the company have been or are being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members or in a manner prejudicial to the interests of the company; or

(*b*) the material change, not being a change brought about by, or in the interests of, any creditors, including debenture holders or any class of shareholders of the company, has taken place in the management or control of the company, whether by an alteration in the Board of Directors, or manager, or in the ownership of the company's shares, or if it has no share capital, in its membership, or in any other manner whatsoever, and that by reason of such change, it is likely that the affairs of

the company will be conducted in a manner prejudicial to its interests or its members or any class of members,

may apply to the Tribunal, provided such member has a right to apply under section 244, for an order under this Chapter.

(*2*) The Central Government, if it is of the opinion that the affairs of the company are being conducted in a manner prejudicial to public interest, it may itself apply to the Tribunal for an order under this Chapter.

Powers of Tribunal.

242. (*1*) If, on any application made under section 241, the Tribunal is of the opinion—

(*a*) that the company's affairs have been or are being conducted in a manner prejudicial or oppressive to any member or members or prejudicial to public interest or in a manner prejudicial to the interests of the company; and

(*b*) that to wind up the company would unfairly prejudice such member or members, but that otherwise the facts would justify the making of a winding-up order on the ground that it was just and equitable that the company should be wound up,

the Tribunal may, with a view to bringing to an end the matters complained of, make such order as it thinks fit.

(*2*) Without prejudice to the generality of the powers under sub-section (*1*), an order under that sub-section may provide for—

(*a*) the regulation of conduct of affairs of the company in future;

(*b*) the purchase of shares or interests of any members of the company by other members thereof or by the company;

(*c*) in the case of a purchase of its shares by the company as aforesaid, the consequent reduction of its share capital;

(*d*) restrictions on the transfer or allotment of the shares of the company;

(*e*) the termination, setting aside or modification, of any agreement, howsoever arrived at, between the company and the managing director, any other director or manager, upon such terms and conditions as may, in the opinion of the Tribunal, be just and equitable in the circumstances of the case;

(*f*) the termination, setting aside or modification of any agreement between the company and any person other than those referred to in clause (*e*):

Provided that no such agreement shall be terminated, set aside or modified except after due notice and after obtaining the consent of the party concerned;

(*g*) the setting aside of any transfer, delivery of goods, payment, execution or other act relating to property made or done by or against the company within three months before the date of the application under this section, which would, if made or done by or against an individual, be deemed in his insolvency to be a fraudulent preference;

(*h*) removal of the managing director, manager or any of the directors of the company;

(*i*) recovery of undue gains made by any managing director, manager or director during the period of his appointment as such and the manner of utilisation of the recovery including transfer to Investor Education and Protection Fund or repayment to identifiable victims;

(*j*) the manner in which the managing director or manager of the company may be appointed subsequent to an order removing the existing managing director or manager of the company made under clause (*h*);

(*k*) appointment of such number of persons as directors, who may be required by the Tribunal to report to the Tribunal on such matters as the Tribunal may direct;

(*l*) imposition of costs as may be deemed fit by the Tribunal;

(*m*) any other matter for which, in the opinion of the Tribunal, it is just and equitable that provision should be made.

(*3*) A certified copy of the order of the Tribunal under sub-section (*1*) shall be filed by the company with the Registrar within thirty days of the order of the Tribunal.

(*4*) The Tribunal may, on the application of any party to the proceeding, make any interim order which it thinks fit for regulating the conduct of the company's affairs upon such terms and conditions as appear to it to be just and equitable.

(*5*) Where an order of the Tribunal under sub-section (*1*) makes any alteration in the memorandum or articles of a company, then, notwithstanding any other provision of this Act, the company shall not have power, except to the extent, if any, permitted in the order, to make, without the leave of the Tribunal, any alteration whatsoever which is inconsistent with the order, either in the memorandum or in the articles.

(*6*) Subject to the provisions of sub-section (*1*), the alterations made by the order in the memorandum or articles of a company shall, in all respects, have the same effect as if they had been duly made by the company in accordance with the provisions of this Act and the said provisions shall apply accordingly to the memorandum or articles so altered.

(*7*) A certified copy of every order altering, or giving leave to alter, a company's memorandum or articles, shall within thirty days after the making thereof, be filed by the company with the Registrar who shall register the same.

(*8*) If a company contravenes the provisions of sub-section (*5*), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-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 six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

Consequence of termination or modification of certain agreements.

243. (*1*) Where an order made under section 242 terminates, sets aside or modifies an agreement such as is referred to in sub-section (*2*) of that section,—

(*a*) such order shall not give rise to any claims whatever against the company by any person for damages or for compensation for loss of office or in any other respect either in pursuance of the agreement or otherwise;

(*b*) no managing director or other director or manager whose agreement is so terminated or set aside shall, for a period of five years from the date of the order terminating or setting aside the agreement, without the leave of the Tribunal, be appointed, or act, as the managing director or other director or manager of the company:

Provided that the Tribunal shall not grant leave under this clause unless notice of the intention to apply for leave has been served on the Central Government and that Government has been given a reasonable opportunity of being heard in the matter.

(*2*) Any person who knowingly acts as a managing director or other director or manager of a company in contravention of clause (*b*) of sub-section (*1*), and every other director of the company who is knowingly a party to such contravention, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five lakh rupees, or with both.

Right to apply under section 241.

244. (*1*) The following members of a company shall have the right to apply under section 241, namely:—

(*a*) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one-tenth of the issued share capital of the company, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;

(*b*) in the case of a company not having a share capital, not less than one-fifth of the total number of its members:

Provided that the Tribunal may, on an application made to it in this behalf, waive all or any of the requirements specified in clause (*a*) or clause (*b*) so as to enable the members to apply under section 241.

Explanation.—For the purposes of this sub-section, where any share or shares are held by two or more persons jointly, they shall be counted only as one member.

(*2*) Where any members of a company are entitled to make an application under sub-section (*1*), any one or more of them having obtained the consent in writing of the rest, may make the application on behalf and for the benefit of all of them.

Class action.

245. (*1*) Such number of member or members, depositor or depositors or any class of them, as the case may be, as are indicated in sub-section (*2*) may, if they are of the opinion that the management or conduct of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors, file an application before the Tribunal on behalf of the members or depositors for seeking all or any of the following orders, namely:—

(*a*) to restrain the company from committing an act which is *ultra vires* the articles or memorandum of the company;

(*b*) to restrain the company from committing breach of any provision of the company's memorandum or articles;

(*c*) to declare a resolution altering the memorandum or articles of the company as void if the resolution was passed by suppression of material facts or obtained by mis-statement to the members or depositors;

(*d*) to restrain the company and its directors from acting on such resolution;

(*e*) to restrain the company from doing an act which is contrary to the provisions of this Act or any other law for the time being in force;

(*f*) to restrain the company from taking action contrary to any resolution passed by the members;

(*g*) to claim damages or compensation or demand any other suitable action from or against—

(*i*) the company or its directors for any fraudulent, unlawful or wrongful act or omission or conduct or any likely act or omission or conduct on its or their part;

(*ii*) the auditor including audit firm of the company for any improper or misleading statement of particulars made in his audit report or for any fraudulent, unlawful or wrongful act or conduct; or

(*iii*) any expert or advisor or consultant or any other person for any incorrect or misleading statement made to the company or for any fraudulent, unlawful or wrongful act or conduct or any likely act or conduct on his part;

(*h*) to seek any other remedy as the Tribunal may deem fit.

(*2*) Where the members or depositors seek any damages or compensation or demand any other suitable action from or against an audit firm, the liability shall be of the firm as well as of each partner who was involved in making any improper or misleading statement of particulars in the audit report or who acted in a fraudulent, unlawful or wrongful manner.

(*3*) (*i*) The requisite number of members provided in sub-section (*1*) shall be as under:—

(*a*) in the case of a company having a share capital, not less than one hundred members of the company or not less than such percentage of the total number of its members as may be prescribed, whichever is less, or any member or members holding not less than such percentage of the issued share capital of the company as may be prescribed, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;

(*b*) in the case of a company not having a share capital, not less than one-fifth of the total number of its members.

(*ii*) The requisite number of depositors provided in sub-section (*1*) shall not be less than one hundred depositors or not less than such percentage of the total number of depositors as may be prescribed, whichever is less, or any depositor or depositors to whom the company owes such percentage of total deposits of the company as may be prescribed.

(*4*) In considering an application under sub-section (*1*), the Tribunal shall take into account, in particular—

(*a*) whether the member or depositor is acting in good faith in making the application for seeking an order;

(*b*) any evidence before it as to the involvement of any person other than directors or officers of the company on any of the matters provided in clauses (*a*) to (*f*) of sub-section (*1*);

(*c*) whether the cause of action is one which the member or depositor could pursue in his own right rather than through an order under this section;

(*d*) any evidence before it as to the views of the members or depositors of the company who have no personal interest, direct or indirect, in the matter being proceeded under this section;

(*e*) where the cause of action is an act or omission that is yet to occur, whether the act or omission could be, and in the circumstances would be likely to be—

(*i*) authorised by the company before it occurs; or

(*ii*) ratified by the company after it occurs;

(*f*) where the cause of action is an act or omission that has already occurred, whether the act or omission could be, and in the circumstances would be likely to be, ratified by the company.

(*5*) If an application filed under sub-section (*1*) is admitted, then the Tribunal shall have regard to the following, namely:—

(*a*) public notice shall be served on admission of the application to all the members or depositors of the class in such manner as may be prescribed;

(*b*) all similar applications prevalent in any jurisdiction should be consolidated into a single application and the class members or depositors should be allowed to choose the lead applicant and in the event the members or depositors of the class are unable to come to a consensus, the Tribunal shall have the power to appoint a lead applicant, who shall be in charge of the proceedings from the applicant's side;

(*c*) two class action applications for the same cause of action shall not be allowed;

(*d*) the cost or expenses connected with the application for class action shall be defrayed by the company or any other person responsible for any oppressive act.

(*6*) Any order passed by the Tribunal shall be binding on the company and all its members, depositors and auditor including audit firm or expert or consultant or advisor or any other person associated with the company.

(*7*) Any company which fails to comply with an order passed by the Tribunal under this section shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-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 three years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(*8*) Where any application filed before the Tribunal is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, reject the application and make an order that the applicant shall pay to the opposite party such cost, not exceeding one lakh rupees, as may be specified in the order.

(*9*) Nothing contained in this section shall apply to a banking company.

(*10*) Subject to the compliance of this section, an application may be filed or any other action may be taken under this section by any person, group of persons or any association of persons representing the persons affected by any act or omission, specified in sub-section (*1*).

Application of certain provisions to proceedings under section 241 or section 245.

246. The provisions of sections 337 to 341 (both inclusive) shall apply *mutatis mutandis*, in relation to an application made to the Tribunal under section 241 or section 245.

CHAPTER XVII

REGISTERED VALUERS

Valuation by registered valuers.

247. (*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 prescribed and appointed by the audit committee or in its absence by the Board of Directors of that company.

(*2*) The valuer appointed under sub-section (*1*) shall,—

(*a*) make an impartial, true and fair valuation of any assets which may be required to be valued;

(*b*) exercise due diligence while performing the functions as valuer;

(*c*) make the valuation in accordance with such rules as may be prescribed; and

(*d*) not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets.

(*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:

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 than one lakh rupees but which may extend to five lakh rupees.

(*4*) Where a valuer has been convicted under sub-section (*3*), he shall be liable to—

(*i*) refund the remuneration received by him to the company; and

(*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.

CHAPTER XVIII

REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES

Power of Registrar to remove name of company from register of companies.

248. (*1*) Where the Registrar has reasonable cause to believe that—

(*a*) a company has failed to commence its business within one year of its incorporation;

(*b*) the subscribers to the memorandum have not paid the subscription which they had undertaken to pay within a period of one hundred and eighty days from the date of incorporation of a company and a declaration under sub-section (*1*) of section 11 to this effect has not been filed within one hundred and eighty days of its incorporation; or

(*c*) a company is not carrying on any business or operation for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company under section 455,

he shall send a notice to the company and all the directors of the company, of his intention to remove the name of the company from the register of companies and requesting them to send their representations along with copies of the relevant documents, if any, within a period of thirty days from the date of the notice.

(*2*) Without prejudice to the provisions of sub-section (*1*), a company may, after extinguishing all its liabilities, by a special resolution or consent of seventy-five per cent. members in terms of paid-up share capital, file an application in the prescribed manner to the Registrar for removing the name of the company from the register of companies on all or any of the grounds specified in sub-section (*1*) and the Registrar shall, on receipt of such application, cause a public notice to be issued in the prescribed manner:

Provided that in the case of a company regulated under a special Act, approval of the regulatory body constituted or established under that Act shall also be obtained and enclosed with the application.

(*3*) Nothing in sub-section (*2*) shall apply to a company registered under section 8.

(*4*) A notice issued under sub-section (*1*) or sub-section (*2*) shall be published in the prescribed manner and also in the Official Gazette for the information of the general public.

(*5*) At the expiry of the time mentioned in the notice, the Registrar may, unless cause to the contrary is shown by the company, strike off its name from the register of companies, and shall publish notice thereof in the Official Gazette, and on the publication in the Official Gazette of this notice, the company shall stand dissolved.

(*6*) The Registrar, before passing an order under sub-section (*5*), shall satisfy himself that sufficient provision has been made for the realisation of all amount due to the company and for the payment or discharge of its liabilities and obligations by the company within a reasonable time and, if necessary, obtain necessary undertakings from the managing director, director or other persons in charge of the management of the company:

Provided that notwithstanding the undertakings referred to in this sub-section, the assets of the company shall be made available for the payment or discharge of all its liabilities and obligations even after the date of the order removing the name of the company from the register of companies.

(*7*) The liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved under sub-section (*5*), shall continue and may be enforced as if the company had not been dissolved.

(*8*) Nothing in this section shall affect the power of the Tribunal to wind up a company the name of which has been struck off from the register of companies.

Restrictions on making application under section 248 in certain situations.

249. (*1*) An application under sub-section (*2*) of section 248 on behalf of a company shall not be made if, at any time in the previous three months, the company—

(*a*) has changed its name or shifted its registered office from one State to another;

(*b*) has made a disposal for value of property or rights held by it, immediately before cesser of trade or otherwise carrying on of business, for the purpose of disposal for gain in the normal course of trading or otherwise carrying on of business;

(*c*) has engaged in any other activity except the one which is necessary or expedient for the purpose of making an application under that section, or deciding whether to do so or concluding the affairs of the company, or complying with any statutory requirement;

(*d*) has made an application to the Tribunal for the sanctioning of a compromise or arrangement and the matter has not been finally concluded; or

(*e*) is being wound up under Chapter XX, whether voluntarily or by the Tribunal.

(*2*) If a company files an application under sub-section (*2*) of section 248 in violation of sub-section (*1*), it shall be punishable with fine which may extend to one lakh rupees.

(*3*) An application filed under sub-section (*2*) of section 248 shall be withdrawn by the company or rejected by the Registrar as soon as conditions under sub-section (*1*) are brought to his notice.

Effect of company notified as dissolved.

250. Where a company stands dissolved under section 248, it shall on and from the date mentioned in the notice under sub-section (*5*) of that section cease to operate as a company and the Certificate of Incorporation issued to it shall be deemed to have been cancelled from such date except for the purpose of realising the amount due to the company and for the payment or discharge of the liabilities or obligations of the company.

Fraudulent application for removal of name.

251. (*1*) Where it is found that an application by a company under sub-section (*2*) of section 248 has been made with the object of evading the liabilities of the company or with the intention to deceive the creditors or to defraud any other persons, the persons in charge of the management of the company shall, notwithstanding that the company has been notified as dissolved—

(*a*) be jointly and severally liable to any person or persons who had incurred loss or damage as a result of the company being notified as dissolved; and

(*b*) be punishable for fraud in the manner as provided in section 447.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), the Registrar may also recommend prosecution of the persons responsible for the filing of an application under sub-section (*2*) of section 248.

Appeal to Tribunal.

252. (*1*) Any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal within a period of three years from the date of the order of the Registrar and if the Tribunal is of the opinion that the removal of the name of the company from the register of companies is not justified in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the register of companies:

Provided that before passing any order under this section, the Tribunal shall give a reasonable opportunity of making representations and of being heard to the Registrar, the company and all the persons concerned :

Provided further that if the Registrar is satisfied, that the name of the company has been struck off from the register of companies either inadvertently or on the basis of incorrect information furnished by the company or its directors, which requires restoration in the register of companies, he may within a period of three years from the date of passing of the order dissolving the company under section 248, file an application before the Tribunal seeking restoration of name of such company.

(*2*) A copy of the order passed by the Tribunal shall be filed by the company with the Registrar within thirty days from the date of the order and on receipt of the order, the Registrar shall cause the name of the company to be restored in the register of companies and shall issue a fresh certificate of incorporation.

(*3*) If a company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section (*5*) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off from the register of companies.

CHAPTER XIX

REVIVAL AND REHABILITATION OF SICK COMPANIES

Determination of sickness.

253. (*1*) Where on a demand by the secured creditors of a company representing fifty per cent. or more of its outstanding amount of debt, the company has failed to pay the debt within a period of thirty days of the service of the notice of demand or to secure or compound it to the reasonable satisfaction of the creditors, any secured creditor may file an application to the Tribunal in the prescribed manner along with the relevant evidence for such default, non-repayment or failure to offer security or compound it, for a determination that the company be declared as a sick company.

(*2*) The applicant under sub-section (*1*) may, along with an application under that sub-section or at any stage of the proceedings thereafter, make an application for the stay of any proceeding for the winding up of the company or for execution, distress or the like against any property and assets of the company or for the appointment of a receiver in respect thereof and that no suit for the recovery of any money or for the enforcement of any security against the company shall lie or be proceeded with.

(*3*) The Tribunal may pass an order in respect of an application under sub-section (*2*) which shall be operative for a period of one hundred and twenty days.

(*4*) The company referred to in sub-section (*1*) may also file an application to the Tribunal on one or more of the grounds specified in sub-sections (*1*) and (*2*) above.

(*5*) Without prejudice to the provisions of sub-sections (*1*) to (*4*), the Central Government or the Reserve Bank of India or a State Government or a public financial institution or a State level institution or a scheduled bank may, if it has sufficient reasons to believe that any company has become, for the purposes of this Act, a sick company, make a reference in respect of such company to the Tribunal for determination of the measures which may be adopted with respect to such company:

Provided that a reference shall not be made under this sub-section in respect of any company by—

(*a*) the Government of any State unless all or any of the undertakings belonging to such company are situated in such State;

(*b*) a public financial institution or a State level institution or a scheduled bank unless it has, by reason of any financial assistance or obligation rendered by it, or undertaken by it, with respect to such company, an interest in such company.

(*6*) Where an application under sub-section (*1*) or sub-section (*4*) has been filed,—

(*a*) the company shall not dispose of or otherwise enter into any obligation with regard to, its properties or assets except as required in the normal course of business;

(*b*) the Board of Directors shall not take any steps likely to prejudice the interests of the creditors.

(*7*) The Tribunal shall, within a period of sixty days of the receipt of an application under sub-section (*1*) or sub-section (*4*), determine whether the company is a sick company or not:

Provided that no such determination shall be made in respect of an application under sub-section (*1*) unless the company has been given notice of the application and a reasonable opportunity to reply to the notice within thirty days of the receipt thereof.

(*8*) If the Tribunal is satisfied that a company has become a sick company, the Tribunal shall, after considering all the relevant facts and circumstances of the case, decide, as soon as may be, by an order in writing, whether it is practicable for the company to make the repayment of its debts referred to in sub-section (*1*) within a reasonable time.

(*9*) If the Tribunal deems fit under sub-section (*8*) that it is practicable for a sick company to pay its debts referred to in that sub-section within a reasonable time, the Tribunal

shall, by order in writing and subject to such restrictions or conditions as may be specified in the order, give such time to the company as it may deem fit to make repayment of the debt.

Application for revival and rehabilitation.

254. (*1*) On the determination of a company as a sick company by the Tribunal under section 253, any secured creditor of that company or the company may make an application to the Tribunal for the determination of the measures that may be adopted with respect to the revival and rehabilitation of such company:

Provided that in case any reference had been made before the Tribunal and a scheme for revival and rehabilitation submitted, such reference shall abate if the secured creditors representing three-fourths in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (*4*) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002: 54 of 2002.

Provided further that no reference shall be made under this section if the secured creditors representing three-fourths in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (*4*) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002: 54 of 2002.

Provided also that where the financial assets of the sick company had been acquired by any securitisation company or reconstruction company under sub-section (*1*) of section 5 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, no such application shall be made without the consent of securitisation company or reconstruction company which has acquired such assets. 54 of 2002.

(*2*) An application under sub-section (*1*) shall be accompanied by—

(*a*) audited financial statements of the company relating to the immediately preceding financial year;

(*b*) such particulars and documents, duly authenticated in such manner, along with such fees as may be prescribed; and

(*c*) a draft scheme of revival and rehabilitation of the company in such manner as may be prescribed:

Provided that where the sick company has no draft scheme of revival and rehabilitation to offer, it shall file a declaration to that effect along with the application.

(*3*) An application under sub-section (*1*) shall be made to the Tribunal within a period of sixty days from the date of determination of the company as a sick company by the Tribunal under section 253.

Exclusion of certain time in computing period of limitation.

255. Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a company for which an application has been made to the Tribunal under sub-section (*1*) of section 253, for a determination to be declared as a sick company or at any stage thereafter, the period during which the stay order as provided under sub-section (*3*) of section 253, was applicable shall be excluded. 36 of 1963.

Appointment of interim administrator.

256. (*1*) On the receipt of an application under section 254, the Tribunal shall, not later than seven days from such receipt,—

(*a*) fix a date for hearing not later than ninety days from date of its receipt;

(*b*) appoint an interim administrator to convene a meeting of creditors of the company in accordance with the provisions of section 257 to be held not later than forty-five days from receipt of the order of the Tribunal appointing him to consider whether on the basis of the particulars and documents furnished with the application made under section 254, the draft scheme, if any, filed along with such application or otherwise and any other material available, it is possible to revive and rehabilitate the

sick company and such other matters, which the interim administrator may consider necessary for the purpose and to submit his report to the Tribunal within sixty days from the date of the order:

Provided that where no draft scheme is filed by the company and a declaration has been made to that effect by the Board of Directors, the Tribunal may direct the interim administrator to take over the management of the company; and

(*c*) issue such other directions to the interim administrator as the Tribunal may consider necessary to protect and preserve the assets of the sick company and for its proper management.

(*2*) Where an interim administrator has been directed to take over the management of the company, the directors and the management of the company shall extend all possible assistance and cooperation to the interim administrator to manage the affairs of the company.

Committee of creditors.

257. (*1*) The interim administrator shall appoint a committee of creditors with such number of members as he may determine, but not exceeding seven, and as far as possible a representative each of every class of creditors should be represented in that committee.

(*2*) The holding of the meeting of the committee of creditors and the procedure to be followed at such meetings, including the appointment of its chairperson, shall be decided by the interim administrator.

(*3*) The interim administrator may direct any promoter, director or any key managerial personnel to attend any meeting of the committee of creditors and to furnish such information as may be considered necessary by the interim administrator.

Order of Tribunal.

258. On the date of hearing fixed by the Tribunal and on consideration of the report of the interim administrator filed under sub-section (*1*) of section 256, if the Tribunal is satisfied that the creditors representing three-fourths in value of the amount outstanding against the sick company present and voting have resolved that—

(*a*) it is not possible to revive and rehabilitate such company, the Tribunal shall record such opinion and order that the proceedings for the winding up of the company be initiated; or

(*b*) by adopting certain measures the sick company may be revived and rehabilitated, the Tribunal shall appoint a company administrator for the company and cause such administrator to prepare a scheme of revival and rehabilitation of the sick company:

Provided that the Tribunal may, if it thinks fit, appoint an interim administrator as the company administrator.

Appointment of administrator.

259. (*1*) The interim administrator or the company administrator, as the case may be, shall be appointed by the Tribunal from a databank maintained by the Central Government or any institute or agency authorised by the Central Government in a manner as may be prescribed consisting of the names of company secretaries, chartered accountants, cost accountants and such other professionals as may, by notification, be specified by the Central Government.

(*2*) The terms and conditions of the appointment of interim and company administrators shall be such as may be ordered by the Tribunal.

(*3*) The Tribunal may direct the company administrator to take over the assets or management of the company and for the purpose of assisting him in the management of the company, the company administrator may, with the approval of the Tribunal, engage the services of suitable expert or experts.

Powers and duties of company administrator.

260. (*1*) The company administrator shall perform such functions as the Tribunal may direct.

(*2*) Without prejudice to the provisions of sub-section (*1*), the company administrator may cause to be prepared with respect to the company—

(*a*) a complete inventory of—

(*i*) all assets and liabilities of whatever nature;

(*ii*) all books of account, registers, maps, plans, records, documents of title and all other documents of whatever nature;

(*b*) a list of shareholders and a list of creditors showing separately in the list of creditors, the secured creditors and unsecured creditors;

(*c*) a valuation report in respect of the shares and assets in order to arrive at the reserve price for the sale of any industrial undertaking of the company or for the fixation of the lease rent or share exchange ratio;

(*d*) an estimate of the reserve price, lease rent or share exchange ratio;

(*e*) proforma accounts of the company, where no up-to-date audited accounts are available; and

(*f*) a list of workmen of the company and their dues referred to in sub-section (*3*) of section 325.

Scheme of revival and rehabilitation.

261. (*1*) The company administrator shall prepare or cause to be prepared a scheme of revival and rehabilitation of the sick company after considering the draft scheme filed along with the application under section 254.

(*2*) A scheme prepared in relation to any sick company under sub-section (*1*) may provide for any one or more of the following measures, namely:—

(*a*) the financial reconstruction of the sick company;

(*b*) the proper management of the sick company by any change in, or by taking over, the management of such company;

(*c*) the amalgamation of—

(*i*) the sick company with any other company; or

(*ii*) any other company with the sick company;

(*d*) takeover of the sick company by a solvent company;

(*e*) the sale or lease of a part or whole of any asset or business of the sick company;

(*f*) the rationalisation of managerial personnel, supervisory staff and workmen in accordance with law;

(*g*) such other preventive, ameliorative and remedial measures as may be appropriate;

(*h*) repayment or rescheduling or restructuring of the debts or obligations of the sick company to any of its creditors or class of creditors;

(*i*) such incidental, consequential or supplemental measures as may be necessary or expedient in connection with or for the purposes of the measures specified in clauses (*a*) to (*h*).

Sanction of scheme.

262. (*1*) The scheme prepared by the company administrator under section 261 shall be placed before the creditors of the sick company in a meeting convened for their approval by the company administrator within the period of sixty days from his appointment, which may be extended by the Tribunal up to a period not exceeding one hundred twenty days.

(*2*) The company administrator shall convene separate meetings of secured and unsecured creditors of the sick company and if the scheme is approved by the unsecured creditors representing one-fourth in value of the amount owed by the company to such creditors and the secured creditors, representing three-fourths in value of the amount outstanding against financial assistance disbursed by such creditors to the sick company, the company administrator shall submit the scheme before the Tribunal for sanctioning the scheme:

Provided that where the scheme relates to amalgamation of the sick company with any other company, such scheme shall, in addition to the approval of the creditors of the sick company under this sub-section, be laid before the general meeting of both the companies for approval by their respective shareholders and no such scheme shall be proceeded with unless it has been approved, with or without modification, by a special resolution passed by the shareholders of that company.

(*3*) (*i*) The scheme prepared by the company administrator shall be examined by the Tribunal and a copy of the scheme with modification, if any, made by the Tribunal shall be sent, in draft, to the sick company and the company administrator and in the case of amalgamation, also to any other company concerned, and the Tribunal may publish or cause to be published the draft scheme in brief in such daily newspapers as the Tribunal may consider necessary, for suggestions and objections, if any, within such period as the Tribunal may specify.

(*ii*) The complete draft scheme shall be kept at the place where registered office of the company is situated or at such places as mentioned in the advertisement.

(*iii*) The Tribunal may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the sick company and the company administrator and also from the transferee company and any other company concerned in the amalgamation and from any shareholder or any creditors or employees of such companies.

(*4*) On the receipt of the scheme under sub-section (*3*), the Tribunal shall within sixty days therefrom, after satisfying that the scheme had been validly approved in accordance with this section, pass an order sanctioning such scheme.

(*5*) Where a sanctioned scheme provides for the transfer of any property or liability of the sick company to any other company or person or where such scheme provides for the transfer of any property or liability of any other company or person in favour of the sick company, then, by virtue of, and to the extent provided in, the scheme, on and from the date of coming into operation of the sanctioned scheme or any provision thereof, the property shall be transferred to, and vest in, and the liability shall become the liability of, such other company or person or, as the case may be, the sick company.

(*6*) The Tribunal may review any sanctioned scheme and make such modifications, as it may deem fit, or may by order in writing direct company administrator, to prepare a fresh scheme providing for such measures as the company administrator may consider necessary.

(*7*) The sanction accorded by the Tribunal under sub-section (*4*) shall be conclusive evidence that all the requirements of the scheme relating to the reconstruction or amalgamation or any other measure specified therein have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Tribunal to be a true copy thereof shall in all legal proceedings be admitted as evidence.

(*8*) A copy of the sanctioned scheme referred to in sub-section (*4*) shall be filed with the Registrar by the sick company within a period of thirty days from the date of receipt of a copy thereof.

Scheme to be binding.

263. On and from the date of the coming into operation of the sanctioned scheme or any provision thereof, the scheme or such provision shall be binding on the sick company

and the transferee company or, as the case may be, the other company and also on the employees, shareholders, creditors and guarantors of the said companies.

Implementation of scheme.

264. (*1*) The Tribunal shall, for the purpose of effective implementation of the scheme, have power to enforce, modify or terminate any contract or agreement or any obligation pursuant to such agreement or contract entered into by the company with any other person.

(*2*) The Tribunal may, if it deems necessary or expedient so to do, by order in writing, authorise the company administrator appointed under section 259 to implement a sanctioned scheme till its successful implementation on such terms and conditions as may be specified in the order and may for that purpose require him to file periodic reports on the implementation of the sanctioned scheme.

(*3*) Where the whole or substantial assets of the undertaking of the sick company are sold under a sanctioned scheme, the sale proceeds shall be applied towards implementation of the scheme in such manner as the Tribunal may direct:

Provided that debtors and creditors shall have the power to scrutinise and make an appeal for review of the value before final order of fixing value.

(*4*) Where it is difficult to implement the scheme for any reason or the scheme fails due to non-implementation of obligations under the scheme by the parties concerned, the company administrator authorised to implement the scheme and where there is no such administrator, the company, the secured creditors, or the transferee company in a case of amalgamation, may make an application before the Tribunal for modification of the scheme or to declare the scheme as failed and that the company may be wound up.

(*5*) The Tribunal shall, within thirty days of presentation of an application under sub-section (*4*), pass an order for modification of the scheme or, as the case may be, declaring the scheme as failed and pass an order for the winding up of the company if three-fourths in value of the secured creditors consent to the modification of the scheme or winding up of the company.

(*6*) Where an application under sub-section (*4*) has been made before the Tribunal and such application is pending before it, such application shall abate, if the secured creditors representing not less than three-fourths in value of the amount outstanding against financial assistance disbursed to the sick company have taken any measures to recover their secured debt under sub-section (*4*) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. 54 of 2002.

Winding up of company on report of company administrator.

265. (*1*) If the scheme is not approved by the creditors in the manner specified in sub-section (*2*) of section 262, the company administrator shall submit a report to the Tribunal within fifteen days and the Tribunal shall order for the winding up of the sick company.

(*2*) On the passing of an order under sub-section (*1*), the Tribunal shall conduct the proceedings for winding up of the sick company in accordance with the provisions of Chapter XX.

Power of Tribunal to assess damages against delinquent directors, etc.

266. (*1*) If, in the course of the scrutiny or implementation of any scheme or proposal including the draft scheme or proposal, it appears to the Tribunal that any person who has taken part in the promotion, formation or management of the sick company or its undertaking, including any director, manager, officer or employee of the sick company who are or have been in employment of such company,—

(*a*) has misapplied or retained, or become liable or accountable for, any money or property of the sick company; or

(*b*) has been guilty of any misfeasance, malfeasance, non-feasance or breach of trust in relation to the sick company,

it may, by order, direct him to repay or restore the money or property, with or without interest, as it thinks just, or to contribute such sum to the assets of the sick company or the other person, entitled thereto by way of compensation in respect of the misapplication, retainer,

misfeasance, malfeasance, non-feasance or breach of trust as the Tribunal thinks just and proper:

Provided that such direction by the Tribunal shall be without prejudice to any other legal action that may be taken against the person including any punishment for fraud in the manner as provided in section 447.

(*2*) If the Tribunal is satisfied on the basis of the information and evidence in its possession with respect to any person who is or was a director or an officer or other employee of the sick company, that such person by himself or along with others had diverted the funds or other property of such company for any purpose other than the purposes of the company or had managed the affairs of the company in a manner highly detrimental to the interests of the company, the Tribunal shall, by order, direct the public financial institutions, scheduled banks and State level institutions not to provide, for a maximum period of ten years from the date of the order, any financial assistance to such person or any firm of which such person is a partner or any company or other body corporate of which such person is a director, by whatever name called, or to disqualify the said director, promoter, manager from being appointed as a director in any company registered under this Act for a maximum period of six years.

(*3*) No order shall be made by the Tribunal under this section against any person unless such person has been given a reasonable opportunity of being heard.

Punishment for certain offences.

267. Whoever violates the provisions of this Chapter or any scheme, or any order, of the Tribunal or the Appellate Tribunal or makes a false statement or gives false evidence before the Tribunal or the Appellate Tribunal or attempts to tamper with the records of reference or appeal filed under this Act, he shall be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to ten lakh rupees.

Bar of jurisdiction.

268. No appeal shall lie in any court or other authority and no civil court shall have any jurisdiction in respect of any matter in respect of which the Tribunal or the Appellate Tribunal is empowered by or under this Chapter and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Chapter.

Rehabilitation and Insolvency Fund.

269. (*1*) There shall be formed a Fund to be called the Rehabilitation and Insolvency Fund for the purposes of rehabilitation, revival and liquidation of the sick companies.

(*2*) There shall be credited to the Fund—

(*a*) the grants made by the Central Government for the purposes of the Fund;

(*b*) the amount deposited by the companies as contribution to the Fund;

(*c*) the amount given to the Fund from any other source; and

(*d*) the income from investment of the amount in the Fund.

(*3*) A company which has contributed any amount to the Fund shall, in the event of proceedings initiated in respect of such company under this Chapter or Chapter XX, may make an application to the Tribunal for withdrawal of funds not exceeding the amount contributed by it, for making payments to workmen, protecting the assets of the company or meeting the incidental costs during proceedings.

(*4*) The Fund shall be managed by an administrator to be appointed by the Central Government in such manner as may be prescribed.

CHAPTER XX

WINDING UP

Modes of winding up.

270. (*1*) The winding up of a company may be either—

(*a*) by the Tribunal; or

(*b*) voluntary.

(*2*) Notwithstanding anything contained in any other Act, the provisions of this Act with respect to winding up shall apply to the winding up of a company in any of the modes specified under sub-section (*1*).

PART I.—*Winding up by the Tribunal*

Circumstances in which company may be wound up by Tribunal.

271. (*1*) A company may, on a petition under section 272, be wound up by the Tribunal,—

(*a*) if the company is unable to pay its debts;

(*b*) if the company has, by special resolution, resolved that the company be wound up by the Tribunal;

(*c*) if the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;

(*d*) if the Tribunal has ordered the winding up of the company under Chapter XIX;

(*e*) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the company have been conducted in a fraudulent manner or the company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the company be wound up;

(*f*) if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or

(*g*) if the Tribunal is of the opinion that it is just and equitable that the company should be wound up.

(*2*) A company shall be deemed to be unable to pay its debts,—

(*a*) if a creditor, by assignment or otherwise, to whom the company is indebted for an amount exceeding one lakh rupees then due, has served on the company, by causing it to be delivered at its registered office, by registered post or otherwise, a demand requiring the company to pay the amount so due and the company has failed to pay the sum within twenty-one days after the receipt of such demand or to provide adequate security or re-structure or compound the debt to the reasonable satisfaction of the creditor;

(*b*) if any execution or other process issued on a decree or order of any court or tribunal in favour of a creditor of the company is returned unsatisfied in whole or in part; or

(*c*) if it is proved to the satisfaction of the Tribunal that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Tribunal shall take into account the contingent and prospective liabilities of the company.

Petition for winding up.

272. (*1*) Subject to the provisions of this section, a petition to the Tribunal for the winding up of a company shall be presented by—

(*a*) the company;

(*b*) any creditor or creditors, including any contingent or prospective creditor or creditors;

(*c*) any contributory or contributories;

(*d*) all or any of the persons specified in clauses (*a*), (*b*) and (*c*) together;

(*e*) the Registrar;

(*f*) any person authorised by the Central Government in that behalf; or

(*g*) in a case falling under clause (*c*) of sub-section (*1*) of section 271, by the Central Government or a State Government.

(*2*) A secured creditor, the holder of any debentures, whether or not any trustee or trustees have been appointed in respect of such and other like debentures, and the trustee for the holders of debentures shall be deemed to be creditors within the meaning of clause (*b*) of sub-section (*1*).

(*3*) A contributory shall be entitled to present a petition for the winding up of a company, notwithstanding that he may be the holder of fully paid-up shares, or that the company may have no assets at all or may have no surplus assets left for distribution among the shareholders after the satisfaction of its liabilities, and shares in respect of which he is a contributory or some of them were either originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months immediately before the commencement of the winding up or have devolved on him through the death of a former holder.

(*4*) The Registrar shall be entitled to present a petition for winding up under sub-section (*1*) on any of the grounds specified in sub-section (*1*) of section 271, except on the grounds specified in clause (*b*), clause (*d*) or clause (*g*) of that sub-section:

Provided that the Registrar shall not present a petition on the ground that the company is unable to pay its debts unless it appears to him either from the financial condition of the company as disclosed in its balance sheet or from the report of an inspector appointed under section 210 that the company is unable to pay its debts:

Provided further that the Registrar shall obtain the previous sanction of the Central Government to the presentation of a petition:

Provided also that the Central Government shall not accord its sanction unless the company has been given a reasonable opportunity of making representations.

(*5*) A petition presented by the company for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs in such form and in such manner as may be prescribed.

(*6*) Before a petition for winding up of a company presented by a contingent or prospective creditor is admitted, the leave of the Tribunal shall be obtained for the admission of the petition and such leave shall not be granted, unless in the opinion of the Tribunal there is a *prima facie* case for the winding up of the company and until such security for costs has been given as the Tribunal thinks reasonable.

(*7*) A copy of the petition made under this section shall also be filed with the Registrar and the Registrar shall, without prejudice to any other provisions, submit his views to the Tribunal within sixty days of receipt of such petition.

Powers of Tribunal.

273. (*1*) The Tribunal may, on receipt of a petition for winding up under section 272 pass any of the following orders, namely:—

(*a*) dismiss it, with or without costs;

(*b*) make any interim order as it thinks fit;

(*c*) appoint a provisional liquidator of the company till the making of a winding up order;

(*d*) make an order for the winding up of the company with or without costs; or

(*e*) any other order as it thinks fit:

Provided that an order under this sub-section shall be made within ninety days from the date of presentation of the petition:

Provided further that before appointing a provisional liquidator under clause (*c*), the Tribunal shall give notice to the company and afford a reasonable opportunity to it to make its representations, if any, unless for special reasons to be recorded in writing, the Tribunal thinks fit to dispense with such notice:

Provided also that the Tribunal shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged for an amount equal to or in excess of those assets, or that the company has no assets.

(*2*) Where a petition is presented on the ground that it is just and equitable that the company should be wound up, the Tribunal may refuse to make an order of winding up, if it is of the opinion that some other remedy is available to the petitioners and that they are acting unreasonably in seeking to have the company wound up instead of pursuing the other remedy.

Directions for filing statement of affairs.

274. (*1*) Where a petition for winding up is filed before the Tribunal by any person other than the company, the Tribunal shall, if satisfied that a *prima facie* case for winding up of the company is made out, by an order direct the company to file its objections along with a statement of its affairs within thirty days of the order in such form and in such manner as may be prescribed:

Provided that the Tribunal may allow a further period of thirty days in a situation of contingency or special circumstances:

Provided further that the Tribunal may direct the petitioner to deposit such security for costs as it may consider reasonable as a precondition to issue directions to the company.

(*2*) A company, which fails to file the statement of affairs as referred to in sub-section (*1*), shall forfeit the right to oppose the petition and such directors and officers of the company as found responsible for such non-compliance, shall be liable for punishment under sub-section (*4*).

(*3*) The directors and other officers of the company, in respect of which an order for winding up is passed by the Tribunal under clause (*d*) of sub-section (*1*) of section 273, shall, within a period of thirty days of such order, submit, at the cost of the company, the books of account of the company completed and audited up to the date of the order, to such liquidator and in the manner specified by the Tribunal.

(*4*) If any director or officer of the company contravenes the provisions of this section, the director or the 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 twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

(*5*) The complaint may be filed in this behalf before the Special Court by Registrar, provisional liquidator, Company Liquidator or any person authorised by the Tribunal.

Company Liquidators and their appointments.

275. (*1*) For the purposes of winding up of a company by the Tribunal, the Tribunal at the time of the passing of the order of winding up, shall appoint an Official Liquidator or a liquidator from the panel maintained under sub-section (*2*) as the Company Liquidator.

(*2*) The provisional liquidator or the Company Liquidator, as the case may be, shall be appointed from a panel maintained by the Central Government consisting of the names of chartered accountants, advocates, company secretaries, cost accountants or firms or bodies corporate having such chartered accountants, advocates, company secretaries, cost accountants and such other professionals as may be notified by the Central Government or from a firm or a body corporate of persons having a combination of such professionals as may be prescribed and having at least ten years' experience in company matters.

(*3*) Where a provisional liquidator is appointed by the Tribunal, the Tribunal may limit and restrict his powers by the order appointing him or it or by a subsequent order, but otherwise he shall have the same powers as a liquidator.

(*4*) The Central Government may remove the name of any person or firm or body

corporate from the panel maintained under sub-section (*2*) on the grounds of misconduct, fraud, misfeasance, breach of duties or professional incompetence:

Provided that the Central Government before removing him or it from the panel shall give him or it a reasonable opportunity of being heard.

(*5*) The terms and conditions of appointment of a provisional liquidator or Company Liquidator and the fee payable to him or it shall be specified by the Tribunal on the basis of task required to be performed, experience, qualification of such liquidator and size of the company.

(*6*) On appointment as provisional liquidator or Company Liquidator, as the case may be, such liquidator shall file a declaration within seven days from the date of appointment in the prescribed form disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the Tribunal and such obligation shall continue throughout the term of his appointment.

(*7*) While passing a winding up order, the Tribunal may appoint a provisional liquidator, if any, appointed under clause (*c*) of sub-section (*1*) of section 273, as the Company Liquidator for the conduct of the proceedings for the winding up of the company.

Removal and replacement of liquidator.

276. (*1*) The Tribunal may, on a reasonable cause being shown and for reasons to be recorded in writing, remove the provisional liquidator or the Company Liquidator, as the case may be, as liquidator of the company on any of the following grounds, namely:—

(*a*) misconduct;

(*b*) fraud or misfeasance;

(*c*) professional incompetence or failure to exercise due care and diligence in performance of the powers and functions;

(*d*) inability to act as provisional liquidator or as the case may be, Company Liquidator;

(*e*) conflict of interest or lack of independence during the term of his appointment that would justify removal.

(*2*) In the event of death, resignation or removal of the provisional liquidator or as the case may be, Company Liquidator, the Tribunal may transfer the work assigned to him or it to another Company Liquidator for reasons to be recorded in writing.

(*3*) Where the Tribunal is of the opinion that any liquidator is responsible for causing any loss or damage to the company due to fraud or misfeasance or failure to exercise due care and diligence in the performance of his or its powers and functions, the Tribunal may recover or cause to be recovered such loss or damage from the liquidator and pass such other orders as it may think fit.

(*4*) The Tribunal shall, before passing any order under this section, provide a reasonable opportunity of being heard to the provisional liquidator or, as the case may be, Company Liquidator.

Intimation to Company Liquidator, provisional liquidator and Registrar.

277. (*1*) Where the Tribunal makes an order for appointment of provisional liquidator or for the winding up of a company, it shall, within a period not exceeding seven days from the date of passing of the order, cause intimation thereof to be sent to the Company Liquidator or provisional liquidator, as the case may be, and the Registrar.

(*2*) On receipt of the copy of order of appointment of provisional liquidator or winding up order, the Registrar shall make an endorsement to that effect in his records relating to the company and notify in the Official Gazette that such an order has been made and in the case of a listed company, the Registrar shall intimate about such appointment or order, as the case may be, to the stock exchange or exchanges where the securities of the company are listed.

(*3*) The winding up order shall be deemed to be a notice of discharge to the officers, employees and workmen of the company, except when the business of the company is continued.

(*4*) Within three weeks from the date of passing of winding up order, the Company Liquidator shall make an application to the Tribunal for constitution of a winding up committee to assist and monitor the progress of liquidation proceedings by the Company Liquidator in carrying out the function as provided in sub-section (*5*) and such winding up committee shall comprise of the following persons, namely:—

(*i*) Official Liquidator attached to the Tribunal;

(*ii*) nominee of secured creditors; and

(*iii*) a professional nominated by the Tribunal.

(*5*) The Company Liquidator shall be the convener of the meetings of the winding up committee which shall assist and monitor the liquidation proceedings in following areas of liquidation functions, namely:—

(*i*) taking over assets;

(*ii*) examination of the statement of affairs;

(*iii*) recovery of property, cash or any other assets of the company including benefits derived therefrom;

(*iv*) review of audit reports and accounts of the company;

(*v*) sale of assets;

(*vi*) finalisation of list of creditors and contributories;

(*vii*) compromise, abandonment and settlement of claims;

(*viii*) payment of dividends, if any; and

(*ix*) any other function, as the Tribunal may direct from time to time.

(*6*) The Company Liquidator shall place before the Tribunal a report along with minutes of the meetings of the committee on monthly basis duly signed by the members present in the meeting for consideration till the final report for dissolution of the company is submitted before the Tribunal.

(*7*) The Company Liquidator shall prepare the draft final report for consideration and approval of the winding up committee.

(*8*) The final report so approved by the winding up committee shall be submitted by the Company Liquidator before the Tribunal for passing of a dissolution order in respect of the company.

Effect of winding up order.

278. The order for the winding up of a company shall operate in favour of all the creditors and all contributories of the company as if it had been made out on the joint petition of creditors and contributories.

Stay of suits, etc., on winding up order.

279. (*1*) When a winding up order has been passed or a provisional liquidator has been appointed, no suit or other legal proceeding shall be commenced, or if pending at the date of the winding up order, shall be proceeded with, by or against the company, except with the leave of the Tribunal and subject to such terms as the Tribunal may impose:

Provided that any application to the Tribunal seeking leave under this section shall be disposed of by the Tribunal within sixty days.

(*2*) Nothing in sub-section (*1*) shall apply to any proceeding pending in appeal before the Supreme Court or a High Court.

Jurisdiction of Tribunal.

280. The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of,—

(*a*) any suit or proceeding by or against the company;

(*b*) any claim made by or against the company, including claims by or against any of its branches in India;

(*c*) any application made under section 233;

(*d*) any scheme submitted under section 262;

(*e*) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the company,

whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for the winding up of the company is made.

Submission of report by Company Liquidator.

281. (*1*) Where the Tribunal has made a winding up order or appointed a Company Liquidator, such liquidator shall, within sixty days from the order, submit to the Tribunal, a report containing the following particulars, namely:—

(*a*) the nature and details of the assets of the company including their location and value, stating separately the cash balance in hand and in the bank, if any, and the negotiable securities, if any, held by the company:

Provided that the valuation of the assets shall be obtained from registered valuers for this purpose;

(*b*) amount of capital issued, subscribed and paid-up;

(*c*) the existing and contingent liabilities of the company including names, addresses and occupations of its creditors, stating separately the amount of secured and unsecured debts, and in the case of secured debts, particulars of the securities given, whether by the company or an officer thereof, their value and the dates on which they were given;

(*d*) the debts due to the company and the names, addresses and occupations of the persons from whom they are due and the amount likely to be realised on account thereof;

(*e*) guarantees, if any, extended by the company;

(*f*) list of contributories and dues, if any, payable by them and details of any unpaid call;

(*g*) details of trade marks and intellectual properties, if any, owned by the company;

(*h*) details of subsisting contracts, joint ventures and collaborations, if any;

(*i*) details of holding and subsidiary companies, if any;

(*j*) details of legal cases filed by or against the company; and

(*k*) any other information which the Tribunal may direct or the Company Liquidator may consider necessary to include.

(*2*) The Company Liquidator shall include in his report the manner in which the company was promoted or formed and whether in his opinion any fraud has been committed by any person in its promotion or formation or by any officer of the company in relation to the company since the formation thereof and any other matters which, in his opinion, it is desirable to bring to the notice of the Tribunal.

(*3*) The Company Liquidator shall also make a report on the viability of the business of the company or the steps which, in his opinion, are necessary for maximising the value of the assets of the company.

(*4*) The Company Liquidator may also, if he thinks fit, make any further report or reports.

(*5*) Any person describing himself in writing to be a creditor or a contributory of the company shall be entitled by himself or by his agent at all reasonable times to inspect the report submitted in accordance with this section and take copies thereof or extracts therefrom on payment of the prescribed fees.

Directions of Tribunal on report of Company Liquidator.

282. (*1*) The Tribunal shall, on consideration of the report of the Company Liquidator, fix a time limit within which the entire proceedings shall be completed and the company be dissolved:

Provided that the Tribunal may, if it is of the opinion, at any stage of the proceedings, or on examination of the reports submitted to it by the Company Liquidator and after hearing the Company Liquidator, creditors or contributories or any other interested person, that it will not be advantageous or economical to continue the proceedings, revise the time limit within which the entire proceedings shall be completed and the company be dissolved.

(*2*) The Tribunal may, on examination of the reports submitted to it by the Company Liquidator and after hearing the Company Liquidator, creditors or contributories or any other interested person, order sale of the company as a going concern or its assets or part thereof:

Provided that the Tribunal may, where it considers fit, appoint a sale committee comprising such creditors, promoters and officers of the company as the Tribunal may decide to assist the Company Liquidator in sale under this sub-section.

(*3*) Where a report is received from the Company Liquidator or the Central Government or any person that a fraud has been committed in respect of the company, the Tribunal shall, without prejudice to the process of winding up, order for investigation under section 210, and on consideration of the report of such investigation it may pass order and give directions under sections 339 to 342 or direct the Company Liquidator to file a criminal complaint against persons who were involved in the commission of fraud.

(*4*) The Tribunal may order for taking such steps and measures, as may be necessary, to protect, preserve or enhance the value of the assets of the company.

(*5*) The Tribunal may pass such other order or give such other directions as it considers fit.

Custody of company's properties.

283. (*1*) Where a winding up order has been made or where a provisional liquidator has been appointed, the Company Liquidator or the provisional liquidator, as the case may be, shall, on the order of the Tribunal, forthwith take into his or its custody or control all the property, effects and actionable claims to which the company is or appears to be entitled to and take such steps and measures, as may be necessary, to protect and preserve the properties of the company.

(*2*) Notwithstanding anything contained in sub-section (*1*), all the property and effects of the company shall be deemed to be in the custody of the Tribunal from the date of the order for the winding up of the company.

(*3*) On an application by the Company Liquidator or otherwise, the Tribunal may, at any time after the making of a winding up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent, officer or other employee of the company, to pay, deliver, surrender or transfer forthwith, or within such time as the

Tribunal directs, to the Company Liquidator, any money, property or books and papers in his custody or under his control to which the company is or appears to be entitled.

Promoters, directors, etc., to cooperate with Company Liquidator.

284. (*1*) The promoters, directors, officers and employees, who are or have been in employment of the company or acting or associated with the company shall extend full cooperation to the Company Liquidator in discharge of his functions and duties.

(*2*) Where any person, without reasonable cause, fails to discharge his obligations under sub-section (*1*), he shall be punishable with imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees, or with both.

Settlement of list of contributories and application of assets.

285. (*1*) As soon as may be after the passing of a winding up order by the Tribunal, the Tribunal shall settle a list of contributories, cause rectification of register of members in all cases where rectification is required in pursuance of this Act and shall cause the assets of the company to be applied for the discharge of its liability:

Provided that where it appears to the Tribunal that it would not be necessary to make calls on or adjust the rights of contributories, the Tribunal may dispense with the settlement of a list of contributories.

(*2*) In settling the list of contributories, the Tribunal shall distinguish between those who are contributories in their own right and those who are contributories as being representatives of, or liable for the debts of, others.

(*3*) While settling the list of contributories, the Tribunal shall include every person, who is or has been a member, who shall be liable to contribute to the assets of the company an amount sufficient for payment of the debts and liabilities and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, subject to the following conditions, namely:—

(*a*) a person who has been a member shall not be liable to contribute if he has ceased to be a member for the preceding one year or more before the commencement of the winding up;

(*b*) a person who has been a member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;

(*c*) no person who has been a member shall be liable to contribute unless it appears to the Tribunal that the present members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(*d*) in the case of a company limited by shares, no contribution shall be required from any person, who is or has been a member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as such member;

(*e*) in the case of a company limited by guarantee, no contribution shall be required from any person, who is or has been a member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up but if the company has a share capital, such member shall be liable to contribute to the extent of any sum unpaid on any shares held by him as if the company were a company limited by shares.

Obligations of directors and managers.

286. In the case of a limited company, any person who is or has been a director or manager, whose liability is unlimited under the provisions of this Act, shall, in addition to his liability, if any, to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of winding up, a member of an unlimited company:

Provided that —

(*a*) a person who has been a director or manager shall not be liable to make such further contribution, if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(*b*) a person who has been a director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;

(*c*) subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the Tribunal deems it necessary to require the contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

Advisory committee.

287. (*1*) The Tribunal may, while passing an order of winding up of a company, direct that there shall be, an advisory committee to advise the Company Liquidator and to report to the Tribunal on such matters as the Tribunal may direct.

(*2*) The advisory committee appointed by the Tribunal shall consist of not more than twelve members, being creditors and contributories of the company or such other persons in such proportion as the Tribunal may, keeping in view the circumstances of the company under liquidation, direct.

(*3*) The Company Liquidator shall convene a meeting of creditors and contributories, as ascertained from the books and documents, of the company within thirty days from the date of order of winding up for enabling the Tribunal to determine the persons who may be members of the advisory committee.

(*4*) The advisory committee shall have the right to inspect the books of account and other documents, assets and properties of the company under liquidation at a reasonable time.

(*5*) The provisions relating to the convening of the meetings, the procedure to be followed thereat and other matters relating to conduct of business by the advisory committee shall be such as may be prescribed.

(*6*) The meeting of advisory committee shall be chaired by the Company Liquidator.

Submission of periodical reports to Tribunal.

288. (*1*) The Company Liquidator shall make periodical reports to the Tribunal and in any case make a report at the end of each quarter with respect to the progress of the winding up of the company in such form and manner as may be prescribed.

(*2*) The Tribunal may, on an application by the Company Liquidator, review the orders made by it and make such modifications as it thinks fit.

Power of Tribunal on application for stay of winding up.

289. (*1*) The Tribunal may, at any time after making a winding up order, on an application of promoter, shareholders or creditors or any other interested person, if satisfied, make an order that it is just and fair that an opportunity to revive and rehabilitate the company be provided staying the proceedings for such time but not exceeding one hundred and eighty days and on such terms and conditions as it thinks fit:

Provided that an order under this sub-section shall be made by the Tribunal only when the application is accompanied with a scheme for rehabilitation.

(*2*) The Tribunal may, while passing the order under sub-section (*1*), require the applicant to furnish such security as to costs as it considers fit.

(*3*) Where an order under sub-section (*1*) is passed by the Tribunal, the provisions of Chapter XIX shall be followed in respect of the consideration and sanction of the scheme of revival of the company.

(*4*) Without prejudice to the provisions of sub-section (*1*), the Tribunal may at any time after making a winding up order, on an application of the Company Liquidator, make an order staying the winding up proceedings or any part thereof, for such time and on such terms and conditions as it thinks fit.

(*5*) The Tribunal may, before making an order, under this section, require the Company Liquidator to furnish to it a report with respect to any facts or matters which are in his opinion relevant to the application.

(*6*) A copy of every order made under this section shall forthwith be forwarded by the Company Liquidator to the Registrar who shall make an endorsement of the order in his books and records relating to the company.

Powers and duties of Company Liquidator.

290. (*1*) Subject to directions by the Tribunal, if any, in this regard, the Company Liquidator, in a winding up of a company by the Tribunal, shall have the power—

(*a*) to carry on the business of the company so far as may be necessary for the beneficial winding up of the company;

(*b*) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts and other documents, and for that purpose, to use, when necessary, the company's seal;

(*c*) to sell the immovable and movable property and actionable claims of the company by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels;

(*d*) to sell the whole of the undertaking of the company as a going concern;

(*e*) to raise any money required on the security of the assets of the company;

(*f*) to institute or defend any suit, prosecution or other legal proceeding, civil or criminal, in the name and on behalf of the company;

(*g*) to invite and settle claim of creditors, employees or any other claimant and distribute sale proceeds in accordance with priorities established under this Act;

(*h*) to inspect the records and returns of the company on the files of the Registrar or any other authority;

(*i*) to prove rank and claim in the insolvency of any contributory for any balance against his estate, and to receive dividends in the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rateably with the other separate creditors;

(*j*) to draw, accept, make and endorse any negotiable instruments including cheque, bill of exchange, hundi or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if such instruments had been drawn, accepted, made or endorsed by or on behalf of the company in the course of its business;

(*k*) to take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases, the money due shall, for the purpose of enabling the Company Liquidator to take out the letters of administration or recover the money, be deemed to be due to the Company Liquidator himself;

(*l*) to obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities and for protection of the assets of the company, appoint an agent to do any business which the Company Liquidator is unable to do himself;

(*m*) to take all such actions, steps, or to sign, execute and verify any paper, deed, document, application, petition, affidavit, bond or instrument as may be necessary,—

(*i*) for winding up of the company;

(*ii*) for distribution of assets;

(*iii*) in discharge of his duties and obligations and functions as Company Liquidator; and

(*n*) to apply to the Tribunal for such orders or directions as may be necessary for the winding up of the company.

(*2*) The exercise of powers by the Company Liquidator under sub-section (*1*) shall be subject to the overall control of the Tribunal.

(*3*) Notwithstanding the provisions of sub-section (*1*), the Company Liquidator shall perform such other duties as the Tribunal may specify in this behalf.

Provision for professional assistance to Company Liquidator.

291. (*1*) The Company Liquidator may, with the sanction of the Tribunal, appoint one or more chartered accountants or company secretaries or cost accountants or legal practitioners or such other professionals on such terms and conditions, as may be necessary, to assist him in the performance of his duties and functions under this Act.

(*2*) Any person appointed under this section shall disclose forthwith to the Tribunal in the prescribed form any conflict of interest or lack of independence in respect of his appointment.

Exercise and control of Company Liquidator's powers.

292. (*1*) Subject to the provisions of this Act, the Company Liquidator shall, in the administration of the assets of the company and the distribution thereof among its creditors, have regard to any directions which may be given by the resolution of the creditors or contributories at any general meeting or by the advisory committee.

(*2*) Any directions given by the creditors or contributories at any general meeting shall, in case of conflict, be deemed to override any directions given by the advisory committee.

(*3*) The Company Liquidator—

(*a*) may summon meetings of the creditors or contributories, whenever he thinks fit, for the purpose of ascertaining their wishes; and

(*b*) shall summon such meetings at such times, as the creditors or contributories, as the case may be, may, by resolution, direct, or whenever requested in writing to do so by not less than one-tenth in value of the creditors or contributories, as the case may be.

(*4*) Any person aggrieved by any act or decision of the Company Liquidator may apply to the Tribunal, and the Tribunal may confirm, reverse or modify the act or decision complained of and make such further order as it thinks just and proper in the circumstances.

Books to be kept by Company Liquidator.

293. (*1*) The Company Liquidator shall keep proper books in such manner, as may be prescribed, in which he shall cause entries or minutes to be made of proceedings at meetings and of such other matters as may be prescribed.

(*2*) Any creditor or contributory may, subject to the control of the Tribunal, inspect any such books, personally or through his agent.

Audit of Company Liquidator's accounts.

294. (*1*) The Company Liquidator shall maintain proper and regular books of account including accounts of receipts and payments made by him in such form and manner as may be prescribed.

(*2*) The Company Liquidator shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, present to the Tribunal an account of the receipts and payments as such liquidator in the prescribed form in duplicate, which shall be verified by a declaration in such form and manner as may be prescribed.

(*3*) The Tribunal shall cause the accounts to be audited in such manner as it thinks fit, and for the purpose of the audit, the Company Liquidator shall furnish to the Tribunal with such vouchers and information as the Tribunal may require, and the Tribunal may, at any

time, require the production of, and inspect, any books of account kept by the Company Liquidator.

(*4*) When the accounts of the company have been audited, one copy thereof shall be filed by the Company Liquidator with the Tribunal, and the other copy shall be delivered to the Registrar which shall be open to inspection by any creditor, contributory or person interested.

(*5*) Where an account referred to in sub-section (*4*) relates to a Government company, the Company Liquidator shall forward a copy thereof—

(*a*) to the Central Government, if that Government is a member of the Government company; or

(*b*) to any State Government, if that Government is a member of the Government company; or

(*c*) to the Central Government and any State Government, if both the Governments are members of the Government company.

(*6*) The Company Liquidator shall cause the accounts when audited, or a summary thereof, to be printed, and shall send a printed copy of the accounts or summary thereof by post to every creditor and every contributory:

Provided that the Tribunal may dispense with the compliance of the provisions of this sub-section in any case it deems fit.

Payment of debts by contributory and extent of set-off.

295. (*1*) The Tribunal may, at any time after passing of a winding up order, pass an order requiring any contributory for the time being on the list of contributories to pay, in the manner directed by the order, any money due to the company, from him or from the estate of the person whom he represents, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(*2*) The Tribunal, in making an order, under sub-section (*1*), may,—

(*a*) in the case of an unlimited company, allow to the contributory, by way of set-off, any money due to him or to the estate which he represents, from the company, on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and

(*b*) in the case of a limited company, allow to any director or manager whose liability is unlimited, or to his estate, such set-off.

(*3*) In the case of any company, whether limited or unlimited, when all the creditors have been paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

Power of Tribunal to make calls.

296. The Tribunal may, at any time after the passing of a winding up order, and either before or after it has ascertained the sufficiency of the assets of the company,—

(*a*) make calls on all or any of the contributories for the time being on the list of the contributories, to the extent of their liability, for payment of any money which the Tribunal considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves; and

(*b*) make an order for payment of any calls so made.

Adjustment of rights of contributories.

297. The Tribunal shall adjust the rights of the contributories among themselves and distribute any surplus among the persons entitled thereto.

Power to order costs.

298. The Tribunal may, in the event of the assets of a company being insufficient to satisfy its liabilities, make an order for the payment out of the assets, of the costs, charges

and expenses incurred in the winding up, in such order of priority *inter se* as the Tribunal thinks just and proper.

Power to summon persons suspected of having property of company, etc.

299. (*1*) The Tribunal may, at any time after the appointment of a provisional liquidator or the passing of a winding up order, summon before it any officer of the company or person known or suspected to have in his possession any property or books or papers, of the company, or known or suspected to be indebted to the company, or any person whom the Tribunal thinks to be capable of giving information concerning the promotion, formation, trade, dealings, property, books or papers, or affairs of the company.

(*2*) The Tribunal may examine any officer or person so summoned on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories or on affidavit and may, in the first case, reduce his answers to writing and require him to sign them.

(*3*) The Tribunal may require any officer or person so summoned to produce any books and papers relating to the company in his custody or power, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to such lien, and the Tribunal shall have power to determine all questions relating to that lien.

(*4*) The Tribunal may direct the liquidator to file before it a report in respect of debt or property of the company in possession of other persons.

(*5*) If the Tribunal finds that—

(*a*) a person is indebted to the company, the Tribunal may order him to pay to the provisional liquidator or, as the case may be, the liquidator at such time and in such manner as the Tribunal may consider just, the amount in which he is indebted, or any part thereof, either in full discharge of the whole amount or not, as the Tribunal thinks fit, with or without costs of the examination;

(*b*) a person is in possession of any property belonging to the company, the Tribunal may order him to deliver to the provisional liquidator or, as the case may be, the liquidator, that property or any part thereof, at such time, in such manner and on such terms as the Tribunal may consider just.

(*6*) If any officer or person so summoned fails to appear before the Tribunal at the time appointed without a reasonable cause, the Tribunal may impose an appropriate cost.

(*7*) Every order made under sub-section (*5*) shall be executed in the same manner as decrees for the payment of money or for the delivery of property under the Code of Civil Procedure, 1908. 5 of 1908.

(*8*) Any person making any payment or delivery in pursuance of an order made under sub-section (*5*) shall by such payment or delivery be, unless otherwise directed by such order, discharged from all liability whatsoever in respect of such debt or property.

Power to order examination of promoters, directors, etc.

300. (*1*) Where an order has been made for the winding up of a company by the Tribunal, and the Company Liquidator has made a report to the Tribunal under this Act, stating that in his opinion a fraud has been committed by any person in the promotion, formation, business or conduct of affairs of the company since its formation, the Tribunal may, after considering the report, direct that such person or officer shall attend before the Tribunal on a day appointed by it for that purpose, and be examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as an officer thereof.

(*2*) The Company Liquidator shall take part in the examination, and for that purpose he or it may, if specially authorised by the Tribunal in that behalf, employ such legal assistance as may be sanctioned by the Tribunal.

(*3*) The person shall be examined on oath and shall answer all such questions as the Tribunal may put, or allow to be put, to him.

(*4*) A person ordered to be examined under this section—

(*a*) shall, before his examination, be furnished at his own cost with a copy of the report of the Company Liquidator; and

(*b*) may at his own cost employ chartered accountants or company secretaries or cost accountants or legal practitioners entitled to appear before the Tribunal under section 432, who shall be at liberty to put to him such questions as the Tribunal may consider just for the purpose of enabling him to explain or qualify any answers given by him.

(*5*) If any such person applies to the Tribunal to be exculpated from any charges made or suggested against him, it shall be the duty of the Company Liquidator to appear on the hearing of such application and call the attention of the Tribunal to any matters which appear to the Company Liquidator to be relevant.

(*6*) If the Tribunal, after considering any evidence given or hearing witnesses called by the Company Liquidator, allows the application made under sub-section (*5*), the Tribunal may order payment to the applicant of such costs as it may think fit.

(*7*) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, a copy be supplied to him and may thereafter be used in evidence against him, and shall be open to inspection by any creditor or contributory at all reasonable times.

(*8*) The Tribunal may, if it thinks fit, adjourn the examination from time to time.

(*9*) An examination under this section may, if the Tribunal so directs, be held before any person or authority authorised by the Tribunal.

(*10*) The powers of the Tribunal under this section as to the conduct of the examination, but not as to costs, may be exercised by the person or authority before whom the examination is held in pursuance of sub-section (*9*).

Arrest of person trying to leave India or abscond.

301. At any time either before or after passing a winding up order, if the Tribunal is satisfied that a contributory or a person having property, accounts or papers of the company in his possession is about to leave India or otherwise to abscond, or is about to remove or conceal any of his property, for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, the Tribunal may cause—

(*a*) the contributory to be detained until such time as the Tribunal may order; and

(*b*) his books and papers and movable property to be seized and safely kept until such time as the Tribunal may order.

Dissolution of company by Tribunal.

302. (*1*) When the affairs of a company have been completely wound up, the Company Liquidator shall make an application to the Tribunal for dissolution of such company.

(*2*) The Tribunal shall on an application filed by the Company Liquidator under sub-section (*1*) or when the Tribunal is of the opinion that it is just and reasonable in the circumstances of the case that an order for the dissolution of the company should be made, make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(*3*) A copy of the order shall, within thirty days from the date thereof, be forwarded by the Company Liquidator to the Registrar who shall record in the register relating to the company a minute of the dissolution of the company.

(*4*) If the Company Liquidator makes a default in forwarding a copy of the order within the period specified in sub-section (*3*), the Company Liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the default continues.

Appeals from orders made before commencement of Act.

303. Nothing in this Chapter shall affect the operation or enforcement of any order made by any Court in any proceedings for the winding up of a company immediately before the commencement of this Act and an appeal against such order shall be filed before such authority competent to hear such appeals before such commencement.

PART II.—*Voluntary winding up*

Circumstances in which company may be wound up voluntarily.

304. A company may be wound up voluntarily,—

(*a*) if the company in general meeting passes a resolution requiring the company to be wound up voluntarily as a result of the expiry of the period for its duration, if any, fixed by its articles or on the occurrence of any event in respect of which the articles provide that the company should be dissolved; or

(*b*) if the company passes a special resolution that the company be wound up voluntarily.

Declaration of solvency in case of proposal to wind up voluntarily.

305. (*1*) Where it is proposed to wind up a company voluntarily, its director or directors, or in case the company has more than two directors, the majority of its directors, shall, at a meeting of the Board, make a declaration verified by an affidavit to the effect that they have made a full inquiry into the affairs of the company and they have formed an opinion that the company has no debt or whether it will be able to pay its debts in full from the proceeds of assets sold in voluntary winding up.

(*2*) A declaration made under sub-section (*1*) shall have no effect for the purposes of this Act, unless—

(*a*) it is made within five weeks immediately preceding the date of the passing of the resolution for winding up the company and it is delivered to the Registrar for registration before that date;

(*b*) it contains a declaration that the company is not being wound up to defraud any person or persons;

(*c*) it is accompanied by a copy of the report of the auditors of the company prepared in accordance with the provisions of this Act, on the profit and loss account of the company for the period commencing from the date up to which the last such account was prepared and ending with the latest practicable date immediately before the making of the declaration and the balance sheet of the company made out as on that date which would also contain a statement of the assets and liabilities of the company on that date; and

(*d*) where there are any assets of the company, it is accompanied by a report of the valuation of the assets of the company prepared by a registered valuer.

(*3*) Where the company is wound up in pursuance of a resolution passed within a period of five weeks after the making of the declaration, but its debts are not paid or provided for in full, it shall be presumed, until the contrary is shown, that the director or directors did not have reasonable grounds for his or their opinion under sub-section (*1*).

(*4*) Any director of a company making a declaration under this section without having reasonable grounds for the opinion that the company will be able to pay its debts in full from the proceeds of assets sold in voluntary winding up shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years or with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees, or with both.

Meeting of creditors.

306. (*1*) The company shall along with the calling of meeting of the company at which the resolution for the voluntary winding up is to be proposed, cause a meeting of its creditors either on the same day or on the next day and shall cause a notice of such meeting to be sent

by registered post to the creditors with the notice of the meeting of the company under section 304.

(*2*) The Board of Directors of the company shall—

(*a*) cause to be presented a full statement of the position of the affairs of the company together with a list of creditors of the company, if any, copy of declaration under section 305 and the estimated amount of the claims before such meeting; and

(*b*) appoint one of the directors to preside at the meeting.

(*3*) Where two-thirds in value of creditors of the company are of the opinion that—

(*a*) it is in the interest of all parties that the company be wound up voluntarily, the company shall be wound up voluntarily; or

(*b*) the company may not be able to pay for its debts in full from the proceeds of assets sold in voluntary winding up and pass a resolution that it shall be in the interest of all parties if the company is wound up by the Tribunal in accordance with the provisions of Part I of this Chapter, the company shall within fourteen days thereafter file an application before the Tribunal.

(*4*) The notice of any resolution passed at a meeting of creditors in pursuance of this section shall be given by the company to the Registrar within ten days of the passing thereof.

(*5*) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees and the director 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 two lakh rupees, or with both.

Publication of resolution to wind up voluntarily.

307. (*1*) Where a company has passed a resolution for voluntary winding up and a resolution under sub-section (*3*) of section 306 is passed, it shall within fourteen days of the passing of the resolution give notice of the resolution by advertisement in the Official Gazette and also in a newspaper which is in circulation in the district where the registered office or the principal office of the company is situate.

(*2*) If a company contravenes the provisions of sub-section (*1*), the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees for every day during which such default continues.

Commencement of voluntary winding up.

308. A voluntary winding up shall be deemed to commence on the date of passing of the resolution for voluntary winding up under section 304.

Effect of voluntary winding up.

309. In the case of a voluntary winding up, the company shall from the commencement of the winding up cease to carry on its business except as far as required for the beneficial winding up of its business:

Provided that the corporate state and corporate powers of the company shall continue until it is dissolved.

Appointment of Company Liquidator.

310. (*1*) The company in its general meeting, where a resolution of voluntary winding up is passed, shall appoint a Company Liquidator from the panel prepared by the Central Government for the purpose of winding up its affairs and distributing the assets of the company and recommend the fee to be paid to the Company Liquidator.

(*2*) Where the creditors have passed a resolution for winding up the company under sub-section (*3*) of section 306, the appointment of the Company Liquidator under this section shall be effective only after it is approved by the majority of creditors in value of the company:

Provided that where such creditors do not approve the appointment of such Company Liquidator, creditors shall appoint another Company Liquidator.

(*3*) The creditors while approving the appointment of Company Liquidator appointed by the company or appointing the Company Liquidator of their own choice, as the case may be, pass suitable resolution with regard to the fee of the Company Liquidator.

(*4*) On appointment as Company Liquidator, such liquidator shall file a declaration in the prescribed form within seven days of the date of appointment disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the company and the creditors and such obligation shall continue throughout the term of his or its appointment.

Power to remove and fill vacancy of Company Liquidator.

311. (*1*) A Company Liquidator appointed under section 310 may be removed by the company where his appointment has been made by the company and, by the creditors, where the appointment is approved or made by such creditors.

(*2*) Where a Company Liquidator is sought to be removed under this section, he shall be given a notice in writing stating the grounds of removal from his office by the company or the creditors, as the case may be.

(*3*) Where three-fourth members of the company or three-fourth of creditors in value, as the case may be, after consideration of the reply, if any, filed by the Company Liquidator, in their meeting decide to remove the Company Liquidator, he shall vacate his office.

(*4*) If a vacancy occurs by death, resignation, removal or otherwise in the office of any Company Liquidator appointed under section 310, the company or the creditors, as the case may be, fill the vacancy in the manner specified in that section.

Notice of appointment of Company Liquidator to be given to Registrar.

312. (*1*) The company shall give notice to the Registrar of the appointment of a Company Liquidator along with the name and particulars of the Company Liquidator, of every vacancy occurring in the office of Company Liquidator, and of the name of the Company Liquidator appointed to fill every such vacancy within ten days of such appointment or the occurrence of such vacancy.

(*2*) If a company contravenes the provisions of sub-section (*1*), the company and every officer of the company who is in default shall be punishable with fine which may extend to five hundred rupees for every day during which such default continues.

Cesser of Board's powers on appointment of Company Liquidator.

313. On the appointment of a Company Liquidator, all the powers of the Board of Directors and of the managing or whole-time directors and manager, if any, shall cease, except for the purpose of giving notice of such appointment of the Company Liquidator to the Registrar.

Powers and duties of Company Liquidator in voluntary winding up.

314. (*1*) The Company Liquidator shall perform such functions and discharge such duties as may be determined from time to time by the company or the creditors, as the case may be.

(*2*) The Company Liquidator shall settle the list of contributories, which shall be *prima facie* evidence of the liability of the persons named therein to be contributories.

(*3*) The Company Liquidator shall call general meetings of the company for the purpose of obtaining the sanction of the company by ordinary or special resolution, as the case may require, or for any other purpose he may consider necessary.

(*4*) The Company Liquidator shall maintain regular and proper books of account in such form and in such manner as may be prescribed and the members and creditors and any officer authorised by the Central Government may inspect such books of account.

(*5*) The Company Liquidator shall prepare quarterly statement of accounts in such form and manner as may be prescribed and file such statement of accounts duly audited within thirty days from the close of each quarter with the Registrar, failing which the Company Liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the failure continues.

(*6*) The Company Liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(*7*) The Company Liquidator shall observe due care and diligence in the discharge of his duties.

(*8*) If the Company Liquidator fails to comply with the provisions of this section except sub-section (*5*) he shall be punishable with fine which may extend to ten lakh rupees.

Appointment of committees.

315. Where there are no creditors of a company, such company in its general meeting and, where a meeting of creditors is held under section 306, such creditors, as the case may be, may appoint such committees as considered appropriate to supervise the voluntary liquidation and assist the Company Liquidator in discharging his or its functions.

Company Liquidator to submit report on progress of winding up.

316. (*1*) The Company Liquidator shall report quarterly on the progress of winding up of the company in such form and in such manner as may be prescribed to the members and creditors and shall also call a meeting of the members and the creditors as and when necessary but at least one meeting each of creditors and members in every quarter and apprise them of the progress of the winding up of the company in such form and in such manner as may be prescribed.

(*2*) If the Company Liquidator fails to comply with the provisions of sub-section (*1*), he shall be punishable, in respect of each such failure, with fine which may extend to ten lakh rupees.

Report of Company Liquidator to Tribunal for examination of persons.

317. (*1*) Where the Company Liquidator is of the opinion that a fraud has been committed by any person in respect of the company, he shall immediately make a report to the Tribunal and the Tribunal shall, without prejudice to the process of winding up, order for investigation under section 210 and on consideration of the report of such investigation, the Tribunal may pass such order and give such directions under this Chapter as it may consider necessary including the direction that such person shall attend before the Tribunal on a day appointed by it for that purpose and be examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as officer thereof or otherwise.

(*2*) The provisions of section 300 shall *mutatis mutandis* apply in relation to any examination directed under sub-section (*1*).

Final meeting and dissolution of company.

318. (*1*) As soon as the affairs of a company are fully wound up, the Company Liquidator shall prepare a report of the winding up showing that the property and assets of the company have been disposed of and its debt fully discharged or discharged to the satisfaction of the creditors and thereafter call a general meeting of the company for the purpose of laying the final winding up accounts before it and giving any explanation therefor.

(*2*) The meeting referred to in sub-section (*1*) shall be called by the Company Liquidator in such form and manner as may be prescribed.

(*3*) If the majority of the members of the company after considering the report of the Company Liquidator are satisfied that the company shall be wound up, they may pass a resolution for its dissolution.

(*4*) Within two weeks after the meeting, the Company Liquidator shall—

(*a*) send to the Registrar—

(*i*) a copy of the final winding up accounts of the company and shall make a return in respect of each meeting and of the date thereof; and

(*ii*) copies of the resolutions passed in the meetings; and

(*b*) file an application along with his report under sub-section (*1*) in such manner as may be prescribed along with the books and papers of the company relating to the winding up, before the Tribunal for passing an order of dissolution of the company.

(*5*) If the Tribunal is satisfied, after considering the report of the Company Liquidator that the process of winding up has been just and fair, the Tribunal shall pass an order dissolving the company within sixty days of the receipt of the application under sub-section (*4*).

(*6*) The Company Liquidator shall file a copy of the order under sub-section (*5*) with the Registrar within thirty days.

(*7*) The Registrar, on receiving the copy of the order passed by the Tribunal under sub-section (*5*), shall forthwith publish a notice in the Official Gazette that the company is dissolved.

(*8*) If the Company Liquidator fails to comply with the provisions of this section, he shall be punishable with fine which may extend to one lakh rupees.

Power of Company Liquidator to accept shares, etc., as consideration for sale of property of company.

319. (*1*) Where a company (the transferor company) is proposed to be, or is in the course of being, wound up voluntarily and the whole or any part of its business or property is proposed to be transferred or sold to another company (the transferee company), the Company Liquidator of the transferor company may, with the sanction of a special resolution of the company conferring on him either a general authority or an authority in respect of any particular arrangement,—

(*a*) receive, by way of compensation wholly or in part for the transfer or sale of shares, policies, or other like interest in the transferee company, for distribution among the members of the transferor company; or

(*b*) enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interest or in addition thereto, participate in the profits of, or receive any other benefit from, the transferee company:

Provided that no such arrangement shall be entered into without the consent of the secured creditors.

(*2*) Any transfer, sale or other arrangement in pursuance of this section shall be binding on the members of the transferor company.

(*3*) Any member of the transferor company who did not vote in favour of the special resolution and expresses his dissent therefrom in writing addressed to the Company Liquidator, and left at the registered office of the company within seven days after the passing of the resolution, may require the liquidator either—

(*a*) to abstain from carrying the resolution into effect; or

(*b*) to purchase his interest at a price to be determined by agreement or the registered valuer.

(*4*) If the Company Liquidator elects to purchase the member's interest, the purchase money, raised by him in such manner as may be determined by a special resolution, shall be paid before the company is dissolved.

Distribution of property of company.

320. Subject to the provisions of this Act as to overriding preferential payments under section 326, the assets of a company shall, on its winding up, be applied in satisfaction of its liabilities *pari passu* and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

Arrangement when binding on company and creditors.

321. (*1*) Any arrangement other than the arrangement referred to in section 319 entered into between the company which is about to be, or is in the course of being wound up and its creditors shall be binding on the company and on the creditors if it is sanctioned by a special resolution of the company and acceded to by the creditors who hold three-fourths in value of the total amount due to all the creditors of the company.

(*2*) Any creditor or contributory may, within three weeks from the completion of the arrangement, apply to the Tribunal and the Tribunal may thereupon amend, vary, confirm or set aside the arrangement.

Power to apply to Tribunal to have questions determined, etc.

322. (*1*) The Company Liquidator or any contributory or creditor may apply to the Tribunal—

(*a*) to determine any question arising in the course of the winding up of a company; or

(*b*) to exercise as respects the enforcing of calls, the staying of proceedings or any other matter, all or any of the powers which the Tribunal might exercise if the company were being wound up by the Tribunal.

(*2*) The Company Liquidator or any creditor or contributory may apply to the Tribunal for an order setting aside any attachment, distress or execution put into force against the estate or effects of the company after the commencement of the winding up.

(*3*) The Tribunal, if satisfied on an application under sub-section (*1*) or sub-section (*2*) that the determination of the question or the required exercise of power or the order applied for will be just and fair, may allow the application on such terms and conditions as it thinks fit or may make such other order on the application as it thinks fit.

(*4*) A copy of an order staying the proceedings in the winding up, made under this section, shall forthwith be forwarded by the company, or otherwise as may be prescribed, to the Registrar, who shall make a minute of the order in his books relating to the company.

Costs of voluntary winding up.

323. All costs, charges and expenses properly incurred in the winding up, including the fee of the Company Liquidator, shall, subject to the rights of secured creditors, if any, be payable out of the assets of the company in priority to all other claims.

PART III.—*Provisions applicable to every mode of winding up*

Debts of all descriptions to be admitted to proof.

324. In every winding up (subject, in the case of insolvent companies, to the application in accordance with the provisions of this Act or of the law of insolvency), all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency, or may sound only in damages, or for some other reason may not bear a certain value.

Application of insolvency rules in winding up of insolvent companies.

325. (*1*) In the winding up of an insolvent company, the same rules shall prevail and be observed with regard to—

(*a*) debts provable;

(*b*) the valuation of annuities and future and contingent liabilities; and

(*c*) the respective rights of secured and unsecured creditors,

as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent:

Provided that the security of every secured creditor shall be deemed to be subject to a *pari passu* charge in favour of the workmen to the extent of the workmen's portion therein, and, where a secured creditor, instead of relinquishing his security and proving his debts, opts to realise his security,—

(*i*) the liquidator shall be entitled to represent the workmen and enforce such charge;

(*ii*) any amount realised by the liquidator by way of enforcement of such charge shall be applied rateably for the discharge of workmen's dues; and

(*iii*) so much of the debts due to such secured creditor as could not be realised by him or the amount of the workmen's portion in his security, whichever is less, shall rank *pari passu* with the workmen's dues for the purposes of section 326.

(*2*) All persons under sub-section (*1*) shall be entitled to prove and receive dividends out of the assets of the company under winding up, and make such claims against the company as they respectively are entitled to make by virtue of this section:

Provided that if a secured creditor, instead of relinquishing his security and proving his debts, proceeds to realise his security, he shall be liable to pay his portion of the expenses incurred by the liquidator, including a provisional liquidator, if any, for the preservation of the security before its realisation by the secured creditor.

Explanation.—For the purposes of this sub-section, the portion of expenses incurred by the liquidator for the preservation of a security which the secured creditor shall be liable to pay shall be the whole of the expenses less an amount which bears to such expenses the same proportion as the workmen's portion in relation to the security bears to the value of the security.

(*3*) For the purposes of this section, section 326 and section 327,—

(*a*) "workmen", in relation to a company, means the employees of the company, being workmen within the meaning of clause (*s*) of section 2 of the Industrial Disputes Act, 1947; 14 of 1947.

(*b*) "workmen's dues", in relation to a company, means the aggregate of the following sums due from the company to its workmen, namely:—

(*i*) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947; 14 of 1947.

(*ii*) all accrued holiday remuneration becoming payable to any workman or, in the case of his death, to any other person in his right on the termination of his employment before or by the effect of the winding up order or resolution;

(*iii*) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen's Compensation Act, 1923, rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company; 8 of 1923.

(*iv*) all sums due to any workman from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the workmen, maintained by the company;

(*c*) "workmen's portion", in relation to the security of any secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen's dues bears to the aggregate of the amount of workmen's dues and the amount of the debts due to the secured creditors.

Illustration

The value of the security of a secured creditor of a company is Rs. 1,00,000. The total amount of the workmen's dues is Rs. 1,00,000. The amount of the debts due from the company to its secured creditors is Rs. 3,00,000. The aggregate of the amount of workmen's dues and the amount of debts due to secured creditors is Rs. 4,00,000. The workmen's portion of the security is, therefore, one-fourth of the value of the security, that is Rs. 25,000.

Overriding preferential payments.

326. (*1*) Notwithstanding anything contained in this Act or any other law for the time being in force, in the winding up of a company,—

(*a*) workmen's dues; and

(*b*) debts due to secured creditors to the extent such debts rank under clause (*iii*) of the proviso to sub-section (*1*) of section 325 *pari passu* with such dues,

shall be paid in priority to all other debts:

Provided that in case of the winding up of a company, the sums towards wages or salary referred to in sub-clause (*i*) of clause (*b*) of sub-section (*3*) of section 325, which are payable for a period of two years preceding the winding up order or such other period as may be prescribed, shall be paid in priority to all other debts (including debts due to secured creditors), within a period of thirty days of sale of assets and shall be subject to such charge over the security of secured creditors as may be prescribed.

(*2*) The debts payable under the proviso to sub-section (*1*) shall be paid in full before any payment is made to secured creditors and thereafter debts payable under that sub-section shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.

Preferential payments.

327. (*1*) In a winding up, subject to the provisions of section 326, there shall be paid in priority to all other debts,—

(*a*) all revenues, taxes, cesses and rates due from the company to the Central Government or a State Government or to a local authority at the relevant date, and having become due and payable within the twelve months immediately before that date;

(*b*) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any employee in respect of services rendered to the company and due for a period not exceeding four months within the twelve months immediately before the relevant date, subject to the condition that the amount payable under this clause to any workman shall not exceed such amount as may be notified;

(*c*) all accrued holiday remuneration becoming payable to any employee, or in the case of his death, to any other person claiming under him, on the termination of his employment before, or by the winding up order, or, as the case may be, the dissolution of the company;

(*d*) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company, all amount due in respect of contributions payable during the period of twelve months immediately before the relevant date by the company as the employer of persons under the Employees' State Insurance Act, 1948 or any other law for the time being in force;

34 of 1948.

(*e*) unless the company has, at the commencement of winding up, under such a contract with any insurer as is mentioned in section 14 of the Workmen's Compensation Act, 1923, rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any employee of the company:

8 of 1923.

Provided that where any compensation under the said Act is a weekly payment, the amount payable under this clause shall be taken to be the amount of the lump sum for which such weekly payment could, if redeemable, be redeemed, if the employer has made an application under that Act;

(*f*) all sums due to any employee from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the employees, maintained by the company; and

(*g*) the expenses of any investigation held in pursuance of sections 213 and 216, in so far as they are payable by the company.

(*2*) Where any payment has been made to any employee of a company on account of wages or salary or accrued holiday remuneration, himself or, in the case of his death, to any other person claiming through him, out of money advanced by some person for that purpose, the person by whom the money was advanced shall, in a winding up, have a right of priority in respect of the money so advanced and paid-up to the amount by which the sum in respect of which the employee or other person in his right would have been entitled to priority in the winding up has been reduced by reason of the payment having been made.

(*3*) The debts enumerated in this section shall—

(*a*) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(*b*) so far as the assets of the company available for payment to general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(*4*) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the debts under this section shall be discharged forthwith so far as the assets are sufficient to meet them, and in the case of the debts to which priority is given under clause (*d*) of sub-section (*1*), formal proof thereof shall not be required except in so far as may be otherwise prescribed.

(*5*) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months immediately before the date of a winding up order, the debts to which priority is given under this section shall be a first charge on the goods or effects so distrained on or the proceeds of the sale thereof:

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(*6*) Any remuneration in respect of a period of holiday or of absence from work on medical grounds through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period.

Explanation.—For the purposes of this section,—

(*a*) the expression "accrued holiday remuneration" includes, in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment including any order made or direction given thereunder, are payable on account of the remuneration which would, in the ordinary course, have become payable to him in respect of a period of holiday, had his employment with the company continued until he became entitled to be allowed the holiday;

(*b*) the expression "employee" does not include a workman; and

(*c*) the expression "relevant date" means—

(*i*) in the case of a company being wound up by the Tribunal, the date of appointment or first appointment of a provisional liquidator, or if no such appointment was made, the date of the winding up order, unless, in either case, the company had commenced to be wound up voluntarily before that date; and

(*ii*) in any other case, the date of the passing of the resolution for the voluntary winding up of the company.

Fraudulent preference.

328. (*1*) Where a company has given preference to a person who is one of the creditors of the company or a surety or guarantor for any of the debts or other liabilities of the company, and the company does anything or suffers anything done which has the effect of putting that person into a position which, in the event of the company going into liquidation, will be better than the position he would have been in if that thing had not been done prior to six months of making winding up application, the Tribunal, if satisfied that, such transaction is a fraudulent preference may order as it may think fit for restoring the position to what it would have been if the company had not given that preference.

(*2*) If the Tribunal is satisfied that there is a preference transfer of property, movable or immovable, or any delivery of goods, payment, execution made, taken or done by or against a company within six months before making winding up application, the Tribunal may order as it may think fit and may declare such transaction invalid and restore the position.

Transfers not in good faith to be void.

329. Any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrance in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the

Tribunal or the passing of a resolution for voluntary winding up of the company, shall be void against the Company Liquidator.

Certain transfers to be void.

330. Any transfer or assignment by a company of all its properties or assets to trustees for the benefit of all its creditors shall be void.

Liabilities and rights of certain persons fraudulently preferred.

331. (*1*) Where a company is being wound up and anything made, taken or done after the commencement of this Act is invalid under section 328 as a fraudulent preference of a person interested in property mortgaged or charged to secure the company's debt, then, without prejudice to any rights or liabilities arising, apart from this provision, the person preferred shall be subject to the same liabilities, and shall have the same rights, as if he had undertaken to be personally liable as a surety for the debt, to the extent of the mortgage or charge on the property or the value of his interest, whichever is less.

(*2*) The value of the interest of the person preferred under sub-section (*1*) shall be determined as at the date of the transaction constituting the fraudulent preference, as if the interest were free of all encumbrances other than those to which the mortgage or charge for the debt of the company was then subject.

(*3*) On an application made to the Tribunal with respect to any payment on the ground that the payment was a fraudulent preference of a surety or guarantor, the Tribunal shall have jurisdiction to determine any questions with respect to the payment arising between the person to whom the payment was made and the surety or guarantor and to grant relief in respect thereof, notwithstanding that it is not necessary so to do for the purposes of the winding up, and for that purpose, may give leave to bring in the surety or guarantor as a third party as in the case of a suit for the recovery of the sum paid.

(*4*) The provisions of sub-section (*3*) shall apply *mutatis mutandis* in relation to transactions other than payment of money.

Effect of floating charge.

332. Where a company is being wound up, a floating charge on the undertaking or property of the company created within the twelve months immediately preceding the commencement of the winding up, shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except for the amount of any cash paid to the company at the time of, or subsequent to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent. per annum or such other rate as may be notified by the Central Government in this behalf.

Disclaimer of onerous property.

333. (*1*) Where any part of the property of a company which is being wound up consists of—

(*a*) land of any tenure, burdened with onerous covenants;

(*b*) shares or stocks in companies;

(*c*) any other property which is not saleable or is not readily saleable by reason of the possessor thereof being bound either to the performance of any onerous act or to the payment of any sum of money; or

(*d*) unprofitable contracts,

the Company Liquidator may, notwithstanding that he has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relation thereto or done anything in pursuance of the contract, with the leave of the Tribunal and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the Tribunal, disclaim the property:

Provided that where the Company Liquidator had not become aware of the existence of any such property within one month from the commencement of the winding up, the power

of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the Tribunal.

(*2*) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the company in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights, interest or liabilities of any other person.

(*3*) The Tribunal, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the Tribunal considers just and proper.

(*4*) The Company Liquidator shall not be entitled to disclaim any property in any case where an application in writing has been made to him by any person interested in the property requiring him to decide whether he will or will not disclaim and the Company Liquidator has not, within a period of twenty-eight days after the receipt of the application or such extended period as may be allowed by the Tribunal, give notice to the applicant that he intends to apply to the Tribunal for leave to disclaim, and in case the property is under a contract, if the Company Liquidator after such an application as aforesaid does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(*5*) The Tribunal may, on the application of any person who is, as against the Company Liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the Tribunal considers just and proper, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(*6*) The Tribunal may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged under this Act in respect of any disclaimed property, and after hearing any such persons as it thinks fit, make an order for the vesting of the property in, or the delivery of the property to, any person entitled thereto or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Tribunal considers just and proper, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person named therein in that behalf without any conveyance or assignment for the purpose:

Provided that where the property disclaimed is of a leasehold nature, the Tribunal shall not make a vesting order in favour of any person claiming under the company, whether as under-lessee or as mortgagee or holder of a charge by way of demise, except upon the terms of making that person—

(*a*) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up; or

(*b*) if the Tribunal thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,

and in either event as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in, and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the Tribunal shall have power to vest the estate and interest of the company in the property in any person liable, either personally or in a representative character, and either alone or jointly with the company, to perform the covenants of the lessee in the lease, free and discharged from all estates, encumbrances and interests created therein by the company.

(*7*) Any person affected by the operation of a disclaimer under this section shall be

deemed to be a creditor of the company to the amount of the compensation or damages payable in respect of such effect, and may accordingly prove the amount as a debt in the winding up.

Transfers, etc., after commencement of winding up to be void.

334. (*1*) In the case of a voluntary winding up, any transfer of shares in the company, not being a transfer made to or with the sanction of the Company Liquidator, and any alteration in the status of the members of the company, made after the commencement of the winding up, shall be void.

(*2*) In the case of a winding up by the Tribunal, any disposition of the property, including actionable claims, of the company, and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up, shall, unless the Tribunal otherwise orders, be void.

Certain attachments, executions, etc., in winding up by Tribunal to be void.

335. (*1*) Where any company is being wound up by the Tribunal,—

(*a*) any attachment, distress or execution put in force, without leave of the Tribunal against the estate or effects of the company, after the commencement of the winding up; or

(*b*) any sale held, without leave of the Tribunal of any of the properties or effects of the company, after such commencement,

shall be void.

(*2*) Nothing in this section shall apply to any proceedings for the recovery of any tax or impost or any dues payable to the Government.

Offences by officers of companies in liquidation.

336. (*1*) If any person, who is or has been an officer of a company which, at the time of the commission of the alleged offence, is being wound up, whether by the Tribunal or voluntarily, or which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up,—

(*a*) does not, to the best of his knowledge and belief, fully and truly disclose to the Company Liquidator all the property, movable and immovable, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary course of the business of the company;

(*b*) does not deliver up to the Company Liquidator, or as he directs, all such part of the movable and immovable property of the company as is in his custody or under his control and which he is required by law to deliver up;

(*c*) does not deliver up to the Company Liquidator, or as he directs, all such books and papers of the company as are in his custody or under his control and which he is required by law to deliver up;

(*d*) within the twelve months immediately before the commencement of the winding up or at any time thereafter,—

(*i*) conceals any part of the property of the company to the value of one thousand rupees or more, or conceals any debt due to or from the company;

(*ii*) fraudulently removes any part of the property of the company to the value of one thousand rupees or more;

(*iii*) conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to, the property or affairs of the company;

(*iv*) makes, or is privy to the making of, any false entry in any book or paper affecting or relating to, the property or affairs of the company;

(*v*) fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making of any omission in, any book or paper affecting or relating to the property or affairs of the company;

(*vi*) by any false representation or other fraud, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for;

(*vii*) under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for; or

(*viii*) pawns, pledges or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing of the property is in the ordinary course of business of the company;

(*e*) makes any material omission in any statement relating to the affairs of the company;

(*f*) knowing or believing that a false debt has been proved by any person under the winding up, fails for a period of one month to inform the Company Liquidator thereof;

(*g*) after the commencement of the winding up, prevents the production of any book or paper affecting or relating to the property or affairs of the company;

(*h*) after the commencement of the winding up or at any meeting of the creditors of the company within the twelve months next before the commencement of the winding up, attempts to account for any part of the property of the company by fictitious losses or expenses; or

(*i*) is guilty of any false representation or fraud for the purpose of obtaining the consent of the creditors of the company or any of them, to an agreement with reference to the affairs of the company or to the winding up,

he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees:

Provided that it shall be a good defence if the accused proves that he had no intent to defraud or to conceal the true state of affairs of the company or to defeat the law.

(*2*) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under sub-clause (*viii*) of clause (*d*) of sub-section (*1*), every person who takes in pawn or pledge or otherwise receives the property, knowing it to be pawned, pledged, or disposed of in such circumstances as aforesaid, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than three lakh rupees but which may extend to five lakh rupees.

Explanation.—For the purposes of this section, the expression "officer" includes any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

Penalty for frauds by officers.

337. If any person, being at the time of the commission of the alleged offence an officer of a company which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up,—

(*a*) has, by false pretences or by means of any other fraud, induced any person to give credit to the company;

(*b*) with intent to defraud creditors of the company or any other person, has

made or caused to be made any gift or transfer of, or charge on, or has caused or connived at the levying of any execution against, the property of the company; or

(*c*) with intent to defraud creditors of the company, has concealed or removed any part of the property of the company since the date of any unsatisfied judgment or order for payment of money obtained against the company or within two months before that date,

he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.

Liability where proper accounts not kept.

338. (*1*) Where a company is being wound up, if it is shown that proper books of account were not kept by the company throughout the period of two years immediately preceding the commencement of the winding up, or the period between the incorporation of the company and the commencement of the winding up, whichever is shorter, every officer of the company who is in default shall, unless he shows that he acted honestly and that in the circumstances in which the business of the company was carried on, the default was excusable, be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.

(*2*) For the purposes of sub-section (*1*), it shall be deemed that proper books of account have not been kept in the case of any company,—

(*a*) if such books of account as are necessary to exhibit and explain the transactions and financial position of the business of the company, including books containing entries made from day-to-day in sufficient detail of all cash received and all cash paid, have not been kept; and

(*b*) where the business of the company has involved dealings in goods, statements of the annual stock takings and, except in the case of goods sold by way of ordinary retail trade, of all goods sold and purchased, showing the goods and the buyers and the sellers thereof in sufficient detail to enable those goods and those buyers and sellers to be identified, have not been kept.

Liability for fraudulent conduct of business.

339. (*1*) If in the course of the winding up of a company, it appears that any business of the company has been carried on with intent to defraud creditors of the company or any other persons or for any fraudulent purpose, the Tribunal, on the application of the Official Liquidator, or the Company Liquidator or any creditor or contributory of the company, may, if it thinks it proper so to do, declare that any person, who is or has been a director, manager, or officer of the company or any persons who were knowingly parties to the carrying on of the business in the manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the Tribunal may direct:

Provided that on the hearing of an application under this sub-section, the Official Liquidator or the Company Liquidator, as the case may be, may himself give evidence or call witnesses.

(*2*) Where the Tribunal makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration and, in particular,—

(*a*) make provision for making the liability of any such person under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf;

(*b*) make such further order as may be necessary for the purpose of enforcing any charge imposed under this sub-section.

(*3*) Where any business of a company is carried on with such intent or for such purpose as is mentioned in sub-section (*1*), every person who was knowingly a party to the carrying on of the business in the manner aforesaid, shall be liable for action under section 447.

(*4*) This section shall apply, notwithstanding that the person concerned may be punishable under any other law for the time being in force in respect of the matters on the ground of which the declaration is to be made.

Explanation.—For the purposes of this section,—

(*a*) the expression "assignee" includes any person to whom or in whose favour, by the directions of the person liable, the debt, obligation, mortgage or charge was created, issued or transferred or the interest was created, but does not include an assignee for valuable consideration, not including consideration by way of marriage, given in good faith and without notice of any of the matters on the ground of which the declaration is made;

(*b*) the expression "officer" includes any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

Power of Tribunal to assess damages against delinquent directors, etc.

340. (*1*) If in the course of winding up of a company, it appears that any person who has taken part in the promotion or formation of the company, or any person, who is or has been a director, manager, Company Liquidator or officer of the company—

(*a*) has misapplied, or retained, or become liable or accountable for, any money or property of the company; or

(*b*) has been guilty of any misfeasance or breach of trust in relation to the company,

the Tribunal may, on the application of the Official Liquidator, or the Company Liquidator, or of any creditor or contributory, made within the period specified in that behalf in sub-section (*2*), inquire into the conduct of the person, director, manager, Company Liquidator or officer aforesaid, and order him to repay or restore the money or property or any part thereof respectively, with interest at such rate as the Tribunal considers just and proper, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust, as the Tribunal considers just and proper.

(*2*) An application under sub-section (*1*) shall be made within five years from the date of the winding up order, or of the first appointment of the Company Liquidator in the winding up, or of the misapplication, retainer, misfeasance or breach of trust, as the case may be, whichever is longer.

(*3*) This section shall apply, notwithstanding that the matter is one for which the person concerned may be criminally liable.

Liability under sections 339 and 340 to extend to partners or directors in firms or companies.

341. Where a declaration under section 339 or an order under section 340 is made in respect of a firm or body corporate, the Tribunal shall also have power to make a declaration under section 339, or pass an order under section 340, as the case may be, in respect of any person who was at the relevant time a partner in that firm or a director of that body corporate.

Prosecution of delinquent officers and members of company.

342. (*1*) If it appears to the Tribunal in the course of a winding up by the Tribunal, that any person, who is or has been an officer, or any member, of the company has been guilty of any offence in relation to the company, the Tribunal may, either on the application of any person interested in the winding up or *suo motu*, direct the liquidator to prosecute the offender or to refer the matter to the Registrar.

(*2*) If it appears to the Company Liquidator in the course of a voluntary winding up that any person,who is or has been an officer, or any member, of the company has been guilty of any offence in relation to the company under this Act, he shall forthwith report the matter to the Registrar and shall furnish to him such information and give to him such access to and facilities for inspecting and taking copies of any books and papers, being information or books and papers in the possession or under the control of the Company Liquidator and relating to the matter in question, as the Registrar may require.

(*3*) Where any report is made under sub-section (*2*) to the Registrar,—

(*a*) if he thinks fit, he may apply to the Central Government for an order to make further inquiry into the affairs of the company by any person designated by him and for conferring on such person all the powers of investigation as are provided under this Act;

(*b*) if he considers that the case is one in which a prosecution ought to be instituted, he shall report the matter to the Central Government, and that Government may, after taking such legal advice as it thinks fit, direct the Registrar to institute prosecution:

Provided that no report shall be made by the Registrar under this clause without first giving the accused person a reasonable opportunity of making a statement in writing to the Registrar and of being heard thereon.

(*4*) If it appears to the Tribunal in the course of a voluntary winding up that any person, who is or has been an officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the Company Liquidator to the Registrar under sub-section (*2*), the Tribunal may, on the application of any person interested in the winding up or *suo motu,* direct the Company Liquidator to make such a report, and on a report being made, the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of sub-section (*2*).

(*5*) When any prosecution is instituted under this section, it shall be the duty of the liquidator and of every person, who is or has been an officer and agent of the company to give all assistance in connection with the prosecution which he is reasonably able to give.

Explanation.—For the purposes of this sub-section, the expression "agent", in relation to a company, shall include any banker or legal adviser of the company and any person employed by the company as auditor.

(*6*) If a person fails or neglects to give assistance required by sub-section (*5*), he shall be liable to pay fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

Company Liquidator to exercise certain powers subject to sanction.

343. (*1*) The Company Liquidator may—

(*a*) with the sanction of the Tribunal, when the company is being wound up by the Tribunal; and

(*b*) with the sanction of a special resolution of the company and prior approval of the Tribunal, in the case of a voluntary winding up,—

(*i*) pay any class of creditors in full;

(*ii*) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the company, or whereby the company may be rendered liable; or

(*iii*) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the company and a contributory or alleged contributory or other debtor

or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(*2*) Notwithstanding anything contained in sub-section (*1*), in the case of a winding up by the Tribunal, the Central Government may make rules to provide that the Company Liquidator may, under such circumstances, if any, and subject to such conditions, restrictions and limitations, if any, as may be prescribed, exercise any of the powers referred to in sub-clause (*ii*) or sub-clause (*iii*) of clause (*b*) of sub-section (*1*) without the sanction of the Tribunal.

(*3*) Any creditor or contributory may apply in the manner prescribed to the Tribunal with respect to any exercise or proposed exercise of powers by the Company Liquidator under this section, and the Tribunal shall after giving a reasonable opportunity to such applicant and the Company Liquidator, pass such orders as it may think fit.

Statement that company is in liquidation.

344. (*1*) Where a company is being wound up, whether by the Tribunal or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company or a Company Liquidator of the company, or a receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.

(*2*) If a company contravenes the provisions of sub-section (*1*), the company, and every officer of the company, the Company Liquidator and any receiver or manager, who wilfully authorises or permits the non-compliance, shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees.

Books and papers of company to be evidence.

345. Where a company is being wound up, all books and papers of the company and of the Company Liquidator shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be recorded therein.

Inspection of books and papers by creditors and contributories.

346. (*1*) At any time after the making of an order for the winding up of a company by the Tribunal, any creditor or contributory of the company may inspect the books and papers of the company only in accordance with, and subject to such rules as may be prescribed.

(*2*) Nothing contained in sub-section (*1*) shall exclude or restrict any rights conferred by any law for the time being in force—

(*a*) on the Central Government or a State Government;

(*b*) on any authority or officer thereof; or

(*c*) on any person acting under the authority of any such Government or of any such authority or officer.

Disposal of books and papers of company.

347. (*1*) When the affairs of a company have been completely wound up and it is about to be dissolved, its books and papers and those of the Company Liquidator may be disposed of as follows:—

(*a*) in the case of winding up by the Tribunal, in such manner as the Tribunal directs; and

(*b*) in the case of voluntary winding up, in such manner as the company by special resolution with the prior approval of the creditors direct.

(*2*) After the expiry of five years from the dissolution of the company, no responsibility shall devolve on the company, the Company Liquidator, or any person to whom the custody of the books and papers has been entrusted, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(*3*) The Central Government may, by rules,—

(*a*) prevent for such period as it thinks proper the destruction of the books and

papers of a company which has been wound up and of its Company Liquidator; and

(*b*) enable any creditor or contributory of the company to make representations to the Central Government in respect of the matters specified in clause (*a*) and to appeal to the Tribunal from any order which may be made by the Central Government in the matter.

(*4*) If any person acts in contravention of any rule framed or an order made under sub-section (*3*), he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees, or with both.

Information as to pending liquidations.

348. (*1*) If the winding up of a company is not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, duly audited, by a person qualified to act as auditor of the company, with respect to the proceedings in, and position of, the liquidation,—

(*a*) in the case of a winding up by the Tribunal, with the Tribunal; and

(*b*) in the case of a voluntary winding up, with the Registrar:

Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply.

(*2*) When the statement is filed with the Tribunal under clause (*a*) of sub-section (*1*), a copy shall simultaneously be filed with the Registrar and shall be kept by him along with the other records of the company.

(*3*) Where a statement referred to in sub-section (*1*) relates to a Government company in liquidation, the Company Liquidator shall forward a copy thereof—

(*a*) to the Central Government, if that Government is a member of the Government company;

(*b*) to any State Government, if that Government is a member of the Government company; or

(*c*) to the Central Government and any State Government, if both the Governments are members of the Government company.

(*4*) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement referred to in sub-section (*1*), and to receive a copy thereof or an extract therefrom.

(*5*) Any person fraudulently stating himself to be a creditor or contributory under sub-section (*4*) shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code, and shall, on the application of the Company Liquidator, be punishable accordingly.

45 of 1860.

(*6*) If a Company Liquidator contravenes the provisions of this section, the Company Liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the failure continues.

(*7*) If a Company Liquidator makes wilful default in causing the statement referred to in sub-section (*1*) audited by a person who is not qualified to act as an auditor of the company, the Company Liquidator shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both.

Official Liquidator to make payments into public account of India.

349. Every Official Liquidator shall, in such manner and at such times as may be prescribed, pay the monies received by him as Official Liquidator of any company, into the public account of India in the Reserve Bank of India.

Company Liquidator to deposit monies into scheduled bank.

350. (*1*) Every Company Liquidator of a company shall, in such manner and at such times as may be prescribed, deposit the monies received by him in his capacity as such in a scheduled bank to the credit of a special bank account opened by him in that behalf:

Provided that if the Tribunal considers that it is advantageous for the creditors or contributories or the company, it may permit the account to be opened in such other bank specified by it.

(*2*) If any Company Liquidator at any time retains for more than ten days a sum exceeding five thousand rupees or such other amount as the Tribunal may, on the application of the Company Liquidator, authorise him to retain, then, unless he explains the retention to the satisfaction of the Tribunal, he shall—

(*a*) pay interest on the amount so retained in excess, at the rate of twelve per cent. per annum and also pay such penalty as may be determined by the Tribunal;

(*b*) be liable to pay any expenses occasioned by reason of his default; and

(*c*) also be liable to have all or such part of his remuneration, as the Tribunal may consider just and proper, disallowed, or may also be removed from his office.

Liquidator not to deposit monies into private banking account.

351. Neither the Official Liquidator nor the Company Liquidator of a company shall deposit any monies received by him in his capacity as such into any private banking account.

Company Liquidation Dividend and Undistributed Assets Account.

352. (*1*) Where any company is being wound up and the liquidator has in his hands or under his control any money representing—

(*a*) dividends payable to any creditor but which had remained unpaid for six months after the date on which they were declared; or

(*b*) assets refundable to any contributory which have remained undistributed for six months after the date on which they become refundable,

the liquidator shall forthwith deposit the said money into a separate special account to be known as the Company Liquidation Dividend and Undistributed Assets Account maintained in a scheduled bank.

(*2*) The liquidator shall, on the dissolution of the company, pay into the Company Liquidation Dividend and Undistributed Assets Account any money representing unpaid dividends or undistributed assets in his hands at the date of dissolution.

(*3*) The liquidator shall, when making any payment referred to in sub-sections (*1*) and (*2*), furnish to the Registrar, a statement in the prescribed form, setting forth, in respect of all sums included in such payment, the nature of the sums, the names and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto, and such other particulars as may be prescribed.

(*4*) The liquidator shall be entitled to a receipt from the scheduled bank for any money paid to it under sub-sections (*1*) and (*2*), and such receipt shall be an effectual discharge of the Company Liquidator in respect thereof.

(*5*) Where a company is being wound up voluntarily, the Company Liquidator shall, when filing a statement in pursuance of sub-section (*1*) of section 348, indicate the sum of

money which is payable under sub-sections (*1*) and (*2*) of this section during the six months preceding the date on which the said statement is prepared, and shall, within fourteen days of the date of filing the said statement, pay that sum into the Company Liquidation Dividend and Undistributed Assets Account.

(*6*) Any person claiming to be entitled to any money paid into the Company Liquidation Dividend and Undistributed Assets Account, whether paid in pursuance of this section or under the provisions of any previous company law may apply to the Registrar for payment thereof, and the Registrar, if satisfied that the person claiming is entitled, may make the payment to that person of the sum due:

Provided that the Registrar shall settle the claim of such person within a period of sixty days from the date of receipt of such claim, failing which the Registrar shall make a report to the Regional Director giving reasons of such failure.

(*7*) Any money paid into the Company Liquidation Dividend and Undistributed Assets Account in pursuance of this section, which remains unclaimed thereafter for a period of fifteen years, shall be transferred to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred under sub-section (*6*) and shall be dealt with as if such transfer had not been made and the order, if any, for payment on the claim will be treated as an order for refund of revenue.

(*8*) Any liquidator retaining any money which should have been paid by him into the Company Liquidation Dividend and Undistributed Assets Account under this section shall—

(*a*) pay interest on the amount so retained at the rate of twelve per cent. per annum and also pay such penalty as may be determined by the Registrar:

Provided that the Central Government may in any proper case remit either in part or in whole the amount of interest which the liquidator is required to pay under this clause;

(*b*) be liable to pay any expenses occasioned by reason of his default; and

(*c*) where the winding up is by the Tribunal, also be liable to have all or such part of his remuneration, as the Tribunal may consider just and proper, to be disallowed, and to be removed from his office by the Tribunal.

Liquidator to make returns, etc.

353. (*1*) If any Company Liquidator who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so, the Tribunal may, on an application made to it by any contributory or creditor of the company or by the Registrar, make an order directing the Company Liquidator to make good the default within such time as may be specified in the order.

(*2*) Any order under sub-section (*1*) may provide that all costs of, and incidental to, the application shall be borne by the Company Liquidator.

(*3*) Nothing in this section shall prejudice the operation of any enactment imposing penalties on a Company Liquidator in respect of any such default as aforesaid.

Meetings to ascertain wishes of creditors or contributories.

354. (*1*) In all matters relating to the winding up of a company, the Tribunal may—

(*a*) have regard to the wishes of creditors or contributories of the company, as proved to it by any sufficient evidence;

(*b*) if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Tribunal may direct; and

(*c*) appoint a person to act as chairman of any such meeting and to report the result thereof to the Tribunal.

(*2*) While ascertaining the wishes of creditors under sub-section (*1*), regard shall be had to the value of each debt of the creditor.

(*3*) While ascertaining the wishes of contributories under sub-section (*1*), regard shall be had to the number of votes which may be cast by each contributory.

Court, tribunal or person, etc., before whom affidavit may be sworn.

355. (*1*) Any affidavit required to be sworn under the provisions, or for the purposes, of this Chapter may be sworn—

(*a*) in India before any court, tribunal, judge or person lawfully authorised to take and receive affidavits; and

(*b*) in any other country before any court, judge or person lawfully authorised to take and receive affidavits in that country or before an Indian diplomatic or consular officer.

(*2*) All tribunals, judges, Justices, commissioners and persons acting judicially in India shall take judicial notice of the seal, stamp or signature, as the case may be, of any such court, tribunal, judge, person, diplomatic or consular officer, attached, appended or subscribed to any such affidavit or to any other document to be used for the purposes of this Chapter.

Powers of Tribunal to declare dissolution of company void.

356. (*1*) Where a company has been dissolved, whether in pursuance of this Chapter or of section 232 or otherwise, the Tribunal may at any time within two years of the date of the dissolution, on application by the Company Liquidator of the company or by any other person who appears to the Tribunal to be interested, make an order, upon such terms as the Tribunal thinks fit, declaring the dissolution to be void, and thereupon such proceedings may be taken as if the company had not been dissolved.

(*2*) It shall be the duty of the Company Liquidator or the person on whose application the order was made, within thirty days after the making of the order or such further time as the Tribunal may allow, to file a certified copy of the order with the Registrar who shall register the same, and if the Company Liquidator or the person fails so to do, the Company Liquidator or the person shall be punishable with fine which may extend to ten thousand rupees for every day during which the default continues.

Commencement of winding up by Tribunal.

357. (*1*) Where, before the presentation of a petition for the winding up of a company by the Tribunal, a resolution has been passed by the company for voluntary winding up, the winding up of the company shall be deemed to have commenced at the time of the passing of the resolution, and unless the Tribunal, on proof of fraud or mistake, thinks fit to direct otherwise, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(*2*) In any other case, the winding up of a company by the Tribunal shall be deemed to commence at the time of the presentation of the petition for the winding up.

Exclusion of certain time in computing period of limitation.

358. Notwithstanding anything in the Limitation Act, 1963, or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a company which is being wound up by the Tribunal, the period from the date of commencement of the winding up of the company to a period of one year immediately following the date of the winding up order shall be excluded. 36 of 1963.

PART IV.—*Official Liquidators*

Appointment of Official Liquidator.

359. (*1*) For the purposes of this Act, so far as it relates to the winding up of companies by the Tribunal, the Central Government may appoint as many Official Liquidators, Joint, Deputy or Assistant Official Liquidators as it may consider necessary to discharge the functions of the Official Liquidator.

(*2*) The liquidators appointed under sub-section (*1*) shall be whole-time officers of the Central Government.

(*3*) The salary and other allowances of the Official Liquidator, Joint Official Liquidator,

Deputy Official Liquidator and Assistant Official Liquidator shall be paid by the Central Government.

Powers and functions of Official Liquidator.

360. (*1*) The Official Liquidator shall exercise such powers and perform such duties as the Central Government may prescribe.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Official Liquidator may—

(*a*) exercise all or any of the powers as may be exercised by a Company Liquidator under the provisions of this Act; and

(*b*) conduct inquiries or investigations, if directed by the Tribunal or the Central Government, in respect of matters arising out of winding up proceedings.

Summary procedure for liquidation.

361. (*1*) Where the company to be wound up under this Chapter, —

(*i*) has assets of book value not exceeding one crore rupees; and

(*ii*) belongs to such class or classes of companies as may be prescribed,

the Central Government may order it to be wound up by summary procedure provided under this Part.

(*2*) Where an order under sub-section (*1*) is made, the Central Government shall appoint the Official Liquidator as the liquidator of the company.

(*3*) The Official Liquidator shall forthwith take into his custody or control all assets, effects and actionable claims to which the company is or appears to be entitled.

(*4*) The Official Liquidator shall, within thirty days of his appointment, submit a report to the Central Government in such manner and form, as may be prescribed, including a report whether in his opinion, any fraud has been committed in promotion, formation or management of the affairs of the company or not.

(*5*) On receipt of the report under sub-section (*4*), if the Central Government is satisfied that any fraud has been committed by the promoters, directors or any other officer of the company, it may direct further investigation into the affairs of the company and that a report shall be submitted within such time as may be specified.

(*6*) After considering the investigation report under sub-section (*5*), the Central Government may order that winding up may be proceeded under Part I of this Chapter or under the provision of this Part.

Sale of assets and recovery of debts due to company.

362. (*1*) The Official Liquidator shall expeditiously dispose of all the assets whether movable or immovable within sixty days of his appointment.

(*2*) The Official Liquidator shall serve a notice within thirty days of his appointment calling upon the debtors of the company or the contributories, as the case may be, to deposit within thirty days with him the amount payable to the company.

(*3*) Where any debtor does not deposit the amount under sub-section (*2*), the Central Government may, on an application made to it by the Official Liquidator, pass such orders as it thinks fit.

(*4*) The amount recovered under this section by the Official Liquidator shall be deposited in accordance with the provisions of section 349.

Settlement of claims of creditors by Official Liquidator.

363. (*1*) The Official Liquidator within thirty days of his appointment shall call upon the creditors of the company to prove their claims in such manner as may be prescribed, within thirty days of the receipt of such call.

(*2*) The Official Liquidator shall prepare a list of claims of creditors in such manner as may be prescribed and each creditor shall be communicated of the claims accepted or rejected along with reasons to be recorded in writing.

Appeal by creditor.

364. (*1*) Any creditor aggrieved by the decision of the Official Liquidator under section 363 may file an appeal before the Central Government within thirty days of such decision.

(*2*) The Central Government may after calling the report from the Official Liquidator either dismiss the appeal or modify the decision of the Official Liquidator.

(*3*) The Official Liquidator shall make payment to the creditors whose claims have been accepted.

(*4*) The Central Government may, at any stage during settlement of claims, if considers necessary, refer the matter to the Tribunal for necessary orders.

Order of dissolution of company.

365. (*1*) The Official Liquidator shall, if he is satisfied that the company is finally wound up, submit a final report to—

(*i*) the Central Government, in case no reference was made to the Tribunal under sub-section (*4*) of section 364; and

(*ii*) in any other case, the Central Government and the Tribunal.

(*2*) The Central Government, or as the case may be, the Tribunal on receipt of such report shall order that the company be dissolved.

(*3*) Where an order is made under sub-section (*2*), the Registrar shall strike off the name of the company from the register of companies and publish a notification to this effect.

CHAPTER XXI

PART I.— *Companies Authorised to Register under this Act*

Companies capable of being registered.

366. (*1*) For the purposes of this Part, the word "company" 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.

(*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 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—

(*i*) a company registered under the Indian Companies Act, 1882 or under the Indian Companies Act, 1913 or the Companies Act, 1956, shall not register in pursuance of this section; 6 of 1882. 7 of 1913. 1 of 1956.

(*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;

(*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 the principle of having for its members the holders of those shares or that stock, and no other persons;

(*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;

(*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;

(*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 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.

(*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.

Certificate of registration of existing companies.

367. On compliance with the requirements of this Chapter with respect to registration, and on payment of such fees, if any, as are payable under section 403, the Registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited and thereupon the company shall be so incorporated.

Vesting of property on registration.

368. All property, movable and immovable (including actionable claims), belonging to or vested in a company at the date of its registration in pursuance of this Part, shall, on such registration, pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

Saving of existing liabilities.

369. The registration of a company in pursuance of this Part shall not affect its rights or liabilities in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, the company before registration.

Continuation of pending legal proceedings.

370. All suits and other legal proceedings taken by or against the company, or any public officer or member thereof, which are pending at the time of the registration of a company in pursuance of this Part, may be continued in the same manner as if the registration had not taken place:

Provided that execution shall not issue against the property or persons of any individual member of the company on any decree or order obtained in any such suit or proceeding; but, in the event of the property of the company being insufficient to satisfy the decree or order, an order may be obtained for winding up the company.

Effect of registration under this Part.

371. (*1*) When a company is registered in pursuance of this Part, sub-sections (*2*) to (*7*) shall apply.

(*2*) All provisions contained in any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles.

(*3*) All the provisions of this Act shall apply to the company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows:—

(*a*) Table F in Schedule I shall not apply unless and except in so far as it is adopted by special resolution;

(*b*) the provisions of this Act relating to the numbering of shares shall not apply to any company whose shares are not numbered;

(*c*) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs, charges and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid;

(*d*) in the event of the company being wound up, every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid; and in the event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives of deceased contributories, or with respect to the assignees of insolvent contributories, as the case may be, shall apply.

(*4*) The provisions of this Act with respect to—

(*a*) the registration of an unlimited company as a limited company;

(*b*) the powers of an unlimited company on registration as a limited company, to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called-up except in the event of winding up;

(*c*) the power of a limited company to determine that a portion of its share capital shall not be capable of being called-up except in the event of winding up,

shall apply, notwithstanding anything in any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company.

(*5*) Nothing in this section shall authorise the company to alter any such provisions contained in any instrument constituting or regulating the company as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act.

(*6*) None of the provisions of this Act (apart from those of section 242) shall derogate from any power of altering its constitution or regulations which may be vested in the company, by virtue of any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company.

(*7*) In this section, the expression "instrument" includes deed of settlement, deed of partnership, or limited liability partnership.

Power of Court to stay or restrain proceedings.

372. The provisions of this Act with respect to staying and restraining suits and other legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order, shall, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and other legal proceedings against any contributory of the company.

Suits stayed on winding up order.

373. Where an order has been made for winding up, or a provisional liquidator has been appointed for, a company registered in pursuance of this Part, no suit or other legal proceeding shall be proceeded with or commenced against the company or any contributory of the company in respect of any debt of the company, except by leave of the Tribunal and except on such terms as the Tribunal may impose.

Obligations of companies registering under this Part.

374. Every company which is seeking registration under this Part shall,—

(*a*) ensure that secured creditors of the company, prior to its registration under this Part, have either consented to or have given their no objection to company's registration under this Part;

(*b*) publish in a newspaper, advertisement one in English and one in vernacular language in such form as may be prescribed giving notice about registration under this Part, seeking objections and address them suitably;

(*c*) file an affidavit, duly notarised, from all the members or partners to provide that in the event of registration under this Part, necessary documents or papers shall be submitted to the registering or other authority with which the company was earlier registered, for its dissolution as partnership firm, limited liability partnership, cooperative society, society or any other business entity, as the case may be.

(*d*) comply with such other conditions as may be prescribed.

PART II.—*Winding up of unregistered companies*

Winding up of unregistered companies.

375. (*1*) Subject to the provisions of this Part, any unregistered company may be wound up under this Act, in such manner as may be prescribed, and all the provisions of this Act, with respect to winding up shall apply to an unregistered company, with the exceptions and additions mentioned in sub-sections (*2*) to (*4*).

(*2*) No unregistered company shall be wound up under this Act voluntarily.

(*3*) An unregistered company may be wound up under the following circumstances, namely:—

(*a*) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;

(*b*) if the company is unable to pay its debts;

(*c*) if the Tribunal is of opinion that it is just and equitable that the company should be wound up.

(*4*) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(*a*) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding one lakh rupees then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary, or some director, manager or principal officer of the company, or by otherwise serving in such manner as the Tribunal may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has, for three weeks after the service of the demand, neglected to pay the sum or to secure or compound for it to the satisfaction of the creditor;

(*b*) if any suit or other legal proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character as a member, and notice in writing of the institution of the suit or other legal proceeding having been served on the company by leaving the same at its principal place of business or by delivering it to the secretary, or some director, manager or principal officer of the company or by otherwise serving the same in such manner as the Tribunal may approve or direct, the company has not, within ten days after service of the notice,—

(*i*) paid, secured or compounded for the debt or demand;

(*ii*) procured the suit or other legal proceeding to be stayed; or

(*iii*) indemnified the defendant to his satisfaction against the suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;

(*c*) if execution or other process issued on a decree or order of any Court or Tribunal in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied in whole or in part;

(*d*) if it is otherwise proved to the satisfaction of the Tribunal that the company is unable to pay its debts.

Explanation.—For the purposes of this Part, the expression "unregistered company"—

(*a*) shall not include—

(*i*) a railway company incorporated under any Act of Parliament or other Indian law or any Act of Parliament of the United Kingdom;

(*ii*) a company registered under this Act; or

(*iii*) a company registered under any previous companies law and not being a company the registered office whereof was in Burma, Aden, Pakistan immediately before the separation of that country from India; and

(*b*) save as aforesaid, shall include any partnership firm, limited liability partnership or society or co-operative society, association or company consisting of more than seven members at the time when the petition for winding up the partnership firm, limited liability partnership or society or co-operative society, association or company, as the case may be, is presented before the Tribunal.

Power to wind up foreign companies, although dissolved.

376. Where a body corporate incorporated outside India which has been carrying on business in India, ceases to carry on business in India, it may be wound up as an unregistered company under this Part, notwithstanding that the body corporate has been dissolved or otherwise ceased to exist as such under or by virtue of the laws of the country under which it was incorporated.

Provisions of Chapter cumulative.

377. (*1*) The provisions of this Part, with respect to unregistered companies shall be in addition to and not in derogation of, any provisions hereinbefore in this Act contained with respect to the winding up of companies by the Tribunal.

(*2*) The Tribunal or Official Liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by the Tribunal or Official Liquidator in winding up of companies formed and registered under this Act:

Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

Saving and construction of enactments conferring power to wind up partnership firm, association or company, etc., in certain cases.

378. Nothing in this Part, shall affect the operation of any enactment which provides for any partnership firm, limited liability partnership or society or co-operative society, association or company being wound up, or being wound up as a company or as an unregistered company, under the Companies Act, 1956, or any Act repealed by that Act: 1 of 1956.

Provided that references in any such enactment to any provision contained in the Companies Act, 1956 or in any Act repealed by that Act shall be read as references to the corresponding provision, if any, contained in this Act. 1 of 1956.

CHAPTER XXII

COMPANIES INCORPORATED OUTSIDE INDIA

Application of Act to foreign companies.

379. 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 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.

Documents, etc., to be delivered to Registrar by foreign companies.

380. (*1*) Every foreign company shall, within thirty days of the establishment of its place of business in India, deliver to the Registrar for registration—

(*a*) a certified copy of the charter, statutes or memorandum and articles, of the company or other instrument constituting or defining the constitution of the company and, if the instrument is not in the English language, a certified translation thereof in the English language;

(*b*) the full address of the registered or principal office of the company;

(*c*) a list of the directors and secretary of the company containing such particulars as may be prescribed;

(*d*) the name and address or the names and addresses of one or more persons resident in India authorised to accept on behalf of the company service of process and any notices or other documents required to be served on the company;

(*e*) the full address of the office of the company in India which is deemed to be its principal place of business in India;

(*f*) particulars of opening and closing of a place of business in India on earlier occasion or occasions;

(*g*) declaration that none of the directors of the company or the authorised representative in India has ever been convicted or debarred from formation of companies and management in India or abroad; and

(*h*) any other information as may be prescribed.

(*2*) Every foreign company existing at the commencement of this Act shall, if it has not delivered to the Registrar before such commencement, the documents and particulars specified in sub-section (*1*) of section 592 of the Companies Act, 1956, continue to be subject to the obligation to deliver those documents and particulars in accordance with that Act.

1 of 1956.

(*3*) Where any alteration is made or occurs in the documents delivered to the Registrar under this section, the foreign company shall, within thirty days of such alteration, deliver to the Registrar for registration, a return containing the particulars of the alteration in the prescribed form.

Accounts of foreign company.

381. (*1*) Every foreign company shall, in every calendar year,—

(*a*) make out a balance sheet and profit and loss account in such form, containing such particulars and including or having annexed or attached thereto such documents as may be prescribed; and

(*b*) deliver a copy of those documents to the Registrar:

Provided that the Central Government may, by notification, direct that, in the case of any foreign company or class of foreign companies, the requirements of clause (*a*) shall not apply, or shall apply subject to such exceptions and modifications as may be specified in that notification.

(*2*) If any such document as is mentioned in sub-section (*1*) is not in the English language, there shall be annexed to it a certified translation thereof in the English language.

(*3*) Every foreign company shall send to the Registrar along with the documents required to be delivered to him under sub-section (*1*), a copy of a list in the prescribed form of all places of business established by the company in India as at the date with reference to which the balance sheet referred to in sub-section (*1*) is made out.

Display of name, etc., of foreign company.

382. Every foreign company shall—

(*a*) conspicuously exhibit on the outside of every office or place where it carries on business in India, the name of the company and the country in which it is incorporated, in letters easily legible in English characters, and also in the characters of the language or one of the languages in general use in the locality in which the office or place is situate;

(*b*) cause the name of the company and of the country in which the company is incorporated, to be stated in legible English characters in all business letters, bill-heads and letter paper, and in all notices, and other official publications of the company; and

(*c*) if the liability of the members of the company is limited, cause notice of that fact—

(*i*) to be stated in every such prospectus issued and in all business letters, bill-heads, letter paper, notices, advertisements and other official publications of the company, in legible English characters; and

(*ii*) to be conspicuously exhibited on the outside of every office or place where it carries on business in India, in legible English characters and also in legible characters of the language or one of the languages in general use in the locality in which the office or place is situate.

Service on foreign company.

383. Any process, notice, or other document required to be served on a foreign company shall be deemed to be sufficiently served, if addressed to any person whose name and address have been delivered to the Registrar under section 380 and left at, or sent by post to, the address which has been so delivered to the Registrar or by electronic mode.

Debentures, annual return, registration of charges, books of account and their inspection.

384. (*1*) The provisions of section 71 shall apply *mutatis mutandis* to a foreign company.

(*2*) The provisions of section 92 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.

(*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.

(*4*) The provisions of Chapter VI shall apply *mutatis mutandis* to charges on properties which are created or acquired by any foreign company.

(*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.

Fee for registration of documents.

385. There shall be paid to the Registrar for registering any document required by the provisions of this Chapter to be registered by him, such fee, as may be prescribed.

Interpretation.

386. For the purposes of the foregoing provisions of this Chapter,—

(*a*) the expression "certified" means certified in the prescribed manner to be a true copy or a correct translation;

(*b*) the expression "director", in relation to a foreign company, includes any person in accordance with whose directions or instructions the Board of Directors of the company is accustomed to act; and

(*c*) the expression "place of business" includes a share transfer or registration office.

Dating of prospectus and particulars to be contained therein.

387. (*1*) No person shall issue, circulate or distribute in India any prospectus offering to subscribe for securities of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless the prospectus is dated and signed, and—

(*a*) contains particulars with respect to the following matters, namely:—

(*i*) the instrument constituting or defining the constitution of the company;

(*ii*) the enactments or provisions by or under which the incorporation of the company was effected;

(*iii*) address in India where the said instrument, enactments or provisions, or copies thereof, and if the same are not in the English language, a certified translation thereof in the English language can be inspected;

(*iv*) the date on which and the country in which the company would be or was incorporated; and

(*v*) whether the company has established a place of business in India and, if so, the address of its principal office in India; and

(*b*) states the matters specified under section 26:

Provided that sub-clauses (*i*), (*ii*) and (*iii*) of clause (*a*) of this sub-section shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business.

(*2*) Any condition requiring or binding an applicant for securities to waive compliance with any requirement imposed by virtue of sub-section (*1*), or purporting to impute him with notice of any contract, documents or matter not specifically referred to in the prospectus, shall be void.

(*3*) No person shall issue to any person in India a form of application for securities of such a company or intended company as is mentioned in sub-section (*1*), unless the form is issued with a prospectus which complies with the provisions of this Chapter and such issue does not contravene the provisions of section 388:

Provided that this sub-section shall not apply if it is shown that the form of application was issued in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to securities.

(*4*) This section —

(*a*) shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to securities of the company, whether an applicant for securities will or will not have the right to renounce in favour of other persons; and

(*b*) except in so far as it requires a prospectus to be dated, to the issue of a prospectus relating to securities which are or are to be in all respects uniform with securities previously issued and for the time being dealt in or quoted on a recognised stock exchange,

but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(*5*) Nothing in this section shall limit or diminish any liability which any person may incur under any law for the time being in force in India or under this Act apart from this section.

Provisions as to expert's consent and allotment.

388. (*1*) No person shall issue, circulate or distribute in India any prospectus offering for subscription in securities of a company incorporated or to be incorporated outside India,

whether the company has or has not been established, or when formed will or will not establish, a place of business in India,—

(*a*) if, where the prospectus includes a statement purporting to be made by an expert, he has not given, or has before delivery of the prospectus for registration withdrawn, his written consent to the issue of the prospectus with the statement included in the form and context in which it is included, or there does not appear in the prospectus a statement that he has given and has not withdrawn his consent as aforesaid; or

(*b*) if the prospectus does not have the effect, where an application is made in pursuance thereof, of rendering all persons concerned bound by all the provisions of sections 33 and 40, so far as applicable.

(*2*) For the purposes of this section, a statement shall be deemed to be included in a prospectus, if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

Registration of prospectus.

389. No person shall issue, circulate or distribute in India any prospectus offering for subscription in securities of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless before the issue, circulation or distribution of the prospectus in India, a copy thereof certified by the chairperson of the company and two other directors of the company as having been approved by resolution of the managing body has been delivered for registration to the Registrar and the prospectus states on the face of it that a copy has been so delivered, and there is endorsed on or attached to the copy, any consent to the issue of the prospectus required by section 388 and such documents as may be prescribed.

Offer of Indian Depository Receipts.

390. Notwithstanding anything contained in any other law for the time being in force, the Central Government may make rules applicable for—

(*a*) the offer of Indian Depository Receipts;

(*b*) the requirement of disclosures in prospectus or letter of offer issued in connection with Indian Depository Receipts;

(*c*) the manner in which the Indian Depository Receipts shall be dealt with in a depository mode and by custodian and underwriters; and

(*d*) the manner of sale, transfer or transmission of Indian Depository Receipts,

by a company incorporated or to be incorporated outside India, whether the company has or has not established, or will or will not establish, any place of business in India.

Application of sections 34 to 36 and Chapter XX.

391. (*1*) The provisions of sections 34 to 36 (both inclusive) shall apply to—

(*i*) the issue of a prospectus by a company incorporated outside India under section 389 as they apply to prospectus issued by an Indian company;

(*ii*) the issue of Indian Depository Receipts by a foreign company.

(*2*) The provisions of Chapter XX shall apply *mutatis mutandis* for closure of the place of business of a foreign company in India as if it were a company incorporated in India.

Punishment for contravention.

392. Without prejudice to the provisions of section 391, if a foreign company contravenes the provisions of this Chapter, the foreign company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees and in the case of a continuing offence, with an additional fine which may extend to fifty

thousand rupees for every day after the first during which the contravention continues and every officer of the foreign 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 twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

Company's failure to comply with provisions of this Chapter not to affect validity of contracts, etc.

393. Any failure by a company to comply with the provisions of this Chapter shall not affect the validity of any contract, dealing or transaction entered into by the company or its liability to be sued in respect thereof, but the company shall not be entitled to bring any suit, claim any set-off, make any counter-claim or institute any legal proceeding in respect of any such contract, dealing or transaction, until the company has complied with the provisions of this Act applicable to it.

CHAPTER XXIII

GOVERNMENT COMPANIES

Annual reports on Government companies.

394. (*1*) Where the Central Government is a member of a Government company, the Central Government shall cause an annual report on the working and affairs of that company to be—

(*a*) prepared within three months of its annual general meeting before which the comments given by the Comptroller and Auditor-General of India and the audit report is placed under the proviso to sub-section (*6*) of section 143; and

(*b*) as soon as may be after such preparation, laid before both Houses of Parliament together with a copy of the audit report and comments upon or supplement to the audit report, made by the Comptroller and Auditor-General of India.

(*2*) Where in addition to the Central Government, any State Government is also a member of a Government company, that State Government shall cause a copy of the annual report prepared under sub-section (*1*) to be laid before the House or both Houses of the State Legislature together with a copy of the audit report and the comments upon or supplement to the audit report referred to in sub-section (*1*).

Annual reports where one or more State Governments are members of companies.

395. (*1*) Where the Central Government is not a member of a Government company, every State Government which is a member of that company, or where only one State Government is a member of the company, that State Government shall cause an annual report on the working and affairs of the company to be—

(*a*) prepared within the time specified in sub-section (*1*) of section 394; and

(*b*) as soon as may be after such preparation, laid before the House or both Houses of the State Legislature together with a copy of the audit report and comments upon or supplement to the audit report referred to in sub-section (*1*) of that section.

(*2*) The provisions of this section and section 394 shall, so far as may be, apply to a Government company in liquidation as they apply to any other Government company.

CHAPTER XXIV

REGISTRATION OFFICES AND FEES

Registration offices.

396. (*1*) For the purposes of exercising such powers and discharging such functions as are conferred on the Central Government by or under this Act or under the rules made thereunder and for the purposes of registration of companies under this Act, the Central Government shall, by notification, establish such number of offices at such places as it thinks fit, specifying their jurisdiction.

(*2*) The Central Government may appoint such Registrars, Additional, Joint, Deputy and Assistant Registrars as it considers necessary for the registration of companies and discharge of various functions under this Act, and the powers and duties that may be exercisable by such officers shall be such as may be prescribed.

(*3*) The terms and conditions of service, including the salaries payable to persons appointed under sub-section (*2*), shall be such as may be prescribed.

(*4*) The Central Government may direct a seal or seals to be prepared for the authentication of documents required for, or connected with, the registration of companies.

Admissibility of certain documents as evidence.

397. Notwithstanding anything contained in any other law for the time being in force, any document reproducing or derived from returns and documents filed by a company with the Registrar on paper or in electronic form or stored on any electronic data storage device or computer readable media by the Registrar, and authenticated by the Registrar or any other officer empowered by the Central Government in such manner as may be prescribed, shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder without further proof or production of the original as evidence of any contents of the original or of any fact stated therein of which direct evidence is admissible.

Provisions relating to filing of applications, documents, inspection, etc., in electronic form.

398. (*1*) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions contained in section 6 of the Information Technology Act, 2000, the Central Government may make rules so as to require from such date as may be prescribed in the rules that— 21 of 2000.

(*a*) such applications, balance sheet, prospectus, return, declaration, memorandum, articles, particulars of charges, or any other particulars or document as may be required to be filed or delivered under this Act or the rules made thereunder, shall be filed in the electronic form and authenticated in such manner as may be prescribed;

(*b*) such document, notice, any communication or intimation, as may be required to be served or delivered under this Act, in the electronic form and authenticated in such manner as may be prescribed;

(*c*) such applications, balance sheet, prospectus, return, register, memorandum, articles, particulars of charges, or any other particulars or document and return filed under this Act or rules made thereunder shall be maintained by the Registrar in the electronic form and registered or authenticated, as the case may be, in such manner as may be prescribed;

(*d*) such inspection of the memorandum, articles, register, index, balance sheet, return or any other particulars or document maintained in the electronic form, as is otherwise available for inspection under this Act or the rules made thereunder, may be made by any person through the electronic form in such manner as may be prescribed;

(*e*) such fees, charges or other sums payable under this Act or the rules made thereunder shall be paid through the electronic form and in such manner as may be prescribed; and

(*f*) the Registrar shall register change of registered office, alteration of memorandum or articles, prospectus, issue certificate of incorporation, register such document, issue such certificate, record the notice, receive such communication as may be required to be registered or issued or recorded or received, as the case may be, under this Act or the rules made thereunder or perform duties or discharge functions or exercise powers under this Act or the rules made thereunder or do any act which is by this Act directed to be performed or discharged or exercised or done by the Registrar in the electronic form in such manner as may be prescribed.

Explanation.— For the removal of doubts, it is hereby clarified that the rules made under this section shall not relate to imposition of fines or other pecuniary penalties or demand or payment of fees or contravention of any of the provisions of this Act or punishment therefor.

(*2*) The Central Government may, by notification, frame a scheme to carry out the provisions of sub-section (*1*) through the electronic form.

Inspection, production and evidence of documents kept by Registrar.

399. (*1*) Save as otherwise provided elsewhere in this Act, any person may—

(*a*) inspect by electronic means any documents kept by the Registrar in accordance with the rules made, being documents filed or registered by him in pursuance of this Act, or making a record of any fact required or authorised to be recorded or registered in pursuance of this Act, on payment for each inspection of such fees as may be prescribed;

(*b*) require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document to be certified by the Registrar, on payment in advance of such fees as may be prescribed:

Provided that the rights conferred by this sub-section shall be exercisable—

(*i*) in relation to documents delivered to the Registrar with a prospectus in pursuance of section 26, only during the fourteen days beginning with the date of publication of the prospectus; and at other times, only with the permission of the Central Government; and

(*ii*) in relation to documents so delivered in pursuance of clause (*b*) of sub-section (*1*) of section 388, only during the fourteen days beginning with the date of the prospectus; and at other times, only with the permission of the Central Government.

(*2*) No process for compelling the production of any document kept by the Registrar shall issue from any court or the Tribunal except with the leave of that court or the Tribunal and any such process, if issued, shall bear thereon a statement that it is issued with the leave of the court or the Tribunal.

(*3*) A copy of, or extract from, any document kept and registered at any of the offices for the registration of companies under this Act, certified to be a true copy by the Registrar (whose official position it shall not be necessary to prove), shall, in all legal proceedings, be admissible in evidence as of equal validity with the original document.

Electronic form to be exclusive, alternative or in addition to physical form.

400. The Central Government may also provide in the rules made under section 398 and section 399 that the electronic form for the purposes specified in these sections shall be exclusive, or in the alternative or in addition to the physical form, therefor.

Provision of value added services through electronic form.

401. The Central Government may provide such value added services through the electronic form and levy such fee thereon as may be prescribed.

21 of 2000.

Application of provisions of Information Technology Act, 2000.

402. All the provisions of the Information Technology Act, 2000 relating to the electronic records, including the manner and format in which the electronic records shall be filed, in so

far as they are not inconsistent with this Act, shall apply in relation to the records in electronic form specified under section 398.

Fee for filing, etc.

403. (*1*) 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:

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:

Provided further that 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.

(*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.

Fees, etc., to be credited into public account.

404. All fees, charges and other sums received by any Registrar, Additional, Joint, Deputy or Assistant Registrar or any other officer of the Central Government in pursuance of any provision of this Act shall be paid into the public account of India in the Reserve Bank of India.

CHAPTER XXV

COMPANIES TO FURNISH INFORMATION OR STATISTICS

Power of Central Government to direct companies to furnish information or statistics.

405. (*1*) The Central Government may, by order, require companies generally, or any class of companies, or any company, to furnish such information or statistics with regard to their or its constitution or working, and within such time, as may be specified in the order.

(*2*) Every order under sub-section (*1*) shall be published in the Official Gazette and may be addressed to companies generally or to any class of companies, in such manner, as the Central Government may think fit and the date of such publication shall be deemed to be the date on which requirement for information or statistics is made on such companies or class of companies, as the case may be.

(*3*) For the purpose of satisfying itself that any information or statistics furnished by a company or companies in pursuance of any order under sub-section (*1*) is correct and complete, the Central Government may by order require such company or companies to produce such records or documents in its possession or allow inspection thereof by such officer or furnish such further information as that Government may consider necessary.

(*4*) If any company fails to comply with an order made under sub-section (*1*) or sub-section (*3*), or knowingly furnishes any information or statistics which is incorrect or incomplete in any material respect, the company shall be punishable with fine which may extend to twenty-five thousand 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 twenty-five thousand rupees but which may extend to three lakh rupees, or with both.

(*5*) Where a foreign company carries on business in India, all references to a company in this section shall be deemed to include references to the foreign company in relation, and only in relation, to such business.

CHAPTER XXVI

Nidhis

Power to modify Act in its application to *Nidhis*.

406. (*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 which complies with such rules as are prescribed by the Central Government for regulation of such class of companies.

(*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.

(*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 which may 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 form as may be agreed upon by both the Houses.

CHAPTER XXVII

National Company Law Tribunal and Appellate Tribunal

Definitions.

407. In this Chapter, unless the context otherwise requires,—

(*a*) "Chairperson" means the Chairperson of the Appellate Tribunal;

(*b*) "Judicial Member" means a member of the Tribunal or the Appellate Tribunal appointed as such and includes the President or the Chairperson, as the case may be;

(*c*) "Member" means a member, whether Judicial or Technical of the Tribunal or the Appellate Tribunal and includes the President or the Chairperson, as the case may be;

(*d*) "President" means the President of the Tribunal;

(*e*) "Technical Member" means a member of the Tribunal or the Appellate Tribunal appointed as such.

Constitution of National Company Law Tribunal.

408. The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a Tribunal to be known as the National Company Law Tribunal consisting of a President and such number of Judicial and Technical members, as the Central Government may deem necessary, to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.

Qualification of President and Members of Tribunal.

409. (*1*) The President shall be a person who is or has been a Judge of a High Court for five years.

(*2*) A person shall not be qualified for appointment as a Judicial Member unless he—

(*a*) is, or has been, a judge of a High Court; or

(*b*) is, or has been, a District Judge for at least five years; or

(*c*) has, for at least ten years been an advocate of a court.

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.

(*3*) A person shall not be qualified for appointment as a Technical Member unless he—

(*a*) has, for at least fifteen 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

(*b*) is, or has been, in practice as a chartered accountant for at least fifteen years; or

(*c*) is, or has been, in practice as a cost accountant for at least fifteen years; or

(*d*) is, or has been, in practice as a company secretary for at least fifteen years; or

(*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

(*f*) is, or has been, for at least five years, a presiding officer of a Labour Court, Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947. 14 of 1947.

Constitution of Appellate Tribunal.

410. The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical Members, not exceeding eleven, as the Central Government may deem fit, to be appointed by it by notification, for hearing appeals against the orders of the Tribunal.

Qualifications of chair-person and Members of Appellate Tribunal.

411. *(1)* The chairperson shall be a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court.

(2) A Judicial Member shall be a person who is or has been a Judge of a High Court or is a Judicial Member of the Tribunal for five years.

(3) A Technical Member shall be a person of proven ability, integrity and standing having special knowledge and experience, of not less than twenty-five 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.

Selection of Members of Tribunal and Appellate Tribunal.

412. (*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.

(*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—

(*a*) Chief Justice of India or his nominee—Chairperson;

(*b*) a senior Judge of the Supreme Court or a Chief Justice of High Court—Member;

(*c*) Secretary in the Ministry of Corporate Affairs—Member;

(*d*) Secretary in the Ministry of Law and Justice—Member; and

(*e*) Secretary in the Department of Financial Services in the Ministry of Finance—Member.

(*3*) The Secretary, Ministry of Corporate Affairs shall be the Convener of the Selection Committee.

(*4*) The Selection Committee shall determine its procedure for recommending persons under sub-section (*2*).

(*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.

Term of office of President, chairperson and other Members.

413. (*1*) The President and every other Member of the Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years.

(*2*) A Member of the Tribunal shall hold office as such until he attains,—

(*a*) in the case of the President, the age of sixty-seven years:

(*b*) in the case of any other Member, the age of sixty-five years:

Provided that a person who has not completed fifty years of age shall not be eligible for appointment as Member:

Provided further that the Member may retain his lien with his parent cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

(*3*) The chairperson or a Member of the Appellate Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for anonther term of five years.

(*4*) A Member of the Appellate Tribunal shall hold office as such until he attains,—

(*a*) in the case of the Chairperson, the age of seventy years;

(*b*) in the case of any other Member, the age of sixty-seven years:

Provided that a person who has not completed fifty years of age shall not be eligible for appointment as Member:

Provided further that the Member may retain his lien with his parent cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

Salary, allowances and other terms and conditions of service of Members.

414. The salary, allowances and other terms and conditions of service of the Members of the Tribunal and the Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Members shall be varied to their disadvantage after their appointment.

Acting President and Chairperson of Tribunal or Appellate Tribunal.

415. (*1*) In the event of the occurrence of any vacancy in the office of the President or the Chairperson by reason of his death, resignation or otherwise, the senior-most Member shall act as the President or the Chairperson, as the case may be, until the date on which a new President or Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(*2*) When the President or the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the President or the Chairperson, as the case may be, until the date on which the President or the Chairperson resumes his duties.

Resignation of Members

416. The President, the Chairperson or any Member may, by notice in writing under his hand addressed to the Central Government, resign from his office:

Provided that the President, the Chairperson, or the Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earliest.

Removal of Members.

417. (*1*) The Central Government may, after consultation with the Chief Justice of India, remove from office the President, Chairperson or any Member, who—

(*a*) has been adjudged an insolvent; or

(*b*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*c*) has become physically or mentally incapable of acting as such President, the Chairperson, or Member; or

(*d*) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, the Chairperson or Member; or

(*e*) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President, the Chairperson or the Member shall not be removed on any of the grounds specified in clauses (*b*) to (*e*) without giving him a reasonable opportunity of being heard.

(*2*) Without prejudice to the provisions of sub-section (*1*), the President, the Chairperson or the Member shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government in which such President, the Chairperson or Member had been informed of the charges against him and given a reasonable opportunity of being heard.

(*3*) The Central Government may, with the concurrence of the Chief Justice of India, suspend from office, the President, the Chairperson or Member in respect of whom reference has been made to the Judge of the Supreme Court under sub-section (*2*) until the Central Government has passed orders on receipt of the report of the Judge of the Supreme Court on such reference.

(*4*) The Central Government shall, after consultation with the Supreme Court, make rules to regulate the procedure for the inquiry on the ground of proved misbehaviour or incapacity referred to in sub-section (*2*).

Staff of Tribunal and Appellate Tribunal.

418. (*1*) The Central Government shall, in consultation with the Tribunal and the Appellate Tribunal, provide the Tribunal and the Appellate Tribunal, as the case may be, with such officers and other employees as may be necessary for the exercise of the powers and discharge of the functions of the Tribunal and the Appellate Tribunal.

(*2*) The officers and other employees of the Tribunal and the Appellate Tribunal shall discharge their functions under the general superintendence and control of the President, or as the case may be, the Chairperson, or any other Member to whom powers for exercising such superintendence and control are delegated by him.

(*3*) The salaries and allowances and other conditions of service of the officers and other employees of the Tribunal and the Appellate Tribunal shall be such as may be prescribed.

Benches of Tribunal.

419. (*1*) There shall be constituted such number of Benches of the Tribunal, as may, by notification, be specified by the Central Government.

(*2*) The Principal Bench of the Tribunal shall be at New Delhi which shall be presided over by the President of the Tribunal.

(*3*) The powers of the Tribunal shall be exercisable by Benches consisting of two Members out of whom one shall be a Judicial Member and the other shall be a Technical Member:

Provided that it shall be competent for the Members of the Tribunal authorised in this behalf to function as a Bench consisting of a single Judicial Member and exercise the powers of the Tribunal in respect of such class of cases or such matters pertaining to such class of cases, as the President may, by general or special order, specify:

Provided further that if at any stage of the hearing of any such case or matter, it appears to the Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the President, or, as the case may be, referred to him for transfer, to such Bench as the President may deem fit.

(4) The President shall, for the disposal of any case relating to rehabilitation, restructuring, reviving or winding up, of companies, constitute one or more Special Benches consisting of three or more Members, majority necessarily being of Judicial Members.

(5) If the Members of a Bench differ in opinion on any point or points, it shall be decided according to the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

Orders of Tribunal.

420. *(1)* The Tribunal may, after giving the parties to any proceeding before it, a reasonable opportunity of being heard, pass such orders thereon as it thinks fit.

(2) The Tribunal may, at any time within two years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act.

(3) The Tribunal shall send a copy of every order passed under this section to all the parties concerned.

Appeal from orders of Tribunal.

421. *(1)* Any person aggrieved by an order of the Tribunal may prefer an appeal to the Appellate Tribunal.

(2) No appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.

(3) Every appeal under sub-section *(1)* shall be filed within a period of forty-five days from the date on which a copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days from the date aforesaid, but within a further period not exceeding forty-five days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period.

(4) On the receipt of an appeal under sub-section *(1)*, the Appellate Tribunal shall, after giving the parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the Tribunal and the parties to appeal.

Expeditious disposal by Tribunal and Appellate Tribunal.

422. *(1)* Every application or petition presented before the Tribunal and every appeal filed before the Appellate Tribunal shall be dealt with and disposed of by it as expeditiously as possible and every endeavour shall be made by the Tribunal or the Appellate Tribunal, as the case may be, for the disposal of such application or petition or appeal within three months from the date of its presentation before the Tribunal or the filing of the appeal before the Appellate Tribunal.

(2) Where any application or petition or appeal is not disposed of within the period specified in sub-section (*1*), the Tribunal or, as the case may be, the Appellate Tribunal, shall record the reasons for not disposing of the application or petition or the appeal, as the case may be, within the period so specified; and the President or the Chairperson, as the case may be, may, after taking into account the reasons so recorded, extend the period referred to in sub-section (*1*) by such period not exceeding ninety days as he may consider necessary.

Appeal to Supreme Court.

423. Any person aggrieved by any order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of receipt of the order of the Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Procedure before Tribunal and Appellate Tribunal.

424. (*1*) The Tribunal and the Appellate Tribunal shall not, while disposing of any proceeding before it or, as the case may be, an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice, and, subject to the other provisions of this Act and of any rules made thereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure. 5 of 1908.

(*2*) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office; 1 of 1872.

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) dismissing a representation for default or deciding it *ex parte;*

(*g*) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte;* and

(*h*) any other matter which may be prescribed.

(*3*) Any order made by the Tribunal or the Appellate Tribunal may be enforced by that Tribunal in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Tribunal or the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—

(*a*) in the case of an order against a company, the registered office of the company is situate; or

(*b*) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

(*4*) All proceedings before the Tribunal or the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Tribunal and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

Power to punish for contempt.

425. The Tribunal and the Appellate Tribunal shall have the same jurisdiction, powers and authority in respect of contempt of themselves as the High Court has and may exercise, for this purpose, the powers under the provisions of the Contempt of Courts Act, 1971, which shall have the effect subject to modifications that— 70 of 1971.

(*a*) the reference therein to a High Court shall be construed as including a reference to the Tribunal and the Appellate Tribunal; and

(*b*) the reference to Advocate-General in section 15 of the said Act shall be construed as a reference to such Law Officers as the Central Government may, specify in this behalf.

Delegation of powers.

426. The Tribunal or the Appellate Tribunal may, by general or special order, direct, subject to such conditions, if any, as may be specified in the order, any of its officers or employees or any other person authorised by it to inquire into any matter connected with any proceeding or, as the case may be, appeal before it and to report to it in such manner as may be specified in the order.

President, Members, officers, etc., to be public servants.

427. The President, Members, officers and other employees of the Tribunal and the Chairperson, Members, officers and other employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

428. No suit, prosecution or other legal proceeding shall lie against the Tribunal, the President, Member, officer or other employee, or against the Appellate Tribunal, the Chairperson, Member, officer or other employees thereof or liquidator or any other person authorised by the Tribunal or the Appellate Tribunal for the discharge of any function under this Act in respect of any loss or damage caused or likely to be caused by any act which is in good faith done or intended to be done in pursuance of this Act.

Power to seek assistance of Chief Metropolitan Magistrate, etc.

429. (*1*) The Tribunal may, in any proceeding relating to a sick company or winding up of any other company, in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such sick or other company, are situate or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,—

(*a*) take possession of such property, books of account or other documents; and

(*b*) cause the same to be entrusted to the Tribunal or other person authorised by it.

(*2*) For the purpose of securing compliance with the provisions of sub-section (*1*), the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector may take or cause to be taken such steps and use or cause to be used such force as may, in his opinion, be necessary.

(*3*) No act of the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector done in pursuance of this section shall be called in question in any court or before any authority on any ground whatsoever.

Civil court not to have jurisdiction.

430. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Tribunal or the Appellate Tribunal is empowered to determine by or under this Act or any other law for the time being in force and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or any other law for the time being in force, by the Tribunal or the Appellate Tribunal.

Vacancy in Tribunal or Appellate Tribunal not to invalidate acts or proceedings.

431. No act or proceeding of the Tribunal or the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Tribunal or the Appellate Tribunal, as the case may be.

Right to legal representation.

432. A party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be, may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any other person to present his case before the Tribunal or the Appellate Tribunal, as the case may be.

Limitation.

433. The provisions of the Limitation Act, 1963 shall, as far as may be, apply to proceedings or appeals before the Tribunal or the Appellate Tribunal, as the case may be. 36 of 1963.

Transfer of certain pending proceedings.

434. (*1*) On such date as may be notified by the Central Government in this behalf,—

(*a*) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (*1*) of section 10E of the Companies Act, 1956, immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act; 1 of 1956.

(*b*) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:

Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days;

(*c*) all proceedings under the Companies Act, 1956, including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer. 1 of 1956.

(*d*) any appeal preferred to the Appellate Authority for Industrial and Financial Reconstruction or any reference made or inquiry pending to or before the Board of Industrial and Financial Reconstruction or any proceeding of whatever nature pending before the Appellate Authority for Industrial and Financial Reconstruction or the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985 immediately before the commencement of this Act shall stand abated: 1 of 1986.

Provided that a company in respect of which such appeal or reference or inquiry stands abated under this clause may make a reference to the Tribunal under this Act within one hundred and eighty days from the commencement of this Act in accordance with the provisions of this Act:

Provided further that no fees shall be payable for making such reference under this Act by a company whose appeal or reference or inquiry stands abated under this clause.

(*2*) The Central Government may make rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section.

CHAPTER XXVIII

Special Courts

Establishment of Special Courts.

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.

(*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.

(*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.

2 of 1974.

436. (*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,— Offences triable by Special Courts.

(*a*) all offences under this Act shall be triable only by the Special Court established for the area in which the registered office of the company in relation to which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned;

(*b*) where a person accused of, or suspected of the commission of, an offence under this Act is forwarded to a Magistrate under sub-section (*2*) or sub-section (*2A*) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

2 of 1974.

Provided that where such Magistrate considers that the detention of such person upon or before the expiry of the period of detention is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

(*c*) the Special Court may exercise, in relation to the person forwarded to it under clause (*b*), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973 in relation to an accused person who has been forwarded to him under that section; and

2 of 1974.

(*d*) a Special Court may, upon perusal of the police report of the facts constituting an offence under this Act or upon a complaint in that behalf, take cognizance of that offence without the accused being committed to it for trial.

(*2*) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 be charged at the same trial.

2 of 1974.

2 of 1974.

(*3*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Special Court may, if it thinks fit, try in a summary way any offence under this Act which is punishable with imprisonment for a term not exceeding three years:

Provided that in the case of any conviction in a summary trial, no sentence of imprisonment for a term exceeding one year shall be passed:

Provided further that when at the commencement of, or in the course of, a summary trial, it appears to the Special Court that the nature of the case is such that the sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Special Court shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or rehear the case in accordance with the procedure for the regular trial.

437. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court. Appeal and revision.

2 of 1974.

438. Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor. Application of Code to proceedings before Special Court.

2 of 1974.

Offences to be non-cognizable.

439. (*1*) Notwithstanding anything in the Code of Criminal Procedure, 1973, 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. 2 of 1974.

(*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, a shareholder of the company, or of a person authorised by the Central Government in that behalf:

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:

Provided further that nothing in this sub-section shall apply to a prosecution by a company of any of its officers.

(*3*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, where the complainant under sub-section (*2*) is the Registrar or a person authorised by the Central Government, the presence of such officer before the Court trying the offences shall not be necessary unless the court requires his personal attendance at the trial. 2 of 1974.

(*4*) The provisions of sub-section (*2*) shall not apply to any action taken by the liquidator of a company in respect of any offence alleged to have been committed in respect of any of the matters in Chapter XX or in any other provision of this Act relating to winding up of companies.

Explanation.—The liquidator of a company shall not be deemed to be an officer of the company within the meaning of sub-section (*2*).

Transitional provisions.

440. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal 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 Court of Session under this section.

Compounding of certain offences.

441. (*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by a company or any officer thereof) with fine only, may, either before or after the institution of any prosecution, be compounded by— 2 of 1974.

(*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,

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 specified shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded:

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:

Provided also that any offence covered under this sub-section by any company or its officer shall not be compounded if the investigation against such company has been initiated or is pending under this Act.

(*2*) Nothing in sub-section (*1*) shall apply to an offence committed by a company or its officer within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.—For the purposes of this section,—

(*a*) any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence;

(*b*) "Regional Director" means a person appointed by the Central Government as a Regional Director for the purposes of this Act.

(*3*) (*a*) Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon, to the Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be.

(*b*) Where any offence is compounded under this section, whether before or after the institution of any prosecution, an intimation thereof shall be given by the company to the Registrar within seven days from the date on which the offence is so compounded.

(*c*) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, either by the Registrar or by any shareholder of the company or by any person authorised by the Central Government against the offender in relation to whom the offence is so compounded.

(*d*) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought by the Registrar in writing, to the notice of the court in which the prosecution is pending and on such notice of the compounding of the offence being given, the company or its officer in relation to whom the offence is so compounded shall be discharged.

(*4*) The Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be, while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires a company or its officer to file or register with, or deliver or send to, the Registrar any return, account or other document, may direct, by an order, if it or he thinks fit to do so, any officer or other employee of the company to file or register with, or on payment of the fee, and the additional fee, required to be paid under section 403, such return, account or other document within such time as may be specified in the order.

(*5*) Any officer or other employee of the company who fails to comply with any order made by the Tribunal or the Regional Director or any officer authorised by the Central Government under sub-section (*4*) shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one lakh rupees, or with both.

2 of 1974.

(*6*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

(*a*) any offence which is punishable under this Act, with imprisonment or fine, or with imprisonment or fine or with both, shall be compoundable with the permission of the Special Court, in accordance with the procedure laid down in that Act for compounding of offences;

(*b*) any offence which is punishable under this Act with imprisonment only or with imprisonment and also with fine shall not be compoundable.

(*7*) No offence specified in this section shall be compounded except under and in accordance with the provisions of this section.

Mediation and Conciliation Panel.

442. (*1*) The Central Government shall maintain a panel of experts to be called as the Mediation and Conciliation Panel consisting of such number of experts having such qualifications as may be prescribed for mediation between the parties during the pendency of any proceedings before the Central Government or the Tribunal or the Appellate Tribunal under this Act.

(*2*) Any of the parties to the proceedings may, at any time during the proceedings before the Central Government or the Tribunal or the Appellate Tribunal, apply to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, in such form along with such fees as may be prescribed, for referring the matter pertaining to such proceedings to the Mediation and Conciliation Panel and the Central Government or Tribunal or the Appellate Tribunal, as the case may be, shall appoint one or more experts from the panel referred to in sub-section (*1*).

(*3*) The Central Government or the Tribunal or the Appellate Tribunal before which any proceeding is pending may, *suo motu*, refer any matter pertaining to such proceeding to such number of experts from the Mediation and Conciliation Panel as the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, deems fit.

(*4*) The fee and other terms and conditions of experts of the Mediation and Conciliation Panel shall be such as may be prescribed.

(*5*) The Mediation and Conciliation Panel shall follow such procedure as may be prescribed and dispose of the matter referred to it within a period of three months from the date of such reference and forward its recommendations to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

(*6*) Any party aggreived by the recommendation of the Mediation and Conciliation Panel may file objections to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

Power of Central Government to appoint company prosecutors.

443. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Central Government may appoint generally, or for any case, or in any case, or for any specified class of cases in any local area, one or more persons, as company prosecutors for the conduct of prosecutions arising out of this Act and the persons so appointed as company prosecutors shall have all the powers and privileges conferred by the Code on Public Prosecutors appointed under section 24 of the Code. 2 of 1974.

Appeal against acquittal.

444. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Central Government may, in any case arising under this Act, direct any company prosecutor or authorise any other person either by name or by virtue of his office, to present an appeal from an order of acquittal passed by any court, other than a High Court, and an appeal presented by such prosecutor or other person shall be deemed to have been validly presented to the appellate court. 2 of 1974.

Compensation for accusation without reasonable cause.

445. The provisions of section 250 of the Code of Criminal Procedure, 1973 shall apply *mutatis mutandis* to compensation for accusation without reasonable cause before the Special Court or the Court of Session. 2 of 1974.

Application of fines.

446. 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.

CHAPTER XXIX

MISCELLANEOUS

Punishment for fraud.

447. 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 guilty of fraud, 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:

Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

Explanation.—For the purposes of this section—

(*i*) "fraud" in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;

(*ii*) "wrongful gain" means the gain by unlawful means of property to which the person gaining is not legally entitled;

(*iii*) "wrongful loss" means the loss by unlawful means of property to which the person losing is legally entitled.

Punishment for false statement.

448. Save as otherwise provided in this Act, if in any return, report, certificate, financial statement, prospectus, statement or other document required by, or for, the purposes of any of the provisions of this Act or the rules made thereunder, any person makes a statement,—

(*a*) which is false in any material particulars, knowing it to be false; or

(*b*) which omits any material fact, knowing it to be material,

he shall be liable under section 447.

Punishment for false evidence.

449. Save as otherwise provided in this Act, if any person intentionally gives false evidence—

(*a*) upon any examination on oath or solemn affirmation, authorised under this Act; or

(*b*) in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act,

he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to ten lakh rupees.

Punishment where no specific penalty or punishment is provided.

450. If a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to ten thousand rupees, and where the contravention is continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.

Punishment in case of repeated default.

451. If a company or an officer of a company commits an offence punishable either with fine or with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of three years, then, that company and every officer thereof who is in default shall be punishable with twice the amount of fine for such offence in addition to any imprisonment provided for that offence.

Punishment for wrongful withholding of property.

452. (*1*) If any officer or employee of a company—

(*a*) wrongfully obtains possession of any property, including cash of the company; or

(*b*) having any such property including cash in his possession, wrongfully withholds it or knowingly applies it for the purposes other than those expressed or directed in the articles and authorised by this Act,

he shall, on the complaint of the company or of any member or creditor or contributory thereof, be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(*2*) The Court trying an offence under sub-section (*1*) may also order such officer or employee to deliver up or refund, within a time to be fixed by it, any such property or cash wrongfully obtained or wrongfully withheld or knowingly misapplied, the benefits that have been derived from such property or cash or in default, to undergo imprisonment for a term which may extend to two years.

Punishment for improper use of "Limited" or "Private Limited".

453. If any person or persons trade or carry on business under any name or title, of which the word "Limited" or the words "Private Limited" or any contraction or imitation thereof is or are the last word or words, that person or each of those persons shall, unless duly incorporated with limited liability, or unless duly incorporated as a private company with limited liability, as the case may be, punishable with fine which shall not be less than five hundred rupees but may extend to two thousand rupees for every day for which that name or title has been used.

Adjudication of penalties.

454. (*1*) The Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of this Act in the manner as may be prescribed.

(*2*) The Central Government shall while appointing adjudicating officers, specify their jurisdiction in the order under sub-section (*1*).

(*3*) The adjudicating officer may, by an order impose the penalty on the company and the officer who is in default stating any non-compliance or default under the relevant provision of the Act.

(*4*) The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such company and the officer who is in default.

(*5*) Any person aggrieved by an order made by the adjudicating officer under sub-section (*3*) may prefer an appeal to the Regional Director having jurisdiction in the matter.

(*6*) Every appeal under sub-section (*5*) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and be accompanied by such fees as may be prescribed.

(*7*) The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

(*8*) (*i*) Where company does not pay the penalty imposed by the adjudicating officer or the Regional Director within a period of ninety days from the date of the receipt of the copy of the order, 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.

(*ii*) Where an officer of a company who is in default does not pay the penalty within a period of ninety days from the date of the receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

Dormant company.

455. (*1*) Where a company is formed and registered under this Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar in such manner as may be prescribed for obtaining the status of a dormant company.

Explanation.—For the purposes of this section,—

(*i*) "inactive company" means a company which has not been carrying on any business or operation, or has not made any significant accounting transaction during the last two financial years, or has not filed financial statements and annual returns during the last two financial years;

(*ii*) "significant accounting transaction" means any transaction other than—

(*a*) payment of fees by a company to the Registrar;

(*b*) payments made by it to fulfil the requirements of this Act or any other law;

(*c*) allotment of shares to fulfil the requirements of this Act; and

(*d*) payments for maintenance of its office and records.

(*2*) The Registrar on consideration of the application shall allow the status of a dormant company to the applicant and issue a certificate in such form as may be prescribed to that effect.

(*3*) The Registrar shall maintain a register of dormant companies in such form as may be prescribed.

(*4*) In case of a company which has not filed financial statements or annual returns for two financial years consecutively, the Registrar shall issue a notice to that company and enter the name of such company in the register maintained for dormant companies.

(*5*) A dormant company shall have such minimum number of directors, file such documents and pay such annual fee as may be prescribed to the Registrar to retain its dormant status in the register and may become an active company on an application made in this behalf accompanied by such documents and fee as may be prescribed.

(*6*) The Registrar shall strike off the name of a dormant company from the register of dormant companies, which has failed to comply with the requirements of this section.

Protection of action taken in good faith.

456. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder, or in respect of the publication by or under the authority of the Government or such officer, of any report, paper or proceedings.

Non-disclosure of information in certain cases.

457. Notwithstanding anything contained in any other law for the time being in force, the Registrar, any officer of the Government or any other person shall not be compelled to disclose to any court, Tribunal or other authority, the source from where he got any information which—

(*a*) has led the Central Government to order an investigation under section 210; or

(*b*) is or has been material or relevant in connection with such investigation.

Delegation by Central Governemnt of its powers and functions.

458. (*1*) The Central Government may, by notification, and subject to such conditions, limitations and restrictions as may be specified therein, delegate any of its powers or functions under this Act other than the power to make rules to such authority or officer as may be specified in the notification:

Provided that the powers to enforce the provisions contained in section 194 and section 195 relating to forward dealing and insider trading shall be delegated to Securities and Exchange Board for listed companies or the companies which intend to get their securities listed and in such case, any officer authorised by the Securities and Exchange Board shall have the power to file a complaint in the court of competent jurisdiction.

(*2*) A copy of every notification issued under sub-section (*1*) shall, as soon as may be after it is issued, be laid before each House of Parliament.

Powers of Central Government or Tribunal to accord approval, etc., subject to conditions and to prescribe fees on applications.

459. (*1*) Where the Central Government or the Tribunal is required or authorised by any provision of this Act—

(*a*) to accord approval, sanction, consent, confirmation or recognition to, or in relation to, any matter; or

(*b*) to give any direction in relation to any matter; or

(*c*) to grant any exemption in relation to any matter,

then, the Central Government or the Tribunal may in the absence of anything to the contrary contained in that provision or any other provision of this Act, accord, give or grant such approval, sanction, consent, confirmation, recognition, direction or exemption, subject to such conditions, limitations or restrictions as it may think fit to impose and may, in the case of a contravention of any such condition, limitation or restriction, rescind or withdraw such approval, sanction, consent, confirmation, recognition, direction or exemption.

(*2*) Save as otherwise provided in this Act, every application which may be, or is required to be, made to the Central Government or the Tribunal under any provision of this Act—

(*a*) in respect of any approval, sanction, consent, confirmation or recognition to be accorded by that Government or the Tribunal to, or in relation to, any matter; or

(*b*) in respect of any direction or exemption to be given or granted by that Government or the Tribunal in relation to any matter; or

(*c*) in respect of any other matter,

shall be accompanied by such fees as may be prescribed:

Provided that different fees may be prescribed for applications in respect of different matters or in case of applications by different classes of companies.

Condonation of delay in certain cases.

460. Notwithstanding anything contained in this Act,—

(*a*) where any application required to be made to the Central Government under any provision of this Act in respect of any matter is not made within the time specified therein, that Government may, for reasons to be recorded in writing, condone the delay; and

(*b*) where any document required to be filed with the Registrar under any provision of this Act is not filed within the time specified therein, the Central Government may, for reasons to be recorded in writing, condone the delay.

Annual report by Central Government.

461. The Central Government shall cause a general annual report on the working and administration of this Act to be prepared and laid before each House of Parliament within one year of the close of the year to which the report relates.

Power to exempt class or classes of companies from provisions of this Act.

462. (*1*) The Central Government may in the public interest, by notification direct that any of the provisions of this Act,—

(*a*) shall not apply to such class or classes of companies; or

(*b*) shall apply to the class or classes of companies with such exceptions, modifications and adaptations as may be specified in the notification.

(*2*) A copy of every notification proposed to be issued under sub-section (*1*), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may 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 form as may be agreed upon by both the Houses.

Power of court to grant relief in certain cases.

463. (*1*) If in any proceeding for negligence, default, breach of duty, misfeasance or breach of trust against an officer of a company, it appears to the court hearing the case that he is or may be liable in respect of the negligence, default, breach of duty, misfeasance or breach of trust, but that he has acted honestly and reasonably, and that having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused, the court may relieve him, either wholly or partly, from his liability on such term, as it may think fit:

Provided that in a criminal proceeding under this sub-section, the court shall have no power to grant relief from any civil liability which may attach to an officer in respect of such negligence, default, breach of duty, misfeasance or breach of trust.

(*2*) Where any such officer has reason to apprehend that any proceeding will or might be brought against him in respect of any negligence, default, breach of duty, misfeasance or breach of trust, he may apply to the High Court for relief and the High Court on such application shall have the same power to relieve him as it would have had if it had been a court before which a proceedings against that officer for negligence, default, breach of duty, misfeasance or breach of trust had been brought under sub-section (*1*).

(3) No court shall grant any relief to any officer under sub-section (*1*) or sub-section (*2*) unless it has, by notice served in the manner specified by it, required the Registrar and such other person, if any, as it thinks necessary, to show cause why such relief should not be granted.

Prohibition of association or partnership of persons exceeding certain number.

464. (*1*) No association or partnership consisting of more than such number of persons as may be prescribed shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain by the association or partnership or by the individual members thereof, unless it is registered as a company under this Act or is formed under any other law for the time being in force:

Provided that the number of persons which may be prescribed under this sub-section shall not exceed one hundred.

(*2*) Nothing in sub-section (*1*) shall apply to—

(*a*) a Hindu undivided family carrying on any business; or

(*b*) an association or partnership, if it is formed by professionals who are governed by special Acts.

(*3*) Every member of an association or partnership carrying on business in contravention of sub-section (*1*) shall be punishable with fine which may extend to one lakh rupees and shall also be personally liable for all liabilities incurred in such business.

Repeal of certain enactments and savings.

1 of 1956. Sikkim Act 8 of 1961.

465. (*1*) The Companies Act, 1956 and the Registration of Companies (Sikkim) Act, 1961 (hereafter in this section referred to as the repealed enactments) shall stand repealed:

1 of 1956.

Provided that the provisions of Part IX A of the Companies Act, 1956 shall be applicable *mutatis mutandis* to a Producer Company in a manner as if the Companies Act, 1956 has not been repealed until a special Act is enacted for Producer Companies:

Provided further that until a date is notified by the Central Government under sub-section (*1*) of Section 434 for transfer of all matters, proceedings or cases to the Tribunal, the provisions of the Companies Act, 1956 in regard to the jurisdiction, powers, authority and functions of the Board of Company Law Administration and court shall continue to apply as if the Companies Act, 1956 has not been repealed:

1 of 1956.

1 of 1956. 6 of 2009.

Provided also that provisions of the Companies Act, 1956 referred in the notification issued under section 67 of the Limited Liability Partnership Act, 2008 shall, until the relevant notification under such section applying relevant corresponding provisions of this Act to limited liability partnerships is issued, continue to apply as if the Companies Act, 1956 has not been repealed.

(*2*) Notwithstanding the repeal under sub-section (*1*) of the repealed enactments,—

(*a*) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(*b*) subject to the provisions of clause (*a*), any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Act, continue to be in force, and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act;

(*c*) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;

(*d*) any person appointed to any office under or by virtue of any repealed enactment shall be deemed to have been appointed to that office under or by virtue of this Act;

(*e*) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored;

(*f*) the offices existing on the commencement of this Act for the registration of companies shall continue as if they have been established under the provisions of this Act;

(*g*) the incorporation of companies registered under the repealed enactments shall continue to be valid and the provisions of this Act shall apply to such companies as if they were registered under this Act;

(*h*) all registers and all funds constituted and established under the repealed enactments shall be deemed to be registers and funds constituted or established under the corresponding provisions of this Act;

(*i*) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Act before any Court shall, subject to the provisions of this Act, continue to be heard and disposed of by the said Court;

(*j*) any inspection, investigation or inquiry ordered to be done under the Companies Act, 1956 shall continue to be proceeded with as if such inspection, investigation or inquiry has been ordered under the corresponding provisions of this Act; and 1 of 1956.

(*k*) any matter filed with the Registrar, Regional Director or the Central Government under the Companies Act, 1956 before the commencement of this Act and not fully addressed at that time shall be concluded by the Registrar, Regional Director or the Central Government, as the case may be, in terms of that Act, despite its repeal. 1 of 1956.

(*3*) The mention of particular matters in sub-section (*2*) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the repealed enactments as if the Registration of Companies (Sikkim) Act, 1961 were also a Central Act. 10 of 1897. Sikkim Act 8 of 1961.

Dissolution of Company Law Board and consequential provisions.

466. (*1*) Notwithstanding anything contained in section 465, the Board of Company Law Administration constituted under the Companies Act, 1956 (hereafter in this section referred to as the Company Law Board) shall stand dissolved on the constitution of the Tribunal and the Appellate Tribunal:

1 of 1956.

Provided that until the Tribunal and the Appellate Tribunal is constituted, the Chairman, Vice-Chairman and Members of the Company Law Board immediately before the constitution of the Tribunal and the Appellate Tribunal, who fulfil the qualifications and requirements provided under this Act regarding appointment as President or Chairperson or Member of the Tribunal or the Appellate Tribunal, shall function as President, Chairperson or Member of the Tribunal or the Appellate Tribunal:

Provided further that every officer or other employee, who had been appointed on deputation basis to the Company Law Board, shall, on such dissolution,—

(*i*) become officer or employee of the Tribunal or the Appellate Tribunal, if he fulfils the qualifications and requirements under this Act; and

(*ii*) stand reverted to his parent cadre, Ministry or Department, in any other case:

Provided also that every officer and the other employee of the Company Law Board, employed on regular basis by that Board, shall become, on and from such dissolution the officer and other employee, respectively, of the Tribunal or the Appellate Tribunal with the same rights and privileges as to pension, gratuity and other like benefits as would have been admissible to him if he had continued to serve that Board and shall continue to do so unless and until his employment in the Tribunal or the Appellate Tribunal is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Tribunal or the Appellate Tribunal, as the case may be:

Provided also that notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, any officer or other employee who becomes an officer or other employee of the Tribunal or the Appellate Tribunal under the preceding proviso shall not be entitled to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority:

14 of 1947.

Provided also that where the Company Law Board has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of the officers and other employees employed in that Board, the monies relatable to the officers and other employees who have become officers or employees of the Tribunal or the Appellate Tribunal shall, out of the monies standing to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and vest in, the Tribunal or the Appellate Tribunal, as the case may be, and such monies which stand so transferred shall be dealt with by the Tribunal or the Appellate Tribunal in such manner as may be prescribed.

(*2*) The persons holding the offices of Chairman, Vice-Chairman and Members, and officers and other employees of the Company Law Board immediately before the constitution of the Tribunal and the Appellate Tribunal who are not covered under proviso to sub-section (*1*) shall vacate their respective offices on such constitution and no such Chairman, Vice-Chairman and Members and officers or other employees shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service, if any.

Power of Central Government to amend Schedules.

467. (*1*) Subject to the provisions of this section, the Central Government may, by notification, alter any of the regulations, rules, Tables, forms and other provisions contained in any of the Schedules to this Act.

(*2*) Any alteration notified under sub-section (*1*) shall have effect as if enacted in this Act and shall come into force on the date of the notification, unless the notification otherwise directs:

Provided that no such alteration in Table F of Schedule I shall apply to any company registered before the date of such alteration.

(*3*) Every alteration made by the Central Government under sub-section (*1*) shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may 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 making any modification in the alteration, or both Houses agree that the alteration should not be made, the alteration shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that alteration.

Powers of Central Government to make rules relating to winding up.

468. (*1*) The Central Government shall, make rules consistent with the Code of Civil Procedure, 1908 providing for all matters relating to the winding up of companies, which by this Act, are to be prescribed, and may make rules providing for all such matters, as may be prescribed. 5 of 1908.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*i*) as to the mode of proceedings to be held for winding up of a company by the Tribunal;

(*ii*) for the voluntary winding up of companies, whether by members or by creditors;

(*iii*) for the holding of meetings of creditors and members in connection with proceedings under section 230;

(*iv*) for giving effect to the provisions of this Act as to the reduction of the capital;

(*v*) generally for all applications to be made to the Tribunal under the provisions of this Act;

(*vi*) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;

(*vii*) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;

(*viii*) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;

(*ix*) the making of calls; and

(*x*) the fixing of a time within which debts and claims shall be proved.

(*3*) All rules made by the Supreme Court on the matters referred to in this section as it stood immediately before the commencement of this Act and in force at such commencement, shall continue to be in force, till such time the rules are made by the Central Government and any reference to the High Court in relation to winding up of a company in such rules shall be construed as a reference to the Tribunal.

Power of Central Government to make rules.

469. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), the Central Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provision is to be or may be made by rules.

(*3*) Any rule made under sub-section (*1*) may provide that a contravention thereof shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which such contravention continues.

(*4*) Every rule made under this section and every regulation made by Securities and Exchange Board under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may 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 making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to remove difficulties.

470. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of section 1 of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

SCHEDULE I

(*See* sections 4 and 5)

TABLE-A

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

1st The name of the company is "……Limited / Private Limited".

2nd The registered office of the company will be situated in the State of……

3rd (*a*) The objects to be pursued by the company on its incorporation are:—

(*b*) Matters which are necessary for furtherance of the objects specified in clause 3(*a*) are:—

4th The liability of the member(s) is limited and this liability is limited to the amount unpaid, if any, on the shares held by them.

5th The share capital of the company is……rupees, divided into……shares of……rupees each.

6th We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of……Merchant	……		Signed before me: Signature……
C.D. of……Merchant	……		Signed before me: Signature……
E.F. of……Merchant	……		Signed before me: Signature……
G.H. of……Merchant	……		Signed before me: Signature……
I.J. of……Merchant	……		Signed before me: Signature……
K.L. of……Merchant	……		Signed before me: Signature……
M.N. of……Merchant	……		Signed before me: Signature……
Total shares taken:			

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B. .....Merchant		Signed before me: Signature.....

8th Shri/Smt....., son/daughter of ..... resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of .....

TABLE-B

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

1st The name of the company is "..... Limited/Private Limited".

2nd The registered office of the company will be situated in the State of.....

3rd (*a*) The objects to be pursued by the company on its incorporation are:--

(*b*) Matters which are necessary for furtherance of the objects specified in clause 3(*a*) are:---

4th The liability of the member(s) is limited.

5th Every member of the company undertakes to contribute:

(*i*) 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; and

(*ii*) to 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.....rupees.

6th We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscribers	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B. .....Merchant		Signed before me: Signature.....

8th Shri/Smt....., son/daugther of ....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of .....

TABLE-C

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

1st The name of the company is ".....Limited/Private Limited".

2nd The registered office of the company will be situated in the State of.....

3rd (*a*) The objects to be pursued by the company on its incorporation are:—

(*b*) Matters which are necessary for furtherance of the objects specified in clause 3(*a*) are:—

4th The liability of the member(s) is limited.

5th Every member of the company undertakes to contribute:

(*i*) 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; and

(*ii*) to 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.....rupees.

6th The share capital of the company is.....rupees, divided into.....shares of.....rupees each

7th We, the several persons, whose names, addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant	.....		Signed before me: Signature.....
C.D. of.....Merchant	.....		Signed before me: Signature.....
E.F. of.....Merchant	.....		Signed before me: Signature.....
G.H. of.....Merchant	.....		Signed before me: Signature.....
I.J. of.....Merchant	.....		Signed before me: Signature.....
K.L. of.....Merchant	.....		Signed before me: Signature.....
M.N. of.....Merchant	.....		Signed before me: Signature.....

8th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B. of.....Merchant		Signed before me: Signature.....

9th Shri/Smt....., son/daughter of ....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of.....

TABLE-D

MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY AND NOT HAVING SHARE CAPITAL

1st The name of the company is "..... Company".

2nd The registered office of the company will be situated in the State of.....

3rd (*a*) The objects to be pursued by the company on its incorporation are:—

(*b*) Matters which are necessary for furtherance of the objects specified in clause 3(*a*) are:—

4th The liability of the member(s) is unlimited.

5th We, the several persons, whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscribers	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

6th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B. .....Merchant		Signed before me: Signature.....

7th Shri/Smt....., son/daughter of....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of.....

TABLE-E

MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY AND HAVING SHARE CAPITAL

1st The name of the company is "..... Company".

2nd The registered office of the company will be situated in the State of.....

3rd (*a*) The objects to be pursued by the company on its incorporation are:—

(*b*) Matters which are necessary for furtherance of the objects specified in clause 3(*a*) are:—

4th The liability of the member(s) is unlimited.

5th The share capital of the company is.....rupees, divided into.....shares of.....rupees each.

6th We, the several persons, whose names, and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we

respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant	.....		Signed before me: Signature.....
C.D. of.....Merchant	.....		Signed before me: Signature.....
E.F. of.....Merchant	.....		Signed before me: Signature.....
G.H. of.....Merchant	.....		Signed before me: Signature.....
I.J. of.....Merchant	.....		Signed before me: Signature.....
K.L. of.....Merchant	.....		Signed before me: Signature.....
M.N. of.....Merchant	.....		Signed before me: Signature.....

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B. .....Merchant		Signed before me: Signature.....

8th Shri/Smt....., son/daughter of....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of .....

TABLE-F

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

Interpretation

I. (*1*) In these regulations—

(*a*) "the Act" means the Companies Act, 2013,

(*b*) "the seal" means the common seal of the company.

(*2*) Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.

Share capital and variation of rights

II. 1. Subject to the provisions of the Act and these Articles, the shares in the capital of the company shall be under the control of the Directors who may issue, allot or otherwise dispose of the same or any of them to such persons, in such proportion and on such terms and conditions and either at a premium or at par and at such time as they may from time to time think fit.

2. (*i*) Every person whose name is entered as a member in the register of members shall be entitled to receive within two months after incorporation, in case of subscribers to the memorandum or after allotment or within one month after the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided,—

(*a*) one certificate for all his shares without payment of any charges; or

(*b*) several certificates, each for one or more of his shares, upon payment of twenty rupees for each certificate after the first.

(*ii*) Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid-up thereon.

(*iii*) In respect of any share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.

3. (*i*) If any share certificate be worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the company and on execution of such indemnity as the company deem adequate, a new certificate in lieu thereof shall be given. Every certificate under this Article shall be issued on payment of twenty rupees for each certificate.

(*ii*) The provisions of Articles (*2*) and (*3*) shall *mutatis mutandis* apply to debentures of the company.

4. Except as required by law, no person shall be recognised by the company as holding any share upon any trust, and the company shall not be bound by, or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.

5. (*i*) The company may exercise the powers of paying commissions conferred by sub-section (*6*) of section 40, provided that the rate per cent. or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made thereunder.

(*ii*) The rate or amount of the commission shall not exceed the rate or amount prescribed in rules made under sub-section (6) of section 40.

(*iii*) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in the one way and partly in the other.

6. (*i*) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of section 48, and whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class.

(*ii*) To every such separate meeting, the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be at least two persons holding at least one-third of the issued shares of the class in question.

7. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.

8. Subject to the provisions of section 55, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are to be redeemed on such terms and in such manner as the company before the issue of the shares may, by special resolution, determine.

Lien

9. (*i*) The company shall have a first and paramount lien—

(*a*) on every share (not being a fully paid share), for all monies (whether presently payable or not) called, or payable at a fixed time, in respect of that share; and

(*b*) on all shares (not being fully paid shares) standing registered in the name of a single person, for all monies presently payable by him or his estate to the company:

Provided that the Board of directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause.

(*ii*) The company's lien, if any, on a share shall extend to all dividends payable and bonuses declared from time to time in respect of such shares.

10. The company may sell, in such manner as the Board thinks fit, any shares on which the company has a lien:

Provided that no sale shall be made—

(*a*) unless a sum in respect of which the lien exists is presently payable; or

(*b*) until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or insolvency.

11. (*i*) To give effect to any such sale, the Board may authorise some person to transfer the shares sold to the purchaser thereof.

(*ii*) The purchaser shall be registered as the holder of the shares comprised in any such transfer.

(*iii*) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

12. (*i*) The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable.

(*ii*) The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.

Calls on shares

13. (*i*) The Board may, from time to time, make calls upon the members in respect of any monies unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times:

Provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call.

(*ii*) Each member shall, subject to receiving at least fourteen days' notice specifying the time or times and place of payment, pay to the company, at the time or times and place so specified, the amount called on his shares.

(*iii*) A call may be revoked or postponed at the discretion of the Board.

14. A call shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed and may be required to be paid by instalments.

15. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

16. (*i*) If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at ten per cent. per annum or at such lower rate, if any, as the Board may determine.

(*ii*) The Board shall be at liberty to waive payment of any such interest wholly or in part.

17. (*i*) Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall, for the purposes of these regulations, be deemed to be a call duly made and payable on the date on which by the terms of issue such sum becomes payable.

(*ii*) In case of non-payment of such sum, all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

18. The Board—

(*a*) may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him; and

(*b*) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate not exceeding, unless the company in general meeting shall otherwise direct, twelve per cent. per annum, as may be agreed upon between the Board and the member paying the sum in advance.

Transfer of shares

19. (*i*) The instrument of transfer of any share in the company shall be executed by or on behalf of both the transferor and transferee.

(*ii*) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

20. The Board may, subject to the right of appeal conferred by section 58 decline to register—

(*a*) the transfer of a share, not being a fully paid share, to a person of whom they do not approve; or

(*b*) any transfer of shares on which the company has a lien.

21. The Board may decline to recognise any instrument of transfer unless—

(*a*) the instrument of transfer is in the form as prescribed in rules made under sub-section (*1*) of section 56;

(*b*) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and

(*c*) the instrument of transfer is in respect of only one class of shares.

22. On giving not less than seven days' previous notice in accordance with section 91 and rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine:

Provided that such registration shall not be suspended for more than thirty days at any one time or for more than forty-five days in the aggregate in any year.

Transmission of shares

23. (*i*) On the death of a member, the survivor or survivors where the member was a joint holder, and his nominee or nominees or legal representatives where he was a sole holder, shall be the only persons recognised by the company as having any title to his interest in the shares.

(*ii*) Nothing in clause (*i*) shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.

24. (*i*) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either—

(*a*) to be registered himself as holder of the share; or

(*b*) to make such transfer of the share as the deceased or insolvent member could have made.

(*ii*) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent member had transferred the share before his death or insolvency.

25. (*i*) If the person so becoming entitled shall elect to be registered as holder of the share himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects.

(*ii*) If the person aforesaid shall elect to transfer the share, he shall testify his election by executing a transfer of the share.

(*iii*) All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or insolvency of the member had not occurred and the notice or transfer were a transfer signed by that member.

26. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:

Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share, until the requirements of the notice have been complied with.

27. In case of a One Person Company—

(*i*) on the death of the sole member, the person nominated by such member shall be the person recognised by the company as having title to all the shares of the member;

(*ii*) the nominee on becoming entitled to such shares in case of the member's death shall be informed of such event by the Board of the company;

(*iii*) such nominee shall be entitled to the same dividends and other rights and liabilities to which such sole member of the company was entitled or liable;

(*iv*) on becoming member, such nominee shall nominate any other person with the prior written consent of such person who, shall in the event of the death of the member, become the member of the company.

Forfeiture of shares

28. If a member fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

29. The notice aforesaid shall—

(*a*) name a further day (not being earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made; and

(*b*) state that, in the event of non-payment on or before the day so named, the shares in respect of which the call was made shall be liable to be forfeited.

30. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.

31. (*i*) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit.

(*ii*) At any time before a sale or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.

32. (*i*) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares.

(*ii*) The liability of such person shall cease if and when the company shall have received payment in full of all such monies in respect of the shares.

33. (*i*) A duly verified declaration in writing that the declarant is a director, the manager or the secretary, of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share;

(*ii*) The company may receive the consideration, if any, given for the share on any sale or disposal thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of;

(*iii*) The transferee shall thereupon be registered as the holder of the share; and

(*iv*) The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

34. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Alteration of capital

35. The company may, from time to time, by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as may be specified in the resolution.

36. Subject to the provisions of section 61, the company may, by ordinary resolution,—

(*a*) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(*b*) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination;

(*c*) sub-divide its existing shares or any of them into shares of smaller amount than is fixed by the memorandum;

(*d*) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

37. Where shares are converted into stock,—

(*a*) the holders of stock may transfer the same or any part thereof in the same manner as, and subject to the same regulations under which, the shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit:

Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so, however, that such minimum shall not exceed the nominal amount of the shares from which the stock arose.

(*b*) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.

(*c*) such of the regulations of the company as are applicable to paid-up shares shall apply to stock and the words "share" and "shareholder" in those regulations shall include "stock" and "stock-holder" respectively.

38. The company may, by special resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law,—

(*a*) its share capital;

(*b*) any capital redemption reserve account; or

(*c*) any share premium account.

Capitalisation of profits

39. (*i*) The company in general meeting may, upon the recommendation of the Board, resolve—

(*a*) that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts, or to the credit of the profit and loss account, or otherwise available for distribution; and

(*b*) that such sum be accordingly set free for distribution in the manner specified in clause (*ii*) amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions.

(*ii*) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause (*iii*), either in or towards—

(*A*) paying up any amounts for the time being unpaid on any shares held by such members respectively;

(*B*) paying up in full, unissued shares of the company to be allotted and distributed, credited as fully paid-up, to and amongst such members in the proportions aforesaid;

(*C*) partly in the way specified in sub-clause (*A*) and partly in that specified in sub-clause (*B*);

(*D*) A securities premium account and a capital redemption reserve account may, for the purposes of this regulation, be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares;

(*E*) The Board shall give effect to the resolution passed by the company in pursuance of this regulation.

40. (*i*) Whenever such a resolution as aforesaid shall have been passed, the Board shall—

(*a*) make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares if any; and

(*b*) generally do all acts and things required to give effect thereto.

(*ii*) The Board shall have power—

(*a*) to make such provisions, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, for the case of shares becoming distributable in fractions; and

(*b*) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the company providing for the allotment to them respectively, credited as fully paid-up, of any further shares to which they may be entitled upon such capitalisation, or as the case may require, for the payment by the company on their behalf, by the application thereto of their respective proportions of profits resolved to be capitalised, of the amount or any part of the amounts remaining unpaid on their existing shares;

(*iii*) Any agreement made under such authority shall be effective and binding on such members.

Buy-back of shares

41. Notwithstanding anything contained in these articles but subject to the provisions of sections 68 to 70 and any other applicable provision of the Act or any other law for the time being in force, the company may purchase its own shares or other specified securities.

General meetings

42. All general meetings other than annual general meeting shall be called extra-ordinary general meeting.

43. (*i*) The Board may, whenever it thinks fit, call an extraordinary general meeting.

(*ii*) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.

Proceedings at general meetings

44. (*i*) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(*ii*) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.

45. The chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.

46. If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.

47. If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.

48. In case of a One Person Company—

(*i*) the resolution required to be passed at the general meetings of the company shall be deemed to have been passed if the resolution is agreed upon by the sole member and communicated to the company and entered in the minutes book maintained under section 118;

(*ii*) such minutes book shall be signed and dated by the member;

(*iii*) the resolution shall become effective from the date of signing such minutes by the sole member.

Adjournment of meeting

49. (*i*) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

(*ii*) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(*iii*) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(*iv*) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting rights

50. Subject to any rights or restrictions for the time being attached to any class or classes of shares,—

(*a*) on a show of hands, every member present in person shall have one vote; and

(*b*) on a poll, the voting rights of members shall be in proportion to his share in the paid-up equity share capital of the company.

51. A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.

52. (*i*) In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders.

(*ii*) For this purpose, seniority shall be determined by the order in which the names stand in the register of members.

53. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

54. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

55. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

56. (*i*) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

(*ii*) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.

Proxy

57. The instrument appointing a proxy and the power-of-attorney or other authority, if any, under which it is signed or a notarised copy of that power or authority, shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll; and in default the instrument of proxy shall not be treated as valid.

58. An instrument appointing a proxy shall be in the form as prescribed in the rules made under section 105.

59. A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given:

Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.

Board of Directors

60. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

61. (*i*) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day.

(*ii*) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them—

(*a*) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or

(*b*) in connection with the business of the company.

62. The Board may pay all expenses incurred in getting up and registering the company.

63. The company may exercise the powers conferred on it by section 88 with regard to the keeping of a foreign register; and the Board may (subject to the provisions of that section) make and vary such regulations as it may thinks fit respecting the keeping of any such register.

64. All cheques, promissory notes, drafts, *hundis*, bills of exchange and other negotiable instruments, and all receipts for monies paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by such person and in such manner as the Board shall from time to time by resolution determine.

65. Every director present at any meeting of the Board or of a committee thereof shall sign his name in a book to be kept for that purpose.

66. (*i*) Subject to the provisions of section 149, the Board shall have power at any time, and from time to time, to appoint a person as an additional director, provided the number of the directors and additional directors together shall not at any time exceed the maximum strength fixed for the Board by the articles.

(*ii*) Such person shall hold office only up to the date of the next annual general meeting of the company but shall be eligible for appointment by the company as a director at that meeting subject to the provisions of the Act.

Proceedings of the Board

67. (*i*) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.

(*ii*) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.

68. (*i*) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.

(*ii*) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.

69. The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.

70. (*i*) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office.

(*ii*) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be Chairperson of the meeting.

71. (*i*) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.

(*ii*) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.

72. (*i*) A committee may elect a Chairperson of its meetings.

(*ii*) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.

73. (*i*) A committee may meet and adjourn as it thinks fit.

(*ii*) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairperson shall have a second or casting vote.

74. All acts done in any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.

75. Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.

76. In case of a One Person Company—

(*i*) where the company is having only one director, all the businesses to be transacted at the meeting of the Board shall be entered into minutes book maintained under section 118;

(*ii*) such minutes book shall be signed and dated by the director;

(*iii*) the resolution shall become effective from the date of signing such minutes by the director.

Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer

77. Subject to the provisions of the Act,—

(*i*) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it may thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board;

(*ii*) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.

78. A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.

The Seal

79. (*i*) The Board shall provide for the safe custody of the seal.

(*ii*) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Dividends and Reserve

80. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.

81. Subject to the provisions of section 123, the Board may from time to time pay to the members such interim dividends as appear to it to be justified by the profits of the company.

82. (*i*) The Board may, before recommending any dividend, set aside out of the profits of the company such sums as it thinks fit as a reserve or reserves which shall, at the discretion of the Board, be applicable for any purpose to which the profits of the company may be properly applied, including provision for meeting contingencies or for equalising dividends; and pending such application, may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the Board may, from time to time, thinks fit.

(*ii*) The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve.

83. (*i*) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares.

(*ii*) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share.

(*iii*) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

84. The Board may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.

85. (*i*) Any dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members, or to such person and to such address as the holder or joint holders may in writing direct.

(*ii*) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.

86. Any one of two or more joint holders of a share may give effective receipts for any dividends, bonuses or other monies payable in respect of such share.

87. Notice of any dividend that may have been declared shall be given to the persons entitled to share therein in the manner mentioned in the Act.

88. No dividend shall bear interest against the company.

Accounts

89. (*i*) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the company, or any of them, shall be open to the inspection of members not being directors.

(*ii*) No member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the Board or by the company in general meeting.

Winding up

90. Subject to the provisions of Chapter XX of the Act and rules made thereunder—

(*i*) If the company shall be wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the company, whether they shall consist of property of the same kind or not.

(*ii*) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members.

(*iii*) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories if he considers necessary, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

Indemnity

91. Every officer of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in which relief is granted to him by the court or the Tribunal.

Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address,

description and occupation, if any, and such signatures shall be in form specified below:

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
A.B. of.....Merchant	Signed before me Signature.....
C.D. of.....Merchant	Signed before me Signature.....
E.F. of.....Merchant	Signed before me Signature.....
G.H. of.....Merchant	Signed before me Signature.....
I.J. of.....Merchant	Signed before me Signature.....
K.L. of.....Merchant	Signed before me Signature.....
M.N. of.....Merchant	Signed before me Signature.....

Dated the.....day of.....20.....

Place: .....

TABLE–G

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.

2. All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

TABLE-H

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING SHARE CAPITAL

Interpretation

I. (*1*) In these regulations—

(*a*) "the Act" means the Companies Act, 2013;

(*b*) "the seal" means the common seal of the company.

(*2*) Unless the context otherwise requires, words or expressions contained in these regulations shall have the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.

Members

II. 1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.

2. The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.

General meetings

3. All general meetings other than annual general meeting shall be called extraordinary general meeting.

4. (*i*) The Board may, whenever it thinks fit, call an extraordinary general meeting.

(*ii*) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.

Proceedings at general meetings

5. (*i*) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(*ii*) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.

6. The Chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.

7. If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.

8. If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.

Adjournment of meeting

9. (*i*) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

(*ii*) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(*iii*) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(*iv*) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting rights

10. Every member shall have one vote.

11. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

12. No member shall be entitled to vote at any general meeting unless all sums presently payable by him to the company have been paid.

13. (*i*) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

(*ii*) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.

14. A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given:

Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.

15. A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.

16. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

Board of Directors

17. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

18. (*i*) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day.

(*ii*) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them—

(*a*) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or

(*b*) in connection with the business of the company.

Proceedings of the Board

19. (*i*) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.

(*ii*) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.

20. (*i*) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.

(*ii*) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.

21. The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.

22. (*i*) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office.

(*ii*) If no such chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their members to be Chairperson of the meeting.

23. (*i*) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.

(*ii*) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.

24. (*i*) A committee may elect a Chairperson of its meetings.

(*ii*) If no such Chairperson is elected, or if at any meeting the chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.

25. (*i*) A committee may meet and adjourn as it thinks proper.

(*ii*) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the chairman shall have a second or casting vote.

26. All acts done by any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.

27. Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be as valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.

Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer

28. Subject to the provisions of the Act,—

(*i*) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board.

(*ii*) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.

29. A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.

The Seal

30. (*i*) The Board shall provide for the safe custody of the seal.

(*ii*) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address,

description and occupation, if any, and such signatures shall be in form specified below:

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
A.B. of.....Merchant	Signed before me Signature.....
C.D. of.....Merchant	Signed before me Signature.....
E.F. of.....Merchant	Signed before me Signature.....
G.H. of.....Merchant	Signed before me Signature.....
I.J. of.....Merchant	Signed before me Signature.....
K.L. of.....Merchant	Signed before me Signature.....
M.N. of.....Merchant	Signed before me Signature.....

Dated the.....day of.....20.....

Place: .....

TABLE – I

ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY AND HAVING A SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.

2. All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

TABLE - J

ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY AND NOT HAVING SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.

2. The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.

3. All the articles of Table H in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

SCHEDULE II

(*See* section 123)

USEFUL LIVES TO COMPUTE DEPRECIATION

PART 'A'

1. Depreciation is the systematic allocation of the depreciable amount of an asset over its useful life. The depreciable amount of an asset is the cost of an asset or other amount substituted for cost, less its residual value. The useful life of an asset is the period over which an asset is expected to be available for use by an entity, or the number of production or similar units expected to be obtained from the asset by the entity.

2. For the purpose of this Schedule, the term depreciation includes amortisation.

3. Without prejudice to the foregoing provisions of paragraph 1,—

(*i*) In case of such class of companies, as may be prescribed and whose financial statements comply with the accounting standards prescribed for such class of companies under section 133 the useful life of an asset shall not normally be different from the useful life and the residual value shall not be different from that as indicated in Part C, provided that if such a company uses a useful life or residual value which is different from the useful life or residual value indicated therein, it shall disclose the justification for the same.

(*ii*) In respect of other companies the useful life of an asset shall not be longer than the useful life and the residual value shall not be higher than that prescribed in Part C.

(*iii*) For intangible assets, the provisions of the Accounting Standards mentioned under sub-para (*i*) or (*ii*), as applicable, shall apply.

PART 'B'

4. The useful life or residual value of any specific asset, as notified for accounting purposes by a Regulatory Authority constituted under an Act of Parliament or by the Central Government shall be applied in calculating the depreciation to be provided for such asset irrespective of the requirements of this Schedule.

PART 'C'

5. Subject to Parts A and B above, the following are the useful lives of various tangible assets:

Nature of assets	**Useful Life**
I Buildings [NESD]	
(*a*) Buildings (other than factory buildings) RCC Frame Structure	60 Years
(*b*) Buildings (other than factory buildings) other than RCC Frame Structure	30 Years
(*c*) Factory buildings	-do-
(*d*) Fences, wells, tube wells	5 Years
(*e*) Others (including temporary structure, etc.)	3 Years
II. Bridges, culverts, bunders, etc. [NESD]	30 Years
III. Roads [NESD]	
(*a*) Carpeted roads	
(*i*) Carpeted Roads-RCC	10 Years
(*ii*) Carpeted Roads-other than RCC	5 Years

(*b*) Non-carpeted roads	3 Years
IV. Plant and Machinery	
(*i*) **General rate applicable to plant and machinery not covered under special plant and machinery**	
(*a*) Plant and Machinery other than continuous process plant not covered under specific industries	15 Years
(*b*) continuous process plant for which no special rate has been prescribed under (*ii*) below [NESD]	8 Years
(*ii*) **Special Plant and Machinery**	
(*a*) Plant and Machinery related to production and exhibition of Motion Picture Films	
1. Cinematograph films—Machinery used in the production and exhibition of cinematograph films, recording and reproducing equipments, developing machines, printing machines, editing machines, synchronizers and studio lights except bulbs	13 Years
2. Projecting equipment for exhibition of films	-do-
(*b*) Plant and Machinery used in glass manufacturing	
1. Plant and Machinery except direct fire glass melting furnaces — Recuperative and regenerative glass melting furnaces	13 Years
2. Plant and Machinery except direct fire glass melting furnaces — Moulds [NESD]	8 Years
3. Float Glass Melting Furnaces [NESD]	10 Years
(*c*) Plant and Machinery used in mines and quarries—Portable underground machinery and earth moving machinery used in open cast mining [NESD].	8 Years
(*d*) Plant and Machinery used in Telecommunications [NESD]	
1. Towers	18 Years
2. Telecom transceivers, switching centres, transmission and other network equipment	13 Years
3. Telecom—Ducts, Cables and optical fibre	18 Years
4. Satellites	-do-
(*e*) Plant and Machinery used in exploration, production and refining oil and gas [NESD]	
1. Refineries	25 Years
2. Oil and gas assets (including wells), processing plant and facilities	-do-
3. Petrochemical Plant	-do-
4. Storage tanks and related equipment	-do-
5. Pipelines	30 Years
6. Drilling Rig	-do-
7. Field operations (above ground) Portable boilers, drilling tools, well-head tanks, etc.	8 Years
8. Loggers	-do-

(*f*)	Plant and Machinery used in generation, transmission and distribution of power [NESD]	
1.	Thermal/ Gas/ Combined Cycle Power Generation Plant	40 Years
2.	Hydro Power Generation Plant	-do-
3.	Nuclear Power Generation Plant	-do-
4.	Transmission lines, cables and other network assets	-do-
5.	Wind Power Generation Plant	22 Years
6.	Electric Distribution Plant	35 Years
7.	Gas Storage and Distribution Plant	30 Years
8.	Water Distribution Plant including pipelines	-do-
(*g*)	Plant and Machinery used in manufacture of steel	
1.	Sinter Plant	20 Years
2.	Blast Furnace	-do-
3.	Coke ovens	-do-
4.	Rolling mill in steel plant	-do-
5.	Basic oxygen Furnace Converter	25 Years
(*h*)	Plant and Machinery used in manufacture of non-ferrous metals	
1.	Metal pot line [NESD]	40 Years
2.	Bauxite crushing and grinding section [NESD]	-do-
3.	Digester Section [NESD]	-do-
4.	Turbine [NESD]	-do-
5.	Equipments for Calcination [NESD]	-do-
6.	Copper Smelter [NESD]	-do-
7.	Roll Grinder	40 Years
8.	Soaking Pit	30 Years
9.	Annealing Furnace	-do-
10.	Rolling Mills	-do-
11.	Equipments for Scalping, Slitting , etc. [NESD]	-do-
12.	Surface Miner, Ripper Dozer, etc., used in mines	25 Years
13.	Copper refining plant [NESD]	-do-
(*i*)	Plant and Machinery used in medical and surgical operations [NESD]	
1.	Electrical Machinery, X-ray and electrotherapeutic apparatus and accessories thereto, medical, diagnostic equipments, namely, Cat-scan, Ultrasound Machines, ECG Monitors, etc.	13 Years
2.	Other Equipments.	15 Years
(*j*)	Plant and Machinery used in manufacture of pharmaceuticals and chemicals [NESD]	
1.	Reactors	20 Years
2.	Distillation Columns	-do-
3.	Drying equipments/Centrifuges and Decanters	-do-
4.	Vessel/storage tanks	-do-

(*k*)	Plant and Machinery used in civil construction	
1.	Concreting, Crushing, Piling Equipments and Road Making Equipments	12 Years
2.	Heavy Lift Equipments—	
	Cranes with capacity of more than 100 tons	20 Years
	Cranes with capacity of less than 100 tons	15 Years
3:	Transmission line, Tunneling Equipments [NESD]	10 Years
4.	Earth-moving equipments	9 Years
5.	Others including Material Handling /Pipeline/Welding Equipments [NESD]	12 Years
(*l*)	Plant and Machinery used in salt works [NESD]	15 Years
V.	**Furniture and fittings [NESD]**	
(*i*)	General furniture and fittings	10 Years
(*ii*)	Furniture and fittings used in hotels, restaurants and boarding houses, schools, colleges and other educational institutions, libraries; welfare centres; meeting halls, cinema houses; theatres and circuses; and furniture and fittings let out on hire for use on the occasion of marriages and similar functions.	8 Years
VI	**Motor Vehicles [NESD]**	
1.	Motor cycles, scooters and other mopeds	10 Years
2.	Motor buses, motor lorries, motor cars and motor taxies used in a business of running them on hire	6 Years
3.	Motor buses, motor lorries and motor cars other than those used in a business of running them on hire	8 Years
4.	Motor tractors, harvesting combines and heavy vehicles	-do-
5.	Electrically operated vehicles including battery powered or fuel cell powered vehicles	8 Years
VII	**Ships [NESD]**	
1.	Ocean-going ships	
(*i*)	Bulk Carriers and liner vessels	25 Years
(*ii*)	Crude tankers, product carriers and easy chemical carriers with or without conventional tank coatings.	20 Years
(*iii*)	Chemicals and Acid Carriers:	
(*a*)	With Stainless steel tanks	25 Years
(*b*)	With other tanks	20 Years
(*iv*)	Liquified gas carriers	30 Years
(*v*)	Conventional large passenger vessels which are used for cruise purpose also	-do-
(*vi*)	Coastal service ships of all categories	-do-
(*vii*)	Offshore supply and support vessels	20 Years
(*viii*)	Catamarans and other high speed passenger for ships or boats	-do-

(*ix*)	Drill ships	25 Years
(*x*)	Hovercrafts	15 Years
(*xi*)	Fishing vessels with wooden hull	10 Years
(*xii*)	Dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes	14 Years
2.	Vessels ordinarily operating on inland waters—	
(*i*)	Speed boats	13 Years
(*ii*)	Other vessels	28 Years
VIII.	**Aircrafts or Helicopters [NESD]**	20 Years
IX.	**Railways sidings, locomotives, rolling stocks, tramways and railways used by concerns, excluding railway concerns [NESD]**	15 Years
X.	**Ropeway structures [NESD]**	15 Years
XI.	**Office equipment [NESD]**	5 Years
XII.	**Computers and data processing units [NESD]**	
(*i*)	Servers and networks	6 Years
(*ii*)	End user devices, such as, desktops, laptops, etc.	3 Years
XIII.	**Laboratory equipment [NESD]**	
(*i*)	General laboratory equipment	10 Years
(*ii*)	Laboratory equipments used in educational institutions	5 Years
XIV.	**Electrical Installations and Equipment [NESD]**	10 years
XV.	**Hydraulic works, pipelines and sluices [NESD]**	15 Years

Notes.—

1. "Factory buildings" does not include offices, godowns, staff quarters.

2. Where, during any financial year, any addition has been made to any asset, or where any asset has been sold, discarded, demolished or destroyed, the depreciation on such assets shall be calculated on a *pro rata* basis from the date of such addition or, as the case may be, up to the date on which such asset has been sold, discarded, demolished or destroyed.

3. The following information shall also be disclosed in the accounts, namely:—

(*i*) depreciation methods used; and

(*ii*) the useful lives of the assets for computing depreciation, if they are different from the life specified in the Schedule.

4. Useful life specified in Part C of the Schedule is for whole of the asset. Where cost of a part of the asset is significant to total cost of the asset and useful life of that part is different from the useful life of the remaining asset, useful life of that significant part shall be determined separately.

5. Depreciable amount is the cost of an asset, or other amount substituted for cost, less its residual value. Ordinarily, the residual value of an asset is often insignificant but it should generally be not more than 5% of the original cost of the asset.

6. The useful lives of assets working on shift basis have been specified in the Schedule based on their single shift working. Except for assets in respect of which no extra shift depreciation is permitted (indicated by NESD in Part C above), if an asset is used for any time during the year for double shift, the depreciation will increase by 50% for that period and in case of the triple shift the depreciation shall be calculated on the basis of 100% for that period.

7. From the date this Schedule comes into effect, the carrying amount of the asset as on that date—

(*a*) shall be depreciated over the remaining useful life of the asset as per this Schedule;

(*b*) after retaining the residual value, shall be recognised in the opening balance of retained earnings where the remaining useful life of an asset is nil.

8. "Continuous process plant" means a plant which is required and designed to operate for twenty-four hours a day.

SCHEDULE III

(*See* section 129)

GENERAL INSTRUCTIONS FOR PREPARATION OF BALANCE SHEET AND STATEMENT OF PROFIT AND LOSS OF A COMPANY

GENERAL INSTRUCTIONS

1. Where compliance with the requirements of the Act including Accounting Standards as applicable to the companies require any change in treatment or disclosure including addition, amendment, substitution or deletion in the head or sub-head or any changes, *inter se*, in the financial statements or statements forming part thereof, the same shall be made and the requirements of this Schedule shall stand modified accordingly.

2. The disclosure requirements specified in this Schedule are in addition to and not in substitution of the disclosure requirements specified in the Accounting Standards prescribed under the Companies Act, 2013. Additional disclosures specified in the Accounting Standards shall be made in the notes to accounts or by way of additional statement unless required to be disclosed on the face of the Financial Statements. Similarly, all other disclosures as required by the Companies Act shall be made in the notes to accounts in addition to the requirements set out in this Schedule.

3. (*i*) Notes to accounts shall contain information in addition to that presented in the Financial Statements and shall provide where required (*a*) narrative descriptions or disaggregations of items recognised in those statements; and (*b*) information about items that do not qualify for recognition in those statements.

(*ii*) Each item on the face of the Balance Sheet and Statement of Profit and Loss shall be cross-referenced to any related information in the notes to accounts. In preparing the Financial Statements including the notes to accounts, a balance shall be maintained between providing excessive detail that may not assist users of financial statements and not providing important information as a result of too much aggregation.

4. (*i*) Depending upon the turnover of the company, the figures appearing in the Financial Statements may be rounded off as given below:—

Turnover	**Rounding off**
(*a*) less than one hundred crore rupees	To the nearest hundreds, thousands, lakhs or millions, or decimals thereof.
(*b*) one hundred crore rupees or more	To the nearest lakhs, millions or crores, or decimals thereof.

(*ii*) Once a unit of measurement is used, it shall be used uniformly in the Financial Statements.

5. Except in the case of the first Financial Statements laid before the Company (after its incorporation) the corresponding amounts (comparatives) for the immediately preceding reporting period for all items shown in the Financial Statements including notes shall also be given.

6. For the purpose of this Schedule, the terms used herein shall be as per the applicable Accounting Standards.

Note:—This part of Schedule sets out the minimum requirements for disclosure on the face of the Balance Sheet, and the Statement of Profit and Loss (hereinafter referred to as "Financial Statements" for the purpose of this Schedule) and Notes. Line items, sub-line items and sub-totals shall be presented as an addition or substitution on the face of the Financial Statements when such presentation is relevant to an understanding of the company's financial position or performance or to cater to industry/sector-specific disclosure requirements or when required for compliance with the amendments to the Companies Act or under the Accounting Standards.

PART I — BALANCE SHEET

Name of the Company.....

Balance Sheet as at .....

(Rupees in.....)

Particulars	Note No. .	Figures as at the end of current reporting period	Figures as at the end of the previous reporting period
1	2	3	4
I. EQUITY AND LIABILITIES			
(1) **Shareholders' funds**			
(*a*) Share capital			
(*b*) Reserves and surplus			
(*c*) Money received against share warrants			
(2) **Share application money pending allotment**			
(3) **Non-current liabilities**			
(*a*) Long-term borrowings			
(*b*) Deferred tax liabilities (Net)			
(*c*) Other Long term liabilities			
(*d*) Long-term provisions			
(4) **Current liabilities**			
(*a*) Short-term borrowings			
(*b*) Trade payables			
(*c*) Other current liabilities			
(*d*) Short-term provisions			
TOTAL			
II. ASSETS			
Non-current assets			
(1) (*a*) Fixed assets			
(*i*) Tangible assets			
(*ii*) Intangible assets			
(*iii*) Capital work-in-progress			
(*iv*) Intangible assets under development			

1	2	3	4
(*b*) Non-current investments			
(*c*) Deferred tax assets (net)			
(*d*) Long-term loans and advances			
(*e*) Other non-current assets			
(2) **Current assets**			
(*a*) Current investments			
(*b*) Inventories			
(*c*) Trade receivables			
(*d*) Cash and cash equivalents			
(*e*) Short-term loans and advances			
(*f*) Other current assets			
TOTAL			

See accompanying notes to the Financial Statements.

Notes

GENERAL INSTRUCTIONS FOR PREPARATION OF BALANCE SHEET

1. An asset shall be classified as current when it satisfies any of the following criteria:—

(*a*) it is expected to be realised in, or is intended for sale or consumption in, the company's normal operating cycle;

(*b*) it is held primarily for the purpose of being traded;

(*c*) it is expected to be realised within twelve months after the reporting date; or

(*d*) it is cash or cash equivalent unless it is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting date.

All other assets shall be classified as non-current.

2. An operating cycle is the time between the acquisition of assets for processing and their realisation in cash or cash equivalents. Where the normal operating cycle cannot be identified, it is assumed to have a duration of twelve months.

3. A liability shall be classified as current when it satisfies any of the following criteria:—

(*a*) it is expected to be settled in the company's normal operating cycle;

(*b*) it is held primarily for the purpose of being traded;

(*c*) it is due to be settled within twelve months after the reporting date; or

(*d*) the company does not have an unconditional right to defer settlement of the liability for at least twelve months after the reporting date. Terms of a liability that could, at the option of the counterparty, result in its settlement by the issue of equity instruments do not affect its classification.

All other liabilities shall be classified as non-current.

4. A receivable shall be classified as a "trade receivable" if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business.

5. A payable shall be classified as a "trade payable" if it is in respect of the amount due on account of goods purchased or services received in the normal course of business.

6. A company shall disclose the following in the notes to accounts.

A. Share Capital

For each class of share capital (different classes of preference shares to be treated separately):

(*a*) the number and amount of shares authorised;

(*b*) the number of shares issued, subscribed and fully paid, and subscribed but not fully paid;

(*c*) par value per share;

(*d*) a reconciliation of the number of shares outstanding at the beginning and at the end of the reporting period;

(*e*) the rights, preferences and restrictions attaching to each class of shares including restrictions on the distribution of dividends and the repayment of capital;

(*f*) shares in respect of each class in the company held by its holding company or its ultimate holding company including shares held by or by subsidiaries or associates of the holding company or the ultimate holding company in aggregate;

(*g*) shares in the company held by each shareholder holding more than 5 per cent. shares specifying the number of shares held;

(*h*) shares reserved for issue under options and contracts/commitments for the sale of shares/disinvestment, including the terms and amounts;

(*i*) for the period of five years immediately preceding the date as at which the Balance Sheet is prepared:

(A) Aggregate number and class of shares allotted as fully paid-up pursuant to contract(s) without payment being received in cash.

(B) Aggregate number and class of shares allotted as fully paid-up by way of bonus shares.

(C) Aggregate number and class of shares bought back.

(*j*) terms of any securities convertible into equity/preference shares issued along with the earliest date of conversion in descending order starting from the farthest such date;

(*k*) calls unpaid (showing aggregate value of calls unpaid by directors and officers);

(*l*) forfeited shares (amount originally paid-up).

B. Reserves and Surplus

(*i*) Reserves and Surplus shall be classified as:

(*a*) Capital Reserves;

(*b*) Capital Redemption Reserve;

(*c*) Securities Premium Reserve;

(*d*) Debenture Redemption Reserve;

(*e*) Revaluation Reserve;

(*f*) Share Options Outstanding Account;

(*g*) Other Reserves–(specify the nature and purpose of each reserve and the amount in respect thereof);

(*h*) Surplus *i.e.*, balance in Statement of Profit and Loss disclosing allocations and appropriations such as dividend, bonus shares and transfer to/ from reserves, etc.;

(Additions and deductions since last balance sheet to be shown under each of the specified heads);

(*ii*) A reserve specifically represented by earmarked investments shall be termed as a "fund".

(*iii*) Debit balance of statement of profit and loss shall be shown as a negative figure under the head "Surplus". Similarly, the balance of "Reserves and Surplus", after adjusting negative balance of surplus, if any, shall be shown under the head "Reserves and Surplus" even if the resulting figure is in the negative.

C. Long-Term Borrowings

(*i*) Long-term borrowings shall be classified as:

(*a*) Bonds/debentures;

(*b*) Term loans:

(A) from banks.

(B) from other parties.

(*c*) Deferred payment liabilities;

(*d*) Deposits;

(*e*) Loans and advances from related parties;

(*f*) Long term maturities of finance lease obligations;

(*g*) Other loans and advances (specify nature).

(*ii*) Borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.

(*iii*) Where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed.

(*iv*) Bonds/debentures (along with the rate of interest and particulars of redemption or conversion, as the case may be) shall be stated in descending order of maturity or conversion, starting from farthest redemption or conversion date, as the case may be. Where bonds/debentures are redeemable by instalments, the date of maturity for this purpose must be reckoned as the date on which the first instalment becomes due.

(*v*) Particulars of any redeemed bonds/debentures which the company has power to reissue shall be disclosed.

(*vi*) Terms of repayment of term loans and other loans shall be stated.

(*vii*) Period and amount of continuing default as on the balance sheet date in repayment of loans and interest, shall be specified separately in each case.

D. Other Long-term Liabilities

Other Long-term Liabilities shall be classified as:

(*a*) Trade payables;

(*b*) Others.

E. Long-term provisions

The amounts shall be classified as:

(*a*) Provision for employee benefits;

(*b*) Others (specify nature).

F. Short-term borrowings

(*i*) Short-term borrowings shall be classified as:

(*a*) Loans repayable on demand;

(A) from banks.

(B) from other parties.

(*b*) Loans and advances from related parties;

(*c*) Deposits;

(*d*) Other loans and advances (specify nature).

(*ii*) Borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.

(*iii*) Where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed.

(*iv*) Period and amount of default as on the balance sheet date in repayment of loans and interest, shall be specified separately in each case.

G. Other current liabilities

The amounts shall be classified as:

(*a*) Current maturities of long-term debt;

(*b*) Current maturities of finance lease obligations;

(*c*) Interest accrued but not due on borrowings;

(*d*) Interest accrued and due on borrowings;

(*e*) Income received in advance;

(*f*) Unpaid dividends;

(*g*) Application money received for allotment of securities and due for refund and interest accrued thereon. Share application money includes advances towards allotment of share capital. The terms and conditions including the number of shares proposed to be issued, the amount of premium, if any, and the period before which shares shall be allotted shall be disclosed. It shall also be disclosed whether the company has sufficient authorised capital to cover the share capital amount resulting from allotment of shares out of such share application money. Further, the period for which the share application money has been pending beyond the period for allotment as mentioned in the document inviting application for shares along with the reason for such share application money being pending shall be disclosed. Share application money not exceeding the issued capital and to the extent not refundable shall be shown under the head Equity and share application money to the extent refundable, *i.e.*, the amount in excess of subscription or in case the requirements of minimum subscription are not met, shall be separately shown under "Other current liabilities";

(*h*) Unpaid matured deposits and interest accrued thereon;

(*i*) Unpaid matured debentures and interest accrued thereon;

(*j*) Other payables (specify nature).

H. Short-term provisions

The amounts shall be classified as:

(*a*) Provision for employee benefits.

(*b*) Others (specify nature).

I. Tangible assets

(*i*) Classification shall be given as:

(*a*) Land;

(*b*) Buildings;

(*c*) Plant and Equipment;

(*d*) Furniture and Fixtures;

(*e*) Vehicles;

(*f*) Office equipment;

(*g*) Others (specify nature).

(*ii*) Assets under lease shall be separately specified under each class of asset.

(*iii*) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations and other adjustments and the related depreciation and impairment losses/reversals shall be disclosed separately.

(*iv*) Where sums have been written-off on a reduction of capital or revaluation of assets or where sums have been added on revaluation of assets, every balance sheet subsequent to date of such write-off, or addition shall show the reduced or increased figures as applicable and shall by way of a note also show the amount of the reduction or increase as applicable together with the date thereof for the first five years subsequent to the date of such reduction or increase.

J. Intangible assets

(*i*) Classification shall be given as:

(*a*) Goodwill;

(*b*) Brands /trademarks;

(*c*) Computer software;

(*d*) Mastheads and publishing titles;

(*e*) Mining rights;

(*f*) Copyrights, and patents and other intellectual property rights, services and operating rights;

(*g*) Recipes, formulae, models, designs and prototypes;

(*h*) Licences and franchise;

(*i*) Others (specify nature).

(*ii*) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations and other adjustments and the related amortization and impairment losses/reversals shall be disclosed separately.

(*iii*) Where sums have been written-off on a reduction of capital or revaluation of assets or where sums have been added on revaluation of assets, every balance sheet subsequent to date of such write-off, or addition shall show the reduced or increased figures as applicable and shall by way of a note also show the amount of the reduction or increase as applicable together with the date thereof for the first five years subsequent to the date of such reduction or increase.

K. Non-current investments

(*i*) Non-current investments shall be classified as trade investments and other investments and further classified as:

(*a*) Investment property;

(*b*) Investments in Equity Instruments;

(*c*) Investments in preference shares;

(*d*) Investments in Government or trust securities;

(*e*) Investments in debentures or bonds;

(*f*) Investments in Mutual Funds;

(*g*) Investments in partnership firms;

(*h*) Other non-current investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate indicating separately whether such bodies are (*i*) subsidiaries, (*ii*) associates, (*iii*) joint ventures, or (*iv*) controlled special purpose entities in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly-paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.

(*ii*) Investments carried at other than at cost should be separately stated specifying the basis for valuation thereof;

(*iii*) The following shall also be disclosed:

(*a*) Aggregate amount of quoted investments and market value thereof;

(*b*) Aggregate amount of unquoted investments;

(*c*) Aggregate provision for diminution in value of investments.

L. Long-term loans and advances

(*i*) Long-term loans and advances shall be classified as:

(*a*) Capital Advances;

(*b*) Security Deposits;

(*c*) Loans and advances to related parties (giving details thereof);

(*d*) Other loans and advances (specify nature).

(*ii*) The above shall also be separately sub-classified as:

(*a*) Secured, considered good;

(*b*) Unsecured, considered good;

(*c*) Doubtful.

(*iii*) Allowance for bad and doubtful loans and advances shall be disclosed under the relevant heads separately.

(*iv*) Loans and advances due by directors or other officers of the company or any of them either severally or jointly with any other persons or amounts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

M. Other non-current assets

Other non-current assets shall be classified as:

(*i*) Long-term Trade Receivables (including trade receivables on deferred credit terms);

(*ii*) Others (specify nature);

(*iii*) Long term Trade Receivables, shall be sub-classified as:

(*A*) (a) Secured, considered good;

(*B*) Unsecured, considered good;

(*C*) Doubtful.

(*b*) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

(*c*) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

N. Current Investments

(*i*) Current investments shall be classified as:

(*a*) Investments in Equity Instruments;

(*b*) Investment in Preference Shares;

(*c*) Investments in Government or trust securities;

(*d*) Investments in debentures or bonds;

(*e*) Investments in Mutual Funds;

(*f*) Investments in partnership firms;

(*g*) Other investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate [indicating separately whether such bodies are: (*i*) subsidiaries, (*ii*) associates, (*iii*) joint ventures, or (*iv*) controlled special purpose entities] in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.

(*ii*) The following shall also be disclosed:

(*a*) The basis of valuation of individual investments;

(*b*) Aggregate amount of quoted investments and market value thereof;

(*c*) Aggregate amount of unquoted investments;

(*d*) Aggregate provision made for diminution in value of investments.

O. Inventories

(*i*) Inventories shall be classified as:

(*a*) Raw materials;

(*b*) Work-in-progress;

(*c*) Finished goods;

(*d*) Stock-in-trade (in respect of goods acquired for trading);

(*e*) Stores and spares;

(*f*) Loose tools;

(*g*) Others (specify nature).

(*ii*) Goods-in-transit shall be disclosed under the relevant sub-head of inventories.

(*iii*) Mode of valuation shall be stated.

P. Trade Receivables

(*i*) Aggregate amount of Trade Receivables outstanding for a period exceeding six months from the date they are due for payment should be separately stated.

(*ii*) Trade receivables shall be sub-classified as:

(*a*) Secured, considered good;

(*b*) Unsecured, considered good;

(*c*) Doubtful.

(*iii*) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

(*iv*) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

Q. Cash and cash equivalents

(*i*) Cash and cash equivalents shall be classified as:

(*a*) Balances with banks;

(*b*) Cheques, drafts on hand;

(*c*) Cash on hand;

(*d*) Others (specify nature).

(*ii*) Earmarked balances with banks (for example, for unpaid dividend) shall be separately stated.

(*iii*) Balances with banks to the extent held as margin money or security against the borrowings, guarantees, other commitments shall be disclosed separately.

(*iv*) Repatriation restrictions, if any, in respect of cash and bank balances shall be separately stated.

(*v*) Bank deposits with more than twelve months maturity shall be disclosed separately.

R. Short-term loans and advances

(*i*) Short-term loans and advances shall be classified as:

(*a*) Loans and advances to related parties (giving details thereof);

(*b*) Others (specify nature).

(*ii*) The above shall also be sub-classified as:

(*a*) Secured, considered good;

(*b*) Unsecured, considered good;

(*c*) Doubtful.

(*iii*) Allowance for bad and doubtful loans and advances shall be disclosed under the relevant heads separately.

(*iv*) Loans and advances due by directors or other officers of the company or any of them either severally or jointly with any other person or amounts due by firms or private companies respectively in which any director is a partner or a director or a member shall be separately stated.

S. Other current assets (specify nature)

This is an all-inclusive heading, which incorporates current assets that do not fit into any other asset categories.

T. Contingent liabilities and commitments (to the extent not provided for)

(*i*) Contingent liabilities shall be classified as:

(*a*) Claims against the company not acknowledged as debt;

(*b*) Guarantees;

(*c*) Other money for which the company is contingently liable.

(*ii*) Commitments shall be classified as:

(*a*) Estimated amount of contracts remaining to be executed on capital account and not provided for;

(*b*) Uncalled liability on shares and other investments partly paid;

(*c*) Other commitments (specify nature).

U. The amount of dividends proposed to be distributed to equity and preference shareholders for the period and the related amount per share shall be disclosed separately. Arrears of fixed cumulative dividends on preference shares shall also be disclosed separately.

V. Where in respect of an issue of securities made for a specific purpose, the whole or part of the amount has not been used for the specific purpose at the balance sheet date, there shall be indicated by way of note how such unutilised amounts have been used or invested.

W. If, in the opinion of the Board, any of the assets other than fixed assets and non-current investments do not have a value on realisation in the ordinary course of business at least equal to the amount at which they are stated, the fact that the Board is of that opinion, shall be stated.

PART II – STATEMENT OF PROFIT AND LOSS

Name of the Company.....

Profit and loss statement for the year ended .....

(Rupees in.....)

Particulars	Note No.	Figures as at the end of current reporting period	Figures as at the end of the previous reporting period
1	2	3	4
I. Revenue from operations		xxx	xxx
II. Other income		xxx	xxx
III. Total Revenue (I + II)		xxx	xxx

	1	2	3	4
IV.	Expenses:			
	Cost of materials consumed			
	Purchases of Stock-in-Trade			
	Changes in inventories of finished goods		xxx	xxx
	work-in-progress and		xxx	xxx
	Stock-in-Trade		xxx	xxx
	Employee benefits expense		xxx	xxx
	Finance costs			
	Depreciation and amortisation expense			
	Other expenses			
	Total expenses		xxx	xxx
V.	Profit before exceptional and extraordinary items and tax (III - IV)		xxx	xxx
VI.	Exceptional items		xxx	xxx
VII.	Profit before extraordinary items and tax (V - VI)		xxx	xxx
VIII.	Extraordinary items		xxx	xxx
IX.	Profit before tax (VII- VIII)		xxx	xxx
X.	Tax expense:			
	(1) Current tax		xxx	xxx
	(2) Deferred tax		xxx	xxx
XI.	Profit (Loss) for the period from continuing operations (VII-VIII)		xxx	xxx
XII.	Profit/(loss) from discontinuing operations		xxx	xxx
XIII.	Tax expense of discontinuing operations		xxx	xxx
XIV.	Profit/(loss) from Discontinuing operations (after tax) (XII-XIII)		xxx	xxx
XV.	Profit (Loss) for the period (XI + XIV)		xxx	xxx
XVI.	Earnings per equity share:			
	(1) Basic		xxx	xxx
	(2) Diluted		xxx	xxx

See accompanying notes to the financial statements.

GENERAL INSTRUCTIONS FOR PREPARATION OF STATEMENT OF PROFIT AND LOSS

1. The provisions of this Part shall apply to the income and expenditure account referred to in sub-clause (*ii*) of clause (*40*) of section 2 in like manner as they apply to a statement of profit and loss.

2. (*A*) In respect of a company other than a finance company revenue from operations shall disclose separately in the notes revenue from—

(*a*) Sale of products;

(*b*) Sale of services;

(*c*) Other operating revenues;

Less:

(*d*) Excise duty.

(*B*) In respect of a finance company, revenue from operations shall include revenue from—

(*a*) Interest; and

(*b*) Other financial services.

Revenue under each of the above heads shall be disclosed separately by way of notes to accounts to the extent applicable.

3. Finance Costs

Finance costs shall be classified as:

(*a*) Interest expense;

(*b*) Other borrowing costs;

(*c*) Applicable net gain/loss on foreign currency transactions and translation.

4. Other income

Other income shall be classified as:

(*a*) Interest Income (in case of a company other than a finance company);

(*b*) Dividend Income;

(*c*) Net gain/loss on sale of investments;

(*d*) Other non-operating income (net of expenses directly attributable to such income).

5. Additional Information

A Company shall disclose by way of notes additional information regarding aggregate expenditure and income on the following items:—

(*i*) (*a*) Employee Benefits Expense [showing separately (*i*) salaries and wages, (*ii*) contribution to provident and other funds, (*iii*) expense on Employee Stock Option Scheme (ESOP) and Employee Stock Purchase Plan (ESPP), (*iv*) staff welfare expenses].

(*b*) Depreciation and amortisation expense;

(*c*) Any item of income or expenditure which exceeds one per cent. of the revenue from operations or Rs.1,00,000, whichever is higher;

(*d*) Interest Income;

(*e*) Interest expense;

(*f*) Dividend income;

(*g*) Net gain/loss on sale of investments;

(*h*) Adjustments to the carrying amount of investments;

(*i*) Net gain or loss on foreign currency transaction and translation (other than considered as finance cost);

(*j*) Payments to the auditor as (*a*) auditor; (*b*) for taxation matters; (*c*) for company law matters; (*d*) for management services; (*e*) for other services; and (*f*) for reimbursement of expenses;

(*k*) In case of Companies covered under section 135, amount of expenditure incurred on corporate social responsibility activities;

(*l*) Details of items of exceptional and extraordinary nature;

(*m*) Prior period items;

(*ii*) (*a*) In the case of manufacturing companies,—

(1) Raw materials under broad heads.

(2) goods purchased under broad heads.

(*b*) In the case of trading companies, purchases in respect of goods traded in by the company under broad heads.

(*c*) In the case of companies rendering or supplying services, gross income derived from services rendered or supplied under broad heads.

(*d*) In the case of a company, which falls under more than one of the categories mentioned in (*a*), (*b*) and (*c*) above, it shall be sufficient compliance with the requirements herein if purchases, sales and consumption of raw material and the gross income from services rendered is shown under broad heads.

(*e*) In the case of other companies, gross income derived under broad heads.

(*iii*) In the case of all concerns having works in progress, works-in-progress under broad heads.

(*iv*) (*a*) The aggregate, if material, of any amounts set aside or proposed to be set aside, to reserve, but not including provisions made to meet any specific liability, contingency or commitment known to exist at the date as to which the balance sheet is made up.

(*b*) The aggregate, if material, of any amounts withdrawn from such reserves.

(*v*) (*a*) The aggregate, if material, of the amounts set aside to provisions made for meeting specific liabilities, contingencies or commitments.

(*b*) The aggregate, if material, of the amounts withdrawn from such provisions, as no longer required.

(*vi*) Expenditure incurred on each of the following items, separately for each item:—

(*a*) Consumption of stores and spare parts;

(*b*) Power and fuel;

(*c*) Rent;

(*d*) Repairs to buildings;

(*e*) Repairs to machinery;

(*f*) Insurance;

(*g*) Rates and taxes, excluding, taxes on income;

(*h*) Miscellaneous expenses,

(*vii*) (*a*) Dividends from subsidiary companies.

(*b*) Provisions for losses of subsidiary companies.

(*viii*) The profit and loss account shall also contain by way of a note the following information, namely:—

(*a*) Value of imports calculated on C.I.F basis by the company during the financial year in respect of—

I. Raw materials;

II. Components and spare parts;

III. Capital goods;

(*b*) Expenditure in foreign currency during the financial year on account of royalty, know-how, professional and consultation fees, interest, and other matters;

(*c*) Total value if all imported raw materials, spare parts and components consumed during the financial year and the total value of all indigenous raw materials, spare parts and components similarly consumed and the percentage of each to the total consumption;

(*d*) The amount remitted during the year in foreign currencies on account of dividends with a specific mention of the total number of non-resident shareholders, the total number of shares held by them on which the dividends were due and the year to which the dividends related;

(*e*) Earnings in foreign exchange classified under the following heads, namely:—

I. Export of goods calculated on F.O.B. basis;

II. Royalty, know-how, professional and consultation fees;

III. Interest and dividend;

IV. Other income, indicating the nature thereof.

Note:— Broad heads shall be decided taking into account the concept of materiality and presentation of true and fair view of financial statements.

GENERAL INSTRUCTIONS FOR THE PREPARATION OF CONSOLIDATED FINANCIAL STATEMENTS

1. Where a company is required to prepare Consolidated Financial Statements, *i.e.*, consolidated balance sheet and consolidated statement of profit and loss, the company shall *mutatis mutandis* follow the requirements of this Schedule as applicable to a company in the preparation of balance sheet and statement of profit and loss. In addition, the consolidated financial statements shall disclose the information as per the requirements specified in the applicable Accounting Standards including the following:

(*i*) Profit or loss attributable to "minority interest" and to owners of the parent in the statement of profit and loss shall be presented as allocation for the period.

(*ii*) "Minority interests" in the balance sheet within equity shall be presented separately from the equity of the owners of the parent.

2. In Consolidated Financial Statements, the following shall be disclosed by way of additional information:

Name of the entity in the	Net Assets, *i.e.*, total assets minus total liabilities		Share in profit or loss	
	As % of consolidated net assets	Amount	As % of consolidated profit or loss	Amount
1	2	3	4	5
Parent				
Subsidiaries				
Indian				
1.				
2.				
3.				
.				
.				
Foreign				
1.				
2.				
3.				
.				
.				
Minority Interests in all subsidiaries				
Associates (Investment as per the equity method)				
Indian				
1.				
2.				
3.				
.				
.				
Foreign				
1.				
2.				
3.				
.				
.				
Joint Ventures (as per pro-portionate consolidation/ investment as per the equity method)				

1	2	3	4	5
Indian				
1.				
2.				
3.				
.				
.				
Foreign				
1.				
2.				
3.				
.				
.				
TOTAL				

3. All subsidiaries, associates and joint ventures (whether Indian or foreign) will be covered under consolidated financial statements.

4. An entity shall disclose the list of subsidiaries or associates or joint ventures which have not been consolidated in the consolidated financial statements along with the reasons of not consolidating.

SCHEDULE IV

[*See* section 149(8)]

CODE FOR INDEPENDENT DIRECTORS

The Code is a guide to professional conduct for independent directors. Adherence to these standards by independent directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent directors.

I. Guidelines of professional conduct:

An independent director shall:

(1) uphold ethical standards of integrity and probity;

(2) act objectively and constructively while exercising his duties;

(3) exercise his responsibilities in a *bona fide* manner in the interest of the company;

(4) devote sufficient time and attention to his professional obligations for informed and balanced decision making;

(5) not allow any extraneous considerations that will vitiate his exercise of objective independent judgment in the paramount interest of the company as a whole, while concurring in or dissenting from the collective judgment of the Board in its decision making;

(6) not abuse his position to the detriment of the company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person;

(7) refrain from any action that would lead to loss of his independence;

(8) where circumstances arise which make an independent director lose his independence, the independent director must immediately inform the Board accordingly;

(9) assist the company in implementing the best corporate governance practices.

II. Role and functions:

The independent directors shall:

(1) help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct;

(2) bring an objective view in the evaluation of the performance of board and management;

(3) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;

(4) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible;

(5) safeguard the interests of all stakeholders, particularly the minority shareholders;

(6) balance the conflicting interest of the stakeholders;

(7) determine appropriate levels of remuneration of executive directors, key managerial personnel and senior management and have a prime role in appointing and where necessary recommend removal of executive directors, key managerial personnel and senior management;

(8) moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholder's interest.

III. Duties :

The independent directors shall—

(1) undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company;

(2) seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company;

(3) strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member;

(4) participate constructively and actively in the committees of the Board in which they are chairpersons or members;

(5) strive to attend the general meetings of the company;

(6) where they have concerns about the running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting;

(7) keep themselves well informed about the company and the external environment in which it operates;

(8) not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board;

(9) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the company;

(10) ascertain and ensure that the company has an adequate and functional vigil mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;

(11) report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy;

(12) acting within his authority, assist in protecting the legitimate interests of the company, shareholders and its employees;

(13) not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

IV. Manner of appointment:

(1) Appointment process of independent dir ectors shall be independent of the company management; while selecting independent directors the Board shall ensure that there is appropriate balance of skills, experience and knowledge in the Board so as to enable the Board to discharge its functions and duties effectively.

(2) The appointment of independent director(s) of the company shall be approved at the meeting of the shareholders.

(3) The explanatory statement attached to the notice of the meeting for approving the appointment of independent director shall include a statement that in the opinion of the Board, the independent director proposed to be appointed fulfils the conditions specified in the Act and the rules made thereunder and that the proposed director is independent of the management.

(4) The appointment of independent directors shall be formalised through a letter of appointment, which shall set out :

(a) the term of appointment;

(b) the expectation of the Board from the appointed director; the Board-level committee(s) in which the director is expected to serve and its tasks;

(c) the fiduciary duties that come with such an appointment along with accompanying liabilities;

(d) provision for Directors and Officers (D and O) insurance, if any;

(e) the Code of Business Ethics that the company expects its directors and employees to follow;

(f) the list of actions that a director should not do while functioning as such in the company; and

(g) the remuneration, mentioning periodic fees, reimbursement of expenses for participation in the Boards and other meetings and profit related commission, if any.

(5) The terms and conditions of appointment of independent directors shall be open for inspection at the registered office of the company by any member during normal business hours.

(6) The terms and conditions of appointment of independent directors shall also be posted on the company's website.

V. Re-appointment:

The re-appointment of independent director shall be on the basis of report of performance evaluation.

VI. Resignation or removal:

(1) The resignation or removal of an independent director shall be in the same manner as is provided in sections 168 and 169 of the Act.

(2) An independent director who resigns or is removed from the Board of the company shall be replaced by a new independent director within a period of not more than one hundred and eighty days from the date of such resignation or removal, as the case may be.

(3) Where the company fulfils the requirement of independent directors in its Board even without filling the vacancy created by such resignation or removal, as the case may be, the requirement of replacement by a new independent director shall not apply.

VII. Separate meetings:

(1) The independent directors of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and members of management;

(2) All the independent directors of the company shall strive to be present at such meeting;

(3) The meeting shall:

(a) review the performance of non-independent directors and the Board as a whole;

(b) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;

(c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

VIII. Evaluation mechanism:

(1) The performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated.

(2) On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director.

SCHEDULE V

(*See* sections 196 and 197)

PART I

CONDITIONS TO BE FULFILLED FOR THE APPOINTMENT OF A MANAGING OR WHOLE-TIME DIRECTOR OR A MANAGER WITHOUT THE APPROVAL OF THE CENTRAL GOVERNMENT

APPOINTMENTS

No person shall be eligible for appointment as a managing or whole-time director or a manager (hereinafter referred to as managerial person) of a company unless he satisfies the following conditions, namely:—

(*a*) he had not been sentenced to imprisonment for any period, or to a fine exceeding one thousand rupees, for the conviction of an offence under any of the following Acts, namely:—

(*i*) the Indian Stamp Act, 1899 (2 of 1899);

(*ii*) the Central Excise Act, 1944 (1 of 1944);

(*iii*) the Industries (Development and Regulation) Act, 1951 (65 of 1951);

(*iv*) the Prevention of Food Adulteration Act, 1954 (37 of 1954);

(*v*) the Essential Commodities Act, 1955 (10 of 1955);

(*vi*) the Companies Act, 2013;

(*vii*) the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*viii*) the Wealth-tax Act, 1957 (27 of 1957);

(*ix*) the Income-tax Act, 1961 (43 of 1961);

(*x*) the Customs Act, 1962 (52 of 1962);

(*xi*) the Competition Act, 2002 (12 of 2003);

(*xii*) the Foreign Exchange Management Act, 1999 (42 of 1999);

(*xiii*) the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(*xiv*) the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*xv*) the Foreign Trade (Development and Regulation) Act, 1922 (22 of 1922);

(*xvi*) the Prevention of Money-Laundering Act, 2002 (15 of 2003);

(*b*) he had not been detained for any period under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974):

Provided that where the Central Government has given its approval to the appointment of a person convicted or detained under sub-paragraph (*a*) or sub-paragraph (*b*), as the case may be, no further approval of the Central Government shall be necessary for the subsequent appointment of that person if he had not been so convicted or detained subsequent to such approval.

(*c*) he has completed the age of twenty-one years and has not attained the age of seventy years:

Provided that where he has attained the age of seventy years; and where his appointment is approved by a special resolution passed by the company in general meeting, no further approval of the Central Government shall be necessary for such appointment;

(*d*) where he is a managerial person in more than one company, he draws remuneration from one or more companies subject to the ceiling provided in section V of Part II;

(*e*) he is resident of India.

Explanation I.—For the purpose of this Schedule, resident in India includes a person who has been staying in India for a continuous period of not less than twelve months immediately preceding the date of his appointment as a managerial person and who has come to stay in India,—

(*i*) for taking up employment in India; or

(*ii*) for carrying on a business or vacation in India.

Explanation II.—This condition shall not apply to the companies in Special Economic Zones as notified by Department of Commerce from time to time:

Provided that a person, being a non-resident in India shall enter India only after obtaining a proper Employment Visa from the concerned Indian mission abroad. For this purpose, such person shall be required to furnish, along with the visa application form, profile of the company, the principal employer and terms and conditions of such person's appointment.

PART II

REMUNERATION

Section I.— Remuneration payable by companies having profits:

Subject to the provisions of section 197, a company having profits in a financial year may pay remuneration to a managerial person or persons not exceeding the limits specified in such section.

Section II.— Remuneration payable by companies having no profit or inadequate profit without Central Government approval:

Where in any financial year during the currency of tenure of a managerial person, a company has no profits or its profits are inadequate, it may, without Central Government approval, pay remuneration to the managerial person not exceeding the higher of the limits under (*A*) and (*B*) given below:—

(*A*):

(1)		(2)
Where the effective capital is		Limit of yearly remuneration payable shall not exceed (Rupees)
(*i*)	Negative or less than 5 crores	30 lakhs
(*ii*)	5 crores and above but less than 100 crores	42 lakhs
(*iii*)	100 crores and above but less than 250 crores	60 lakhs
(*iv*)	250 crores and above	60 lakhs *plus* 0.01% of the effective capital in excess of Rs. 250 crores:

Provided that the above limits shall be doubled if the resolution passed by the shareholders is a special resolution.

Explanation.—It is hereby clarified that for a period less than one year, the limits shall be pro-rated.

(*B*) In the case of a managerial person who was not a security holder holding securities of the company of nominal value of rupees five lakh or more or an employee or a director of the company or not related to any director or promoter at any time during the two years prior to his appointment as a managerial person, — 2.5% of the current relevant profit:

Provided that if the resolution passed by the shareholders is a special resolution, this limit shall be doubled:

Provided further that the limits specified under this section shall apply, if—

(*i*) payment of remuneration is approved by a resolution passed by the Board and, in the case of a company covered under sub-section (*1*) of section 178 also by the Nomination and Remuneration Committee;

(*ii*) the company has not made any default in repayment of any of its debts (including public deposits) or debentures or interest payable thereon for a continuous period of thirty days in the preceding financial year before the date of appointment of such managerial person;

(*iii*) a special resolution has been passed at the general meeting of the company for payment of remuneration for a period not exceeding three years;

(*iv*) a statement along with a notice calling the general meeting referred to in clause (*iii*) is given to the shareholders containing the following information, namely:—

I. General Information:

(1) Nature of industry

(2) Date or expected date of commencement of commercial production

(3) In case of new companies, expected date of commencement of activities as per project approved by financial institutions appearing in the prospectus

(4) Financial performance based on given indicators

(5) Foreign investments or collaborations, if any.

II. Information about the appointee:

(1) Background details

(2) Past remuneration

(3) Recognition or awards

(4) Job profile and his suitability

(5) Remuneration proposed

(6) Comparative remuneration profile with respect to industry, size of the company, profile of the position and person (in case of expatriates the relevant details would be with respect to the country of his origin)

(7) Pecuniary relationship directly or indirectly with the company, or relationship with the managerial personnel, if any.

III. Other information:

(1) Reasons of loss or inadequate profits

(2) Steps taken or proposed to be taken for improvement

(3) Expected increase in productivity and profits in measurable terms.

IV. Disclosures:

The following disclosures shall be mentioned in the Board of Director's report under the heading "Corporate Governance", if any, attached to the financial statement:—

(*i*) all elements of remuneration package such as salary, benefits, bonuses, stock options, pension, etc., of all the directors;

(*ii*) details of fixed component and performance linked incentives along with the performance criteria;

(*iii*) service contracts, notice period, severance fees;

(*iv*) stock option details, if any, and whether the same has been issued at a discount as well as the period over which accrued and over which exercisable.

Section III.— Remuneration payable by companies having no profit or inadequate profit without Central Government approval in certain special circumstances:

In the following circumstances a company may, without the Central Government approval, pay remuneration to a managerial person in excess of the amounts provided in Section II above:—

(*a*) where the remuneration in excess of the limits specified in Section I or II is paid by any other company and that other company is either a foreign company or has got the approval of its shareholders in general meeting to make such payment, and treats this amount as managerial remuneration for the purpose of section 197 and the total managerial remuneration payable by such other company to its managerial persons including such amount or amounts is within permissible limits under section 197.

(*b*) where the company—

(*i*) is a newly incorporated company, for a period of seven years from the date of its incorporation, or

(*ii*) is a sick company, for whom a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction or National Company Law Tribunal, for a period of five years from the date of sanction of scheme of revival,

it may pay remuneration up to two times the amount permissible under Section II.

(*c*) where remuneration of a managerial person exceeds the limits in Section II but the remuneration has been fixed by the Board for Industrial and Financial Reconstruction or the National Company Law Tribunal:

Provided that the limits under this Section shall be applicable subject to meeting all the conditions specified under Section II and the following additional conditions:—

(*i*) except as provided in para (*a*) of this Section, the managerial person is not receiving remuneration from any other company;

(*ii*) the auditor or Company Secretary of the company or where the company has not appointed a Secretary, a Secretary in whole-time practice, certifies that all secured creditors and term lenders have stated in writing that they have no objection for the appointment of the managerial person as well as the quantum of remuneration and such certificate is filed along with the return as prescribed under sub-section (*4*) of section 196.

(*iii*) the auditor or Company Secretary or where the company has not appointed a secretary, a secretary in whole-time practice certifies that there is no default on payments to any creditors, and all dues to deposit holders are being settled on time.

(*d*) a company in a Special Economic Zone as notified by Department of Commerce from time to time which has not raised any money by public issue of shares or debentures in India, and has not made any default in India in repayment of any of its debts (including public deposits) or debentures or interest payable thereon for a continuous period of thirty days in any financial year, may pay remuneration up to Rs. 2,40,00,000 per annum.

Section IV.—Perquisites not included in managerial remuneration:

1. A managerial person shall be eligible for the following perquisites which shall not be included in the computation of the ceiling on remuneration specified in Section II and Section III:—

(*a*) contribution to provident fund, superannuation fund or annuity fund to the extent these either singly or put together are not taxable under the Income-tax Act, 1961 (43 of 1961);

(*b*) gratuity payable at a rate not exceeding half a month's salary for each completed year of service; and

(*c*) encashment of leave at the end of the tenure.

2. In addition to the perquisites specified in paragraph 1 of this section, an expatriate managerial person (including a non-resident Indian) shall be eligible to the following perquisites which shall not be included in the computation of the ceiling on remuneration specified in Section II or Section III—

(*a*) *Children's education allowance*: In case of children studying in or outside India, an allowance limited to a maximum of Rs. 12,000 per month per child or actual expenses incurred, whichever is less. Such allowance is admissible up to a maximum of two children.

(*b*) *Holiday passage for children studying outside India or family staying abroad:* Return holiday passage once in a year by economy class or once in two years by first class to children and to the members of the family from the place of their study or stay abroad to India if they are not residing in India, with the managerial person.

(*c*) *Leave travel concession:* Return passage for self and family in accordance with the rules specified by the company where it is proposed that the leave be spent in home country instead of anywhere in India.

Explanation I.— For the purposes of Section II of this Part, "effective capital" means the aggregate of the paid-up share capital (excluding share application money or advances against shares); amount, if any, for the time being standing to the credit of share premium account; reserves and surplus (excluding revaluation reserve); long-term loans and deposits repayable after one year (excluding working capital loans, over drafts, interest due on loans unless funded, bank guarantee, etc., and other short-term arrangements) as reduced by the aggregate of any investments (except in case of investment by an investment company whose principal business is acquisition of shares, stock, debentures or other securities), accumulated losses and preliminary expenses not written off.

Explanation II.— (*a*) Where the appointment of the managerial person is made in the year in which company has been incorporated, the effective capital shall be calculated as on the date of such appointment;

(*b*) In any other case the effective capital shall be calculated as on the last date of the financial year preceding the financial year in which the appointment of the managerial person is made.

Explanation III.— For the purposes of this Schedule, "family" means the spouse, dependent children and dependent parents of the managerial person.

Explanation IV.— The Nomination and Remuneration Committee while approving the remuneration under Section II or Section III, shall—

(*a*) take into account, financial position of the company, trend in the industry, appointee's qualification, experience, past performance, past remuneration, etc.;

(*b*) be in a position to bring about objectivity in determining the remuneration package while striking a balance between the interest of the company and the shareholders.

Explanation V.— For the purposes of this Schedule, "negative effective capital" means the effective capital which is calculated in accordance with the provisions contained in *Explanation* I of this Part is less than zero.

Explanation VI.— For the purposes of this Schedule:—

(*A*) "current relevant profit" means the profit as calculated under section 198 but without deducting the excess of expenditure over income referred to in sub-section 4 (l) thereof in respect of those years during which the managerial person was not an employee, director or shareholder of the company or its holding or subsidiary companies.

(*B*) "Remuneration" means remuneration as defined in clause (78) of section 2 and includes reimbursement of any direct taxes to the managerial person.

Section V.—Remuneration payable to a managerial person in two companies:

Subject to the provisions of sections I to IV, a managerial person shall draw remuneration from one or both companies, provided that the total remuneration drawn from the companies does not exceed the higher maximum limit admissible from any one of the companies of which he is a managerial person.

PART III

Provisions applicable to Parts I and II of this Schedule

1. The appointment and remuneration referred to in Part I and Part II of this Schedule shall be subject to approval by a resolution of the shareholders in general meeting.

2. The auditor or the Secretary of the company or where the company is not required to appointed a Secretary, a Secretary in whole-time practice shall certify that the requirement of this Schedule have been complied with and such certificate shall be incorporated in the return filed with the Registrar under sub-section (*4*) of section 196.

PART IV

The Central Government may, by notification, exempt any class or classes of companies from any of the requirements contained in this Schedule.

SCHEDULE VI

(*See* sections 55 and 186)

The term "infrastructural projects" or "infrastructural facilities" includes the following projects or activities:—

(*1*) Transportation (including inter modal transportation), includes the following:—

(*a*) roads, national highways, state highways, major district roads, other district roads and village roads, including toll roads, bridges, highways, road transport providers and other road-related services;

(*b*) rail system, rail transport providers, metro rail roads and other railway related services;

(*c*) ports (including minor ports and harbours), inland waterways, coastal shipping including shipping lines and other port related services;

(*d*) aviation, including airports, heliports, airlines and other airport related services;

(*e*) logistics services.

(*2*) Agriculture, including the following, namely:—

(*a*) infrastructure related to storage facilities;

(*b*) construction relating to projects involving agro-processing and supply of inputs to agriculture;

(*c*) construction for preservation and storage of processed agro-products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality.

(*3*) Water management, including the following, namely:—

(*a*) water supply or distribution;

(*b*) irrigation;

(*c*) water treatment.

(*4*) Telecommunication, including the following, namely:—

(*a*) basic or cellular, including radio paging;

(*b*) domestic satellite service (*i.e.*, satellite owned and operated by an Indian company for providing telecommunication service);

(*c*) network of trunking, broadband network and internet services.

(*5*) Industrial, commercial and social development and maintenance, including the following, namely:—

(*a*) real estate development, including an industrial park or special economic zone;

(*b*) tourism, including hotels, convention centres and entertainment centres;

(*c*) public markets and buildings, trade fair, convention, exhibition, cultural centres, sports and recreation infrastructure, public gardens and parks;

(*d*) construction of educational institutions and hospitals;

(*e*) other urban development, including solid waste management systems, sanitation and sewerage systems.

(*6*) Power, including the following:—

(*a*) generation of power through thermal, hydro, nuclear, fossil fuel, wind and other renewable sources;

(*b*) transmission, distribution or trading of power by laying a network of new transmission or distribution lines.

(*7*) Petroleum and natural gas, including the following:—

(*a*) exploration and production;

(*b*) import terminals;

(*c*) liquefaction and re-gasification;

(*d*) storage terminals;

(*e*) transmission networks and distribution networks including city gas infrastructure.

(*8*) Housing, including the following:—

(*a*) urban and rural housing including public / mass housing, slum rehabilitation, etc;

(*b*) other allied activities such as drainage, lighting, laying of roads, sanitation and facilities.

(*9*) Other miscellaneous facilities/services, including the following:—

(*a*) mining and related activities;

(*b*) technology related infrastructure;

(*c*) manufacturing of components and materials or any other utilities or facilities required by the infrastructure sector like energy saving devices and metering devices;

(*d*) environment related infrastructure;

(*e*) disaster management services;

(*f*) preservation of monuments and icons;

(*g*) emergency services (including medical, police, fire and rescue).

(*10*) such other facility service as may be prescribed.

SCHEDULE VII

(*See* sections 135)

Activities which may be included by companies in their Corporate Social Responsibility Policies

Activities relating to:—

(*i*) eradicating extreme hunger and poverty;

(*ii*) promotion of education;

(*iii*) promoting gender equality and empowering women;

(*iv*) reducing child mortlity and improving maternal health;

(*v*) combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;

(*vi*) ensuring environmental sustainability;

(*vii*) employment enhancing vocational skills;

(*viii*) social business projects;

(*ix*) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and

(*x*) such other matters as may be prescribed.

———

Kerala Gazette No. 1 dated 7th January 2014.

PART I Section i

GOVERNMENT OF KERALA

Law (Leg. Publication) Department

NOTIFICATION

No. 23201/Leg.Pbn.2/2013/Law.

Dated, Thiruvananthapuram, 26th October 2013.

The following Act of Parliament published in the Gazette of India, Extraordinary, Part II, Section I dated 30th August, 2013 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on 29th August, 2013.

By order of the Governor,

C. P. RAMARAJA PREMA PRASAD,
Law Secretary.

G. 64/2013/DTP.

THE COMPANIES ACT, 2013

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THE COMPANIES ACT, 2013

(ACT NO. 18 OF 2013)

AN

ACT

to consolidate and amend the law relating to companies

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *(1)* This Act may be called the Companies Act, 2013.

(2) It extends to the whole of India.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(4) The provisions of this Act shall apply to—

(a) companies incorporated under this Act or under any previous company law;

(b) insurance companies, except in so far as the said provisions are inconsistent with the provisions of the Insurance Act, 1938 (4 of 1938) or the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(c) banking companies, except in so far as the said provisions are inconsistent with the provisions of the Banking Regulation Act, 1949 (10 of 1949);

(d) companies engaged in the generation or supply of electricity, except in so far as the said provisions are inconsistent with the provisions of the Electricity Act, 2003 (36 of 2003);

(e) any other company governed by any special Act for the time being in force, except in so far as the, said provisions are inconsistent with the provisions of such special Act; and

(f) such body corporate, incorporated by any Act for the time being in force, as the Central Government may, by notification, specify in this behalf, subject to such exceptions, modifications or adaptation, as may be specified in the notification.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "abridged prospectus" means a memorandum containing such salient features of a prospectus as may be specified by the Securities and Exchange Board by making regulations in this behalf;

(2) "accounting standards" means the standards of accounting or any addendum thereto for companies or class of companies referred to in section 133;

(3) "alter" or "alteration" includes the making of additions, omissions and substitutions;

(4) "Appellate Tribunal" means the National Company Law Appellate Tribunal constituted under section 410;

(5) "articles" means the articles of association of a company as originally framed or as altered from time to time or applied in pursuance of any previous company law or of this Act;

(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.

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;

(7) "auditing standards" means the standards of auditing or any addendum thereto for companies or class of companies referred to in sub-section *(10)* of section 143;

(8) "authorised capital" or "nominal capital" means such capital as is authorised by the memorandum of a company to be the maximum amount of share capital of the company;

(9) "banking company" means a banking company as defined in clause *(c)* of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(10) "Board of Directors" or "Board", in relation to a company, means the collective body of the directors of the company;

(11) "body corporate" or "corporation" includes a company incorporated outside India, but does not include—

(i) a co-operative society registered under any law relating to co-operative societies; and

(ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf;

(12) "book and paper" and "book or paper" include books of account deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form;

(13) "books of account" includes records maintained in respect of—

(i) all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;

(ii) all sales and purchases of goods and services by the company;

(iii) the assets and liabilities of the company; and

(iv) the items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified under that section;

(14) "branch office" in relation to a company, means any establishment described as such by the company;

(15) "called-up capital" means such part of the capital, which has been called for payment;

(16) "charge" means an interest or lien created on the property or assets of a company or any of its undertakings or both as security and includes a mortgage;

(17) "chartered accountant" means a chartered accountant as defined in clause *(b)* of sub-section *(1)* of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section *(1)* of section 6 of that Act;

(18) "Chief Executive Officer" means an officer of a company, who has been designated as such by it;

(19) "Chief Financial Officer" means a person appointed as the Chief Financial Officer of a company;

(20) "company" means a company incorporated under this Act or under any previous company law;

(21) "company limited by guarantee" means a company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up;

(22) "company limited by shares" means a company having the liability of its members limited by the memorandum to the amount if any, unpaid on the shares respectively held by them;

(23) "Company Liquidator", in so far as it relates to the winding up of a company, means a person appointed by—

(a) the Tribunal in case of winding up by the Tribunal; or

(b) the company or creditors in case of voluntary winding up, as a Company Liquidator from a panel of professionals maintained by the Central Government under sub-section (*2*) of section 275;

(24) "company secretary" or "secretary" means a company secretary as defined in clause *(c)* of sub-section (*1*) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) who is appointed by a company to perform the functions of a company secretary under this Act;

(25) "company secretary in practice" means a company secretary who is deemed to be in practice under sub-section *(2)* of section 2 of the Company Secretaries Act, 1980 (56 of 1980);

(26) "contributory" means a person liable to contribute towards the assets of the company in the event of its being wound up.

Explanation.—For the purposes of this clause, it is hereby clarified that a person holding fully paid-up shares in a company shall be considered as a contributory but shall have no liabilities of a contributory under the Act whilst retaining rights of such a contributory;

(27) "control" shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(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 (23 of 1959);

(29) "court" means—

(i) the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate, except to the extent to which jurisdiction has been conferred on any district court or district courts subordinate to that High Court under sub-clause *(ii)*;

(ii) the district court, in cases where the Central Government has, by notification, empowered any district court to exercise all or any of the jurisdictions conferred upon the High Court, within the scope of its jurisdiction in respect of a company whose registered office is situate in the district;

(iii) the Court of Session having jurisdiction to try any offence under this Act or under any previous company law;

(iv) the Special Court established under section 435;

(v) any 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;

(30) "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;

(31) "deposit" includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India;

(32) "depository" means a depository as defined in clause *(e)* of sub-section (*1*) of section 2 of the Depositories Act, 1996 (22 of 1996);

(33) "derivative" means the derivative as defined in clause *(ac)* of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(34) "director" means a director appointed to the Board of a company;

(35) "dividend" includes any interim dividend;

(36) "document" includes summons, notice, requisition, order, declaration, form and register, whether issued, sent or kept in pursuance of this Act or under any other law for the time being in force or otherwise, maintained on paper or in electronic form;

(37) "employees' stock option" means the option given to the directors, officers or employees of a company or of its holding company or subsidiary company or companies, if any, which gives such directors, officers or employees, the benefit or right to purchase, or to subscribe for, the shares of the company at a future date at a pre-determined price;

(38) "expert" includes an engineer, a valuer, a chartered accountant, a company secretary, a cost accountant and any other person who has the power or authority to issue a certificate in pursuance of any law for the time being in force;

(39) "financial institution" includes a scheduled bank, and any other financial institution defined or notified under the Reserve Bank of India Act, 1934 (2 of 1934);

(40) "financial statement" in relation to a company, includes—

(i) a balance sheet as at the end of the financial year;

(ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;

(iii) cash flow statement for the financial year;

(iv) a statement of changes in equity, if applicable; and

(v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause *(i)* to sub-clause *(iv)*;

Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement;

(41) "financial year", 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:

Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary 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:

Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two year from such commencement, align its financial year as per the provisions of this clause;

(42) "foreign company" means any company or body corporate incorporated outside India which—

(a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and

(b) conducts any business activity in India in any other manner.

(43) "tree reserves" means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as dividend:

Provided that—

(i) any amount representing unrealised gains, notional gains or revaluation of assets, whether shown as a reserve or otherwise, or

(ii) any change in carrying amount of an asset or of a liability recognised in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value, shall not be treated as tree reserves;

(44) "Global Depository Receipt" means any instrument in the form of a depository receipt, by whatever name called, created by a foreign depository outside India and authorised by a company making an issue of such depository receipts;

(45) "Government company" means any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company;

(46) "holding company", in relation to one or more other companies, means a company of which such companies are subsidiary companies;

(47) "independent director" means an independent director referred to in sub-section *(5)* of section 149;

(48) "Indian Depository Receipt" means any instrument in the form of a depository receipt created by a domestic depository in India and authorised by a company incorporated outside India making an issue of such depository receipts;

(49) "interested director" means a director who is in any way, whether by himself or through any of his relatives or firm, 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;

(50) "issued capital" means such capital as the company issues from time to time for subscription;

(51) "key managerial personnel", 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; and

(v) such other officer as may be prescribed;

(52) "listed company" means a company which has any of its securities listed on any recognised stock exchange;

(53) "manager" means an individual who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called, whether under a contract of service or not;

(54) "managing director" means a director who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.

Explanation.—For the purposes of this clause, the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within the substantial powers of management;

(55) "member", in relation to a company, means—

(i) the subscriber to the memorandum of the company who shall be deemed to have agreed to become member of the company, and on its registration, shall be entered as member in its register of members;

(ii) every other person who agrees in writing to become a member of the company and whose name is entered in the register of members of the company;

(iii) every person holding shares of the company and whose name is entered as a beneficial owner in the records of a depository;

(56) "memorandum" means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act;

(57) "net worth" means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written of, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;

(58) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(59) "officer" includes any director, manager or key managerial personnel or any person in accordance with whose directions or instructions the Board of Directors or any one or more of the directors is or are accustomed to act;

(60) "officer who is in default", for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following officers of a company, namely:—

(i) whole-time director;

(ii) key managerial personnel;

(iii) where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified;

(iv) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default;

(v) any person in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity;

(vi) every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;

(vii) in respect of the issue or transfer of any shares of a company, the share transfer agents, registrars and merchant bankers to the issue or transfer;

(61) "Official Liquidator" means an Official Liquidator appointed under sub-section *(1)* of section 359;

(62) "One Person Company" means a company which has only one person as a member;

(63) "ordinary or special resolution" means an ordinary resolution, or as the case may be, special resolution referred to in section 114;

(*64*) "paid-up share capital" or "share capital paid-up" means such aggregate amount of money credited as paid-up as is equivalent to the amount received as paid-up in respect of shares issued and also includes any amount credited as paid-up in respect of shares of the company, but does not include any other amount received in respect of such shares, by whatever name called;

(65) "postal ballot" means voting by post or through any electronic mode;

(66) "prescribed" means prescribed by rules made under this Act;

(67) "previous company law" means any of the laws specified below:—

(i) Acts relating to companies in force before the Indian Companies Act, 1866 (10 of 1866);

(ii) the Indian Companies Act, 1866 (10 of 1866);

(iii) the Indian Companies Act, 1882, (6 of 1882);

(iv) the Indian Companies Act, 1913, (7 of 1913);

(v) the Registraion of Transsferred Companies Ordinance, 1942, ord 54 of 1942);

(vi) the Companies Act, 1956 (1 of 1956); and

(vii) any law corresponding to any of the aforesaid Acts or the Ordinances and in force—

(A) in the merged territories or in a Part B State (other than the State of Jammu and Kashmir), or any part thereof, before the extension thereto of the Indian Companies Act, 1913 (7 of 1913); or

(B) in the State of Jammu and Kashmir, or any part there of, before the commencement of the Jammu and Kashmir (Extension of Laws) Act, 1956, (62 of 1956), in so far as banking, insurance and financial corporations are concerned, and before the commencement of the Central Laws (Extension to Jammu and Kashmir) Act, 1968 (25 of 1968), in so far as other corporations are concerned;

(viii) the Portuguese Commercial Code, in so far as it relates to *sociedades anonimas;* and

(ix) the Registration of Companies (Sikkim) Act, 1961 (Sikkim Act 8 of 1961);

(68) "private company" means a company having a minimum paid-up share capital of one lakh rupees or such higher paid-up share capital as may be prescribed, and which by its articles,—

(i) restricts the right to transfer its shares;

(ii) except in case of One Person Company, limits the number of its members to two hundred:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member :

Provided further that—

(A) persons who are in the employment of the company; and

(B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased,

shall not be included in the number of members; and

(iii) prohibits any invitation to the public to subscribe for any securities of the company;

(69) "promoter" means a person—

(a) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or

(b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or

(c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act:

Provided that nothing in sub-clause *(c)* shall apply to a person who is acting merely in a professional capacity;

(70) "prospectus" means any document described or issued as a prospectus and includes a red herring prospectus referred to in section 32 or shelf prospectus referred to in section 31 or any notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of a body corporate;

(71) "public company" means a company which—

(a) is not a private company;

(b) has a minimum paid-up share capital of five lakh rupees or such higher paid-up 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;

(72) "public financial institution" means—

(i) the Life Insurance Corporation of India, established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956);

(ii) the Infrastructure Development Finance Company Limited, referred to in clause *(vi)* of sub-section *(1)* of section 4A of the Companies Act, 1956 (1 of 1956) so repealed under section 465 of this Act;

(iii) specified company referred to in the Unit Trust of India (Transfer of undertaking and Repeal) Act, 2002 (58 of 2002);

(iv) institutions notified by the Central Government under sub-section (*2*) of section 4A of the Companies Act, 1956 (1 of 1956) so repealed under section 465 of this Act;

(v) such other institution as may be notified by the Central Government in consultation with the Reserve Bank of India:

Provided that no institution shall be so notified unless-

*(A)*it has been established or constituted by or under any Central or State Act; or

*(B)*not less than fifty-one per cent. of the paid-up share capital is held or controlled by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments;

(73) "recognised stock exchange" means a recognised stock exchange as defined in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(74) "register of companies" means the register of companies maintained by the Registrar on paper or in any electronic mode under this Act;

(75) "Registrar" means a Registrar, an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar, having the duty of registering companies and discharging various functions under this Act;

(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;

(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;

(viii) any company which is—

(A) a holding, subsidiary or an associate company of such company; or

(B) a subsidiary of a holding company to which it is also a subsidiary;

(ix) such other person as may be prescribed;

(77) "relative", with reference to any person, means any one who is related to another, if—

(i) they are members of a Hindu Undivided Family;

(ii) they are husband and wife; or

(iii) one person is related to the other in such manner as may be prescribed;

(78) "remuneration" means any money or its equivalent given or passed to any person for services rendered by him and includes perquisites as defined under the Income-tax Act, 1961 (43 of 1961);

(79) "Schedule" means a Schedule annexed to this Act;

(80) "scheduled bank" means the scheduled 'bank as defined in clause *(e)* of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934);

(81) "securities" means the securities as defined in clause *(h)* of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(82) "Securities and Exchange Board" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(83) "Serious Fraud Investigation Office" means the office referred to in section 211 ;

(84) "share" means a share in the share capital of a company and includes stock;

(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 five crore rupees; or

(ii) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees:

Provided that nothing in this clause shall apply to—

(A) a holding company or a subsidiary company;

(B) a company registered under section 8; or

(C) a company or body corporate governed by any special Act;

(86) "subscribed capital" means such part of the capital which is for the time being subscribed by the members of a company;

(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 total share capital either at its own or together with one or more of its subsidiary companies:

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.

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 some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;

(c) the expression "company" includes any body corporate;

(d) "layer" in relation to a holding company means its subsidiary or subsidiaries;

(88)"sweat equity shares" means such equity shares as are issued by a company to its directors or employees at a discount or for consideration, other than cash, for providing their know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(89)"total voting power", in relation to any matter, means the total number of votes which may be cast in regard to that matter on a poll at a meeting of a company if all the members thereof or their proxies having a right to vote on that matter are present at the meeting and cast their votes;

(90) "Tribunal" means the National Company Law Tribunal constituted under section 408;

(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;

(92) "unlimited company" means a company not having any limit on the liability of its members;

(93) "voting right" means the right of a member of a company to vote in any meeting of the company or by means of postal ballot;

(94) "whole-time director" includes a director in the whole-time employment of the company;

(95) words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO

3. *Formation of company.*— *(1)* A company may be formed for any lawful purpose by—

(a) seven or more persons; where the company to be formed is to be a public company;

(b) two or more persons, where the company to be formed is to be a private company; or

(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 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 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.

4. *Memorandum.*— *(1)* The memorandum of a company shall state—

(a) the name of the company with the last word "Limited" in the case of a public limited company, or the last words "Private Limited" 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;

(c) the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof;

(d) the liability of members of the company, whether limited or unlimited, and also state,—

(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—

(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

(B) to the costs, charges and expenses of winding-up and for adjustment of the rights of the contributories among themselves;

(e) in the case of a company having a share capital,—

(i) the amount of share capital with which the company is to be registered and the division there of 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

(ii) the number of shares each subscriber to the memorandum intends to take, indicated opposite his name;

(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.

(2) The name stated in the memorandum shall not—

(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

(b) be such that its use by the company—

(i) will constitute an offence under any law for the time being in force; or

(ii) is undesirable in the opinion of the Central Government.

(3) Without prejudice to the provisions of sub-section *(2)*, a company shall not be registered with a name which contains—

(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 under any law for the time being in force; or

(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.

(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—

(a) the name of the proposed company; or

(b) the name to which the company proposes to change its name.

(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 sixty days from the date of the application.

(ii) Where after reservation of name under clause *(i)*, it is found that name was applied by furnishing wrong or incorrect information, then,—

(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 liable to a penalty which may extend to one lakh rupees;

(b) if the company has been incorporated, the Registrar may, after giving the company an opportunity of being heard—

(i) either direct the company to change its name within a period of three months, after passing an ordinary resolution;

(ii) take action for striking off the name of the company from the register of companies; or

(iii) make a petition for winding up of the company.

(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.

(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.

5. *Articles.—(1)* The articles of a company shall contain the regulations for management of the company.

(2) The articles shall also contain such matters, as may be prescribed:

Provided that nothing prescribed in this sub-section shall be deemed to prevent a company from including such additional matters in its articles , as may be considered necessary for its management.

(3) The articles may contain provisions for entrenchment to the effect that specified provisions of the articles may be altered only if conditions or procedures as that are more restrictive than those applicable in the case of a special resolution, are met or complied with.

(4) The provisions for entrenchment referred to in sub-section *(3)* shall only be made either on formation of a company, or by an amendment in the articles agreed to by all the members of the company in the case of a private company and by a special resolution in the case of a public company.

(5) Where the articles contain provisions for entrenchment, whether made on formation or by amendment, the company shall give notice to the Registrar of such provisions in such form and manner as may be prescribed.

(6) The articles of a company shall be in respective forms specified in Tables, F, G, H, I and J in Schedule I as may be applicable to such company.

(7) A company may adopt all or any of the regulations contained in the model articles applicable to such company.

(8) In case of any company, which is registered after the commencement of this Act, in so far as the registered articles of such company do not exclude or modify the regulations contained in the model articles applicable to such company, those regulations shall, so far as applicable, be the regulations of that company in the same manner and to the extent as if they were contained in the duly registered articles of the company.

(9) Nothing in this section shall apply to the articles of a company registered under any previous company law unless amended under this Act.

6. *Act to over ride memorandum, articles, etc.*— Save as otherwise expressly provided in this Act—

(a) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a company, or in any agreement executed by it, or in any resolution passed by the company in general meeting or by its Board of Directors, whether the same be registered, executed or passed, as the case may be, before or after the commencement of this Act; and

(b) any provision contained in the memorandum, articles, agreement or resolution shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.

7 Incorporation of company.—*(1)* There shall be filed with the Registrar within whose jurisdiction the registered office of a company is proposed to be situated, the following documents and information for registration, namely:—

(a) the memorandum and articles of the company duly signed by all the subscribers to the memorandum in such manner as may be prescribed.

(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;

(c) an affidavit 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 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;

(d) the address for correspondence till its registered office is established;

(e) the particulars of name, including surname or family name, residential address, nationality and such other particulars of every subscriber to the memorandum along with proof of identity, as may be prescribed, and in the case of a subscriber being a body corporate, such particulars as may be prescribed;

(f) the particulars of the persons mentioned in the articles as the first directors of the company, their names, including surnames or family names, the Director Identification Number, residential address, nationality and such other particulars including proof of identity as may be prescribed; and

(g) the particulars of the interests of the persons mentioned in the articles as the first directors of the company in other firms or bodies corporate along with their consent to act as directors of the company in such form and manner as may be prescribed.

(2) The Registrar on the basis of documents and information filed under sub-section *(1)* shall register all the documents and information referred to in that sub-section in the register and issue a certificate of incorporation in the prescribed form to the effect that the proposed company is incorporated under this Act.

(3) On and from the date mentioned in the certificate of incorporation issued under sub-section (*2*), the Registrar shall allot to the company a corporate identity number, which shall be a distinct identity for the company and which shall also be included in the certificate.

(4) The company shall maintain and preserve at its registered office copies of all documents and information as originally filed under sub-section *(1)* till its dissolution under this Act.

(5) If any person furnishes any false or incorrect particulars of any information or suppresses any material information, of which he is aware in any of the documents filed with the Registrar in relation to the registration of a company, he shall be liable for action under section 447.

(6) Without prejudice to the provisions of sub-section (*5*) where, at any time after the incorporation of a company, it is proved that the company has been got incorporated by furnishing any false or incorrect information or representation or by suppressing any material fact or information in any of the documents or declaration filed or made for incorporating such company, or by any fraudulent action, the promoters, the persons named as the first directors of the company and the persons making declaration under clause (*b*) of sub-section (*1*) shall each be liable for action under section 447.

(7) Without prejudice to the provisions of sub-section (*6*), where a company has been got incorporated by furnishing any false or incorrect information or representation or by suppressing any material fact or information in any of the documents or declaration filed or made for incorporating such company or by any fraudulent action, the Tribunal may, on an application made to it, on being satisfied that the situation so warrants,—

(*a*) pass such orders, as it may think fit, for regulation of the management of the company including changes, if any, in its memorandum and articles, in public interest or in the interest of the company and its members and creditors; or

(*b*) direct that liability of the members shall be unlimited; or

(*c*) direct removal of the name of the company from the register of companies; or

(*d*) pass an order for the winding up of the company; or

(*e*) pass such other orders as it may deem fit:

Provided that before making any order under this sub-section,—

(*i*) the company shall be given a reasonable opportunity of being heard in the matter; and

(*ii*) the Tribunal shall take into consideration the transactions entered into by the company, including the obligations, if any, contracted or payment of any liability.

8. *Formation of companies with charitable objects, etc.*—(*1*) Where it is proved to the satisfaction of the Central Government that a person or an association of persons proposed to be registered under this Act as a limited company—

(*a*) has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object;

(*b*) intends to apply its profits, if any, or other income in promoting its objects; and

(*c*) intends to prohibit the payment of any dividend to its members,

the Central Government may, by licence issued in such manner as may be prescribed, and on such conditions as it deems fit, allow that person or association of persons to be registered as a limited company under this section without the addition to its name of the word "Limited", or as the case may be, the words "Private Limited", and thereupon the Registrar shall, on application, in the prescribed form, register such person or association of persons as a company under this section.

(*2*) The company registered under this section shall enjoy all the privileges and be subject to all the obligations of limited companies.

(*3*) A firm may be a member of the company registered under this section.

(4) (*i*) A company registered under this section shall not alter the provisions of its memorandum or articles except with the previous approval of the Central Government.

(*ii*) A company registered under this section may convert itself into company of any other kind only after complying with such conditions as may be prescribed.

(5) Where it is proved to the satisfaction of the Central Government that a limited company registered under this Act or under any previous company law has been formed with any of the objects specified in clause (*a*) of sub-section (*1*) and with the restrictions and prohibitions as mentioned respectively in clauses (*b*) and (*c*) of that sub-section, it may, by licence, allow the company to be registered under this section subject to such conditions as the Central Government deems fit and to change its name by omitting the word "Limited", or as the case may be, the words "Private Limited" from its name and thereupon the Registrar shall, on application, in the prescribed form, register such company under this section and all the provisions of this section shall apply to that company.

(*6*) The Central Government may, by order, revoke the licence granted to a company registered under this section if the company contravenes any of the requirements of this section or any of the conditions subject to which a licence is issued or the affairs of the company are conducted fraudulently or in a manner violative of the objects of the company or prejudicial to public interest, and without prejudice to any other action against the company under this Act, direct the company to convert its status and change its name to add the word "Limited" or the words "Private Limited", as the case may be, to its name and thereupon the Registrar shall, without prejudice to any action that may be taken under sub-section (*7*), on application, in the prescribed form, register the company accordingly:

Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard:

Provided further that a copy of every such order shall be given to the Registrar.

(*7*) Where a licence is revoked under sub-section (*6*), the Central Government may, by order, if it is satisfied that it is essential in the public interest, direct that the company be wound up under this Act or amalgamated with another company registered under this section:

Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard.

(*8*) Where a licence is revoked under sub-section (*6*) and where the Central Government is satisfied that it is essential in the public interest that the company registered under this section should be amalgamated with another company registered under this section and having similar objects, then, notwithstanding anything to the contrary contained in this Act, the Central Government may, by order, provide for such amalgamation to form a single company with such constitution, properties, powers, rights, interest, authorities and privileges and with such liabilities, duties and obligations as may be specified in the order.

(*9*) If on the winding up or dissolution of a company registered under this section, there remains, after the satisfaction of its debts and liabilities, any asset, they may be transferred to another company registered under this section and having similar objects, subject to such conditions as the Tribunal may impose, or may be sold and proceeds thereof credited to the Rehabilitation and Insolvency Fund formed under section 269.

(*10*) A company registered under this section shall amalgamate only with another company registered under this section and having similar objects.

(*11*) If a company makes any default in complying with any of the requirements laid down in this section, the company shall, without prejudice to any other action under the provisions of this section, be punishable with fine which shall not be less than ten lakh rupees but which may extend to one crore rupees and the directors and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than twenty-five thousand rupees but which may extend to twenty-five lakh rupees, or with both:

Provided that when it is proved that the affairs of the company were conducted fraudulently, every officer in default shall be liable for action under section 447.

9. *Effect of registration.*—From the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name.

10. *Effect of memorandum and articles.*—(*1*) Subject to the provisions of this Act, the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by the company and by each member, and contained covenants on its and his part to observe all the provisions of the memorandum and of the articles.

(*2*) All monies payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

11. *Commencement of business. etc.*—(*1*) A company having a share capital shall not commence any business or exercise any borrowing powers unless—

(*a*) a declaration is filed by a director in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him and the paid-up share capital of the company is not less than five lakh rupees in case of a public company and not less than one lakh rupees in case of a private company on the date of making of this declaration; and

(*b*) the company has filed with the Registrar a verification of its registered office as provided in sub-section (*2*) of section 12.

(*2*) If any default is made in complying with the requirements of this section, the company shall be liable to a penalty which may extend to five thousand rupees and every officer who is in default shall be punishable with fine which may extend to one thousand rupees for every day during which the default continues.

(*3*) Where no declaration has been filed with the Registrar under clause (*a*) of sub-section (*1*) within a period of one hundred and eighty days of the date of incorporation of the company and the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may, without prejudice to the provisions of sub-section (*2*), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.

12. *Registered office of company.*—(*1*) A company shall, on and from the fifteenth day of its incorporation 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 the characters of that language or of one of those languages;

(*b*) have its name engraved in legible characters on its seal;

(*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

(*d*) have its name printed on *hundies*, promissory notes, bills of exchange and such other documents as may be prescribed:

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*):

Provided further that the words "One Person Company" shall be mentioned in brackets below the name of such company, wherever its name is printed, affixed or engraved.

(*4*) Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within fifteen days of the change, who shall record the same.

(*5*) Except on the authority of a special resolution passed by a company, the registered office of the company shall not be changed,—

(*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

(*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:

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.

(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.

(*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 sub-section (*5*) have been complied with and the change shall take effect from the date of the certificate.

(*8*) If any default is made in complying with the requirements of this section, the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every day during which the default continues but not exceeding one lakh rupees.

13. *Alteration of memorandum.*—(*1*) Save as provided in section 61, a company may, by a special resolution and after complying with the procedure specified in this section, alter the provisions of its memorandum.

(*2*) Any change in the name of a company shall be subject to the provisions of sub-sections (*2*) and (*3*) of section 4 and shall not have effect except with the approval of the Central Government in writing:

Provided that no such approval shall be necessary where the only change in the name of the company is the deletion therefrom, or addition thereto, of the word "Private", consequent on the conversion of anyone class of companies to another class in accordance with the provisions of this Act.

(*3*) When any change in the name of a company is made under sub-section (*2*), the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name and the change in the name shall be complete and effective only on the issue of such a certificate.

(*4*) The alteration of the memorandum relating to the place of the registered office from one State to another shall not have any effect unless it is approved by the Central Government on an application in such form and manner as may be prescribed.

(*5*) The Central Government shall dispose of the application under sub-section (*4*) within a period of sixty days and before passing its order may satisfy itself that the alteration has the consent of the creditors, debenture-holders and other persons concerned with the company or that the sufficient provision has been made by the company either for the due discharge of all its debts and obligations or that adequate security has been provided for such discharge.

(*6*) Save as provided in section 64, a company shall, in relation to any alteration of its memorandum, file with the Registrar—

(*a*) the special resolution passed by the company under sub-section (*1*);

(*b*) the approval of the Central Government under sub-section (*2*), if the alteration involves any change in the name of the company.

(*7*) Where an alteration of the memorandum results in the transfer of the registered office of a company from one State to another, a certified copy of the order of the Central Government approving the alteration shall be filed by the company with the Registrar of each of the States within such time and in such manner as may be prescribed, who shall register the same, and the Registrar of the State where the registered office is being shifted to, shall issue a fresh certificate of incorporation indicating the alteration.

(*8*) A company, which has raised money from public through prospectus and still has any unutilised amount out of the money so raised, shall not change its objects for which it raised the money through prospectus unless a special resolution is passed by the company and—

(*i*) the details, as may be prescribed, in respect of such resolution shall also be published in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated and shall also be placed on the website of the company, if any, indicating therein the justification for such change;

(*ii*) the dissenting shareholders shall be given an opportunity to exit by the promoters and shareholders having control in accordance with regulations to be specified by the Securities and Exchange Board.

(*9*) The Registrar shall register any alteration of the memorandum with respect to the objects of the company and certify the registration within a period of thirty days from the date of filing of the special resolution in accordance with clause (*a*) of sub-section (*6*) of this section.

(*10*) No alteration made under this section shall have any effect until it has been registered in accordance with the provisions of this section.

(*11*) Any alteration of the memorandum, 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.

14. *Alteration of articles.*—(*1*) Subject to the provisions of this Act and the conditions contained in its memorandum, if any, a company may, by a special resolution, alter its articles including altorations having the effect of conversion of—

(*a*) a private company into a public company; or

(*b*) a public company into a private company:

Provided that where a company being a private company alters its articles in such a manner that they no longer include the restrictions and limitations which are required to be included in the articles of a private company under this Act, the company shall, as from the date of such alteration, cease to be a private company:

Provided further that any alteration having the effect of conversion of a public company into a private company shall not take effect except with the approval of the Tribunal which shall make such order as it may deem fit.

(*2*) Every alteration of the articles under this section and a copy of the order of the Tribunal approving the alteration as per sub-section (*1*) shall be filed with the Registrar, together with a printed copy of the altered articles, within a period of fifteen days in such manner as may be prescribed, who shall register the same.

(*3*) Any alteration of the articles registered under sub-section (*2*) shall, subject to the provisions of this Act, be valid as if it were originally in the articles.

15. *Alteration of memorandum or articles to be noted in every copy.*—(*1*) Every alteration made in the memorandum or articles of a company shall be noted in every copy of the memorandum or articles, as the case may be.

(*2*) If a company makes any default in complying with the provisions of sub-section (*1*), the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every copy of the memorandum or articles issued without such alteration.

16. *Rectification of name of company.*—(*1*) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name, is registered by a name which,—

(*a*) in the opinion of the Central Government, is identical with or too nearly resembles the name by which a company in existence had been previously registered, whether under this Act or any previous company law, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of three months from the issue of such direction, after adopting an ordinary resolution for the purpose;

(*b*) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, 1999, made to the Central Government within three years of incorporation or registration or change of name of the company, whether under this Act or any previous company law, in the opinion of the Central Government, is identical with or too nearly resembles to an existing trade mark, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of six months from the issue of such direction, after adopting an ordinary resolution for the purpose.

(*2*) Where a company changes its name or obtains a new name under sub-section (*1*), it shall within a period of fifteen days from the date of such change, give notice of the change to the Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and the memorandum.

(*3*) If a company makes default in complying with any direction given under sub-section (*1*), the company shall be punishable with fine of one thousand rupees for every day during which the default continues and every officer who is in default shall be punishable with fine which shall not be less than five thousand rupees but which may extend to one lakh rupees.

17. *Copies of memorandum, articles, etc., to be given to members.*— (*1*) A company shall, on being so requested by a member, send to him within seven days of the request and subject to the payment of such fees as may be prescribed, a copy of each of the following documents, namely:—

(*a*) the memorandum;

(*b*) the articles; and

(*c*) every agreement and every resolution referred to in sub-section (*1*) of section 117, if and in so far as they have not been embodied in the memorandum or articles.

(*2*) If a company makes any default in complying with the provisions of this section, the company and every officer of the company who is in default shall be liable for each default, to a penalty of one thousand rupees for each day during which such default continues or one lakh rupees, whichever is less.

18. *Convertion of companies already registered.*—(*1*) A company of any class registered under this Act may convert itself as a company of other class under this Act by alteration of memorandum and articles of the company in accordance with the provisions of this Chapter.

(*2*) Where the conversion is required to be done under this section, the Registrar shall on an application made by the company, after satisfying himself that the provisions of this Chapter applicable for registration of companies have been complied with, close the former registration of the company and after registering the documents referred to in sub-section (*1*), issue a certificate of incorporation in the same manner as its first registration.

(*3*) The registration of a company under this section shall not affect any debts, liabilities, obligations or contracts incurred or entered into, by or on behalf of the company before conversion and such debts, liabilities, obligations and contracts may be enforced in the manner as if such registration had not been done.

19. *Subsidiary company not to hold shares in its holding company.*—(*1*) No company shall, either by itself or through its nominees, hold any shares in its holding company and no holding company shall allot or transfer its shares to any of its subsidiary companies and any such allotment or transfer of shares of a company to its subsidiary company shall be void:

Provided that nothing in this sub-section shall apply to a case—

(*a*) where the subsidiary company holds such shares as the legal representative of a deceased member of the holding company; or

(*b*) where the subsidiary company holds such shares as a trustee; or

(*c*) where the subsidiary company is a shareholder even before it became a subsidiary company of the holding company:

Provided further that the subsidiary company referred to in the preceeding proviso shall have a right to vote at a meeting of the holding company only in respect of the shares held by it as a legal representative or as a trustee, as referred to in clause (*a*) or clause (*b*) of the said proviso.

(*2*) The reference in this section to the shares of a holding company which is a company limited by guarantee or an unlimited company, not having a share capital, shall be construed as a reference to the interest of its members, whatever be the form of interest.

20. *Service of documents.*—(*1*) A document may be served on a company or an officer thereof by sending it to the company or the officer at the registered office of the company by registered post or by speed post or by courier service or by leaving it at its registered office or by means of such electronic or other mode as may be prescribed:

Provided that where securities are held with a depository, the records of the beneficial ownership may be served by such depository on the company by means of electronic or other mode.

(2) Save as provided in this Act or the rules made thereunder for filing of documents with the Registrar in electronic mode, a document may be served on Registrar or any member by sending it to him by post or by registered post or by speed post or by courier or by delivering at his office or address, or by such electronic or other mode as may be prescribed:

Provided that a member may request for delivery of any document through a particular mode, for which he shall pay such fees as may be determined by the company in its annual general meeting.

Explanation.—For the purposes of this section, the term "courier" means a person or agency which delivers the document and provides proof of its delivery.

21. *Authentication of documents, proceedings and contracts.*—Save as otherwise provided in this Act,—

(*a*) a document or proceeding requiring authentication by a company; or

(*b*) contracts made by or on behalf of a company,

may be signed by any key managerial personnel or an officer of the company duly authorised by the Board in this behalf.

22. *Execution of bills of exchange, etc.*—(*1*) A bill of exchange, *hundi* or promissory note shall be deemed to have been made, accepted, drawn or endorsed on behalf of a company if made, accepted, drawn, or endorsed in the name of, or on behalf of or on account of, the company by any person acting under its authority, express or implied.

(*2*) A company may, by writing under its common seal, authorise any person, either generally or in respect of any specified matters, as its attorney to execute other deeds on its behalf in any place either in or outside India.

(*3*) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the effect as if it were made under its common seal.

CHAPTER III

PROSPECTUS AND ALLOTMENT OF SECURITIES

PART I.—*Public offer*

23. *Public offer and private placement.*—(*1*) A public company may issue securities—

(*a*) to public through prospectus (herein referred to as "public offer") by complying with the provisions of this Part; or

(*b*) through private placement by complying with the provisions of Part II of this Chapter; or

(*c*) through a rights issue or a bonus issue in accordance with the provisions of this Act and in case of a listed company or a company which intends to get its securities listed also with the provisions of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules and regulations made thereunder.

(*2*) A private company may issue securities—

(*a*) by way of rights issue or bonus issue in accordance with the provisions of this Act; or

(*b*) through private placement by complying with the provisions of Part II of this Chapter.

Explanation.—For the purposes of this Chapter, "public offer" includes initial public offer or further public offer of securities to the public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of a prospectus.

24. *Power of Securities and Exchange Board to regulate issue and transfer of securities, etc.*—(*1*) The provisions contained in this Chapter, Chapter IV and in section 127 shall,—

(a) in so far as they relate to—

(*i*) issue and transfer of securities; and

(*ii*) non-payment of dividend,

by listed companies or those companies which intend to get their securities listed on any recognised stock exchange in India, except as provided under this Act, be administered by the Securities and Exchange Board by making regulations in this behalf;

(b) in any other case, be administered by the Central Government.

Explanation.—For the removal of doubts, it is hereby declared that all powers relating to all other matters relating to prospectus, return of allotment, redemption of preference shares and any other matter specifically provided in this Act, shall be exercised by the Central Government, the Tribunal or the Registrar, as the case may be.

(*2*) The Securities and Exchange Board shall, in respect of matters specified in sub-section (*1*) and the matters delegated to it under proviso to sub-section (*1*) of section 458, exercise the powers conferred upon it under sub-sections (*1*), (*2A*), (*3*) and (*4*) of section 11, sections 11 A,11 B and 11 D of the Securities and Exchange Board of India Act, 1992 (15 of 1992).

25. *Document containing offer of securities for sale to be deemed prospectus.*—(*1*) Where a company allots or agrees to allot any securities of the company with a view to all or any of those securities being offered for sale to the public, any document by which the offer for sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company; and all enactments and rules of law as to the contents of prospectus and as to liability in respect of mis-statements, in and omissions from, prospectus, or otherwise relating to prospectus, shall apply with the modifications specified in sub-sections (*3*) and (*4*) and shall have effect accordingly, as if the securities had been offered to the public for subscription and as if persons accepting the offer in respect of any securities were subscribers for those securities, but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of mis-statements contained in the document or otherwise in respect thereof.

(2) For the purposes of this Act, it shall unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, securities was made with a view to the securities being offered for sale to the public if it is shown—

(a) that an offer of the securities or of any of them for sale to the public was made within six months after the allotment or agreement to allot: or

(b) that at the date when the offer was made, the whole consideration to be received by the company in respect of the securities had not been received by it.

(3) Section 26 as applied by this section shall have effect as if—

(i) it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus—

(a) the net amount of the consideration received or to be received by the company in respect of the securities to which the offer relates; and

(b) the time and place at which the contract where under the said securities have been or are to be allotted may be inspected;

(ii) the persons making the offer were persons named in a prospectus as directors of a company.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document referred to in sub-section *(1)* is signed on behalf of the company or firm by two directors of the company or by not less than one-half of the partners in the firm, as the case may be.

26. *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 signed and shall—

(a) state the following information, namely:—

(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;

(ii) dates of the opening and closing of the issue, and declaration about the issue of allotment letters and refunds within the prescribed time;

(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;

(iv) details about underwriting of the issue;

(v) consent of the directors, auditors, bankers to the issue, expert's opinion, if any, and of such other persons, as may be prescribed;

(vi) the authority for the issue and the details of the resolution passed therefor;

(vii) procedure and time schedule for allotment and issue of securities;

(viii) capital structure of the company in the prescribed manner;

(ix) main objects of public offer, terms of the present issue and such other particulars as may be prescribed;

(x) main objects and present business of the company and its location, schedule of implementation of the project;

(xi) particulars relating to—

(A) management perception of risk factors specific to the project;

(B) gestation period of the project;

(C) extent of progress made in the project;

(D) deadlines for completion of the project; and

(E) any litigation or legal action pending or taken by a Government 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;

(xii) minimum subscription, amount payable by way of premium, issue of shares otherwise than on cash;

(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

(xiv) disclosures in such manner as may be, prescribed about sources of promoter's contribution;

(b) set out the following reports for the purposes of the financial information, namely:—

(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;

(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 such reports of its subsidiaries and in such manner as may be prescribed:

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;

(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:

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 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;

(c) make a declaration about the compliance of the provisions of this Act and a statement to the effect that nothing in the prospectus is contrary to the provisions of this Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules and regulations made thereunder; and

(d) state such other matters and set out such other reports, as may be prescribed.

(2) Nothing in sub-section (*1*) shall apply—

(a) to the issue to existing members or debenture-holders of a company, of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant has a right to renounce the shares or not under sub-clause *(ii)* of clause *(a)* of sub-section (*1*) of section 62 in favour of any other person; or

(b) to the issue of a prospectus or form of application relating to shares or debentures which are, or are to be, in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a recognised stock exchange.

(3) Subject to sub-section (2), the provisions of sub-section (1) shall apply to a prospectus or a form of application, whether issued on or with reference to the formation of a company or subsequently.

Explanation.—The date indicated in the prospectus shall be deemed to be the date of its publication.

(4) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless on or before the date of its publication, there has been delivered to the Registrar for registration, a copy thereof signed by every person who is named therein as a director or proposed director of the company or by his duly authorised attorney.

(5) A prospectus issued under sub-section *(1)* shall not include a statement purporting to be made by an expert unless the expert is a person who is not, and has not been, engaged or interested in the formation or promotion or management, of the company and has given his written consent to the issue of the prospectus and has not withdrawn such consent before the delivery of a copy of the prospectus to the Registrar for registration and a statement to that effect shall be included in the prospectus.

(6) Every prospectus issued under sub-section *(1)* shall, on the face of it,—

(a) state that a copy has been delivered for registration to the Registrar as required under sub-section (4); and

(b) specify any documents required by this section to be attached to the copy so delivered or refer to statements included in the prospectus which specify these documents.

(7) The Registrar shall not register a prospectus unless the requirements of this section with respect to its registration are complied with and the prospectus is accompanied by the consent in writing of all the persons named in the prospectus.

(8) No prospectus shall be valid if it is issued more than ninety days after the date on which a copy thereof is delivered to the Registrar under sub-section *(4)*.

(9) If a prospectus is issued in contravention of the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees and every person who is knowingly a party to the issue of such prospectus shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees, or with both.

27. *Variation in terms of contract or objects in prospectus.—(1)* A company shall not, at any time, vary the terms of a contract referred to in the prospectus or objects for which the prospectus was issued, except subject to the approval of, or except subject to an authority given by the company in general meeting by way of special resolution:

Provided that the details, as may be prescribed, of the notice in respect of such resolution to shareholders, shall also be published in the newspapers (one in English and one in vernacular language) in the city where the registered office of the company is situated indicating clearly the justification for such variation:

Provided further that such company shall not use any amount raised by it through prospectus for buying, trading or otherwise dealing in equity shares of any other listed company.

(2) The dissenting shareholders being those shareholders who have not agreed to the proposal to vary the terms of contracts or objects referred to in the prospectus, shall be given an exit offer by promoters or controlling shareholders at such exit price, and in such manner and conditions as may be specified by the Securities and Exchange Board by making regulations in this behalf.

28. *Offer of sale of shares by certain members of company.—(1)* Where certain members of a company propose, in consultation with the Board of Directors to offer, in accordance with the provisions of any law for the time being in force, whole or part of their holding of shares to the public, they may do so in accordance with such procedure as may be prescribed.

(2) Any document by which the offer of sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company and all laws and rules made thereunder as to the contents of the prospectus and as to liability in respect of mis-statements in and omission from prospectus or otherwise relating to prospectus shall apply as if this is a prospectus issued by the company.

(3) The members, whether individuals or bodies corporate or both, whose shares are proposed to be offered to the public, shall collectively authorise the company, whose shares are offered for sale to the public, to take all actions in respect of offer of sale for and on their behalf and they shall reimburse the company all expenses incurred by it on this matter.

29. *Public offer of securities to be in dematerialised form.*—*(1)* Notwithstanding anything contained in any other provisions of this Act,—

(a) every company making public offer ; and

(b) such other class or classes of public companies as may be prescribed,

shall issue the securities only in dematerialised form by complying with the provisions of the Depositories Act, 1996 (22 of 1996) and the regulations made thereunder.

(2) Any company, other than a company mentioned in sub-section *(1)*, may convert its securities into dematerialised form or issue its securities in physical form in accordance with the provisions of this Act or in dematerialised form in accordance with the provisions of the Depositories Act, 1996 (22 of 1996) and the regulations made thereunder.

30. *Advertisement of prospectus.*—Where an advertisement of any prospectus of a company is published in any manner, it shall be necessary to specify therein the contents of its memorandum as regards the objects, the liability of members and the amount of share capital of the company, and the names of the signatories to the memorandum and the number of shares subscribed for by them, and its capital structure.

31. *Shelf prospectus.*—*(1)* Any class or classes of companies, as the Securities and Exchange Board may provide by regulations in this behalf, may file a shelf prospectus with the Registrar at the stage of the first offer of securities included therein which shall indicate a period not exceeding one year as the period of validity of such prospectus which shall commence from the date of opening of the first offer of securities under that prospectus, and in respect of a second or subsequent offer of such securities issued during the period of validity of that prospectus, no further prospectus is required.

(2) A company filing a shelf prospectus shall be required to file an information memorandum containing all material facts relating to new charges created, changes in the financial position of the company as have occurred between the first offer of securities or the previous offer of securities and the succeeding offer of securities and such other changes as may be prescribed, with the Registrar within the prescribed time, prior to the issue of a second or subsequent offer of securities under the shelf prospectus:

Provided that where a company or any other person has received applications for the allotment of securities along with advance payments of subscription before the making of any such change, the company or other person shall intimate the changes to such applicants and if they express a desire to withdraw their application, the company or other person shall refund all the monies received as subscription within fifteen days thereof.

(3) Where an information memorandum is filed, every time an offer of securities is made under sub-section (2), such memorandum together with the shelf prospectus shall be deemed to be a prospectus.

Explanation.—For the purposes of this section, the expression "shelf prospectus" means a prospectus in respect of which the securities or class of securities included therein are issued for subscription in one or more issues over a certain period without the issue of a further prospectus.

32. *Red herring prospectus.*—(1) A company proposing to make an offer of securities may issue a red herring prospectus prior to the issue of a prospectus.

(2) A company proposing to issue a red herring prospectus under sub-section *(1)* shall file it with the Registrar at least three days prior to the opening the subscription list and the offer.

(3) A red herring prospectus shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus and a prospectus shall be highlighted as variations in the prospectus.

(4) Upon the closing of the offer of securities under this section, the prospectus stating therein the total capital raised, whether by way of debt or share capital, and the closing price of the securities and any other details as are not included in the red herring prospectus shall be filed with the Registrar and the Securities and Exchange Board.

Explanation.—For the purposes of this section, the expression "red herring prospectus" means a prospectus which does not include complete particulars of the quantum or price of the securities included therein. .

33. *Issue of application forms for securities.*—(1) No form of application for the purchase of any of the securities of a company shall be issued unless such form is accompanied by an abridged prospectus :

(d) has authorised the issue of the prospectus ; and

(e) is an expert referred to in sub-section (5) of Section 26,

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.

(2) No person shall be liable under sub-section (1), if he proves—

(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

(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.

(3) Notwithstanding anything contained in this section, were 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 fraudulent purpose every person referred to in sub-section (1) shall be personally responsible, without any limitation of liabiity, 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.

36. *Punishment for fraudulently inducing persons to invest money.*—Any person who either knowingly or recklessly makes any statement, promise or forecast which is false, deceptive or misleading, or deliberately conceals any meterial facts, to induce another person to enter into, or to offer to enter into,—

(a) any agreement for, or with a view to acquiring , disposing of, subscribing for, or underwriting securities ; or

(b) any agreement, the purpose or the pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities ; or

(c) any agreement for, or with a view to obtaining credit facilities from any bank or financial institution,

Provided that nothing in this sub-section shall apply if it is shown that the form of application was issued—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to such securities; or

(b) in relation to securities which were not offered to the public.

(2) A copy of the prospectus shall, on a request being made by any person before the closing of the subscription list and the offer, be furnished to him.

(3) If a company makes any default in complying with the provisions of this section, it shall be liable to a penalty of fifty thousand rupees for each default.

34. *Criminal liability for mis-statements in prospectus.*—Where a prospectus, issued, circulated or distributed under this Chapter, includes any statement which is untrue or misleading in form or context in which it is included or where any inclusion or omission of any matter is likely to mislead, every person who authorises the issue of such prospectus shall be liable under Section 447:

Provided that nothing in this section shall apply to a person if he proves that such statement or omission was immaterial or that he had reasonable grounds to believe, and did up to the time of issue of the prospectus believe, that the statement was true or the inclusion or omission was necessary.

35. *Civil liability for mis-statements in prospectus.—(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 ;

(c) is a promoter of the company ;

shall be liable for action under section 447.

37. *Action by affected persons.*—A suit may be filed or any other action may be taken under Section 34 or Section 35 or Section 36 by any person, group of persons or any association of persons affected by any misleading statement or the inclusion or omission of any matter in the prospectus.

38. *Punishment for person ation for acquisition, etc. of securities.*—(1) Any person who—

(a) makes or abets making of an application in a fictitious name to a company for acquiring, or subscribing for, its securities ; or

(b) makes or abets making of multiple applications to a company in different names or in different combinations of his name or surname for acquiring or subscribing for its securities ; or

(c) otherwise induces directly or indirectly a company to allot, or register any transfer of, securities to him, or to any other person in a fictitious name, shall be liable for action under Section 447.

(2) The provisions of sub-section (*1*) shall be prominently reproduced in every prospectus issued by a company and in every form of application for securities.

(3) Where a person has been convicted under this section, the Court may also order disgorgement of gain, if any, made by, and seizure and disposal of the securities in possession of, such person.

(4) The amount received through disgorgement or disposal of securities under sub-section (*3*) shall be credited to the Investor Education and Protection Fund.

39. *Allotment of securities by company.—(1)* No allotment of any securities of a company offered to the public for subscription shall be made unless the amount stated in the prospectus as the minimum amount has been subscribed and the sums payable on application for the amount so stated have been paid to and received by the company by cheque or other instrument.

(2) The amount payable on application on every security shall not be less than five percent of the nominal amount of the security or such other percentage or amount, as may be specified by the securities and Exchange Board by making regulations in this behalf.

(3) If the stated minimum amount has not been subscribed and the sum payable on application is not received within a period of thirty days from the date of issue of the prospectus, or such other period as may be specified by the Securities and Exchange Board, the amount received under sub-section (1) shall be returned within such time and manner as may be prescribed.

(4) Whenever a company having a share capital makes any allotment of securities, it shall file with the Registrar a return of allotment in such manner as may be prescribed.

(5) In case of any default under sub-section *(3)* or sub-section *(4)*, the company and its officer who is in default shall be liable to a penalty, for each default, of one thousand rupees for each day during which such default continues or one lakh rupees, whichever is less.

40. *Securities to be dealt with in stock exchanges.—(1)* Every company making public offer shall, before making such offer, make an application to one or more recognised stock exchange or exchanges and obtain permission for the securities to be dealt with in such stock exchange or exchanges.

(2) Where a prospectus states that an application under sub-section (1) has been made, such prospectus shall also state the name or names of the stock exchange in which the securities shall be dealt with.

(3) All monies received on application from the public for subscription to the securities shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—

(a) for adjustment against allotment of securities where the securities have been permitted to be dealt with in the stock exchange or stock exchanges specified in the prospectus; or

(b) for the repayment of monies within the time specified by the Securities and Exchange Board, received from applicants in pursuance of the prospectus, where the company is for any other reason unable to allot securities.

(4) Any condition purporting to require or bind any applicant for securities to waive compliance with any of the requirements of this section shall be void.

(5) If a default is made in complying with the provisions of this section, the company shall be punishable with a fine which shall not be less than five lakh rupees but which may extend to fifty 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 fifty thousand rupees but which may extend to three lakh rupees, or with both.

(6) A company may pay commission to any person in connection with the subscription to its securities subject to such conditions as may be prescribed.

41. *Global depository receipt.*—A company may, after passing a special resolution in its general meeting, issue depository receipts in any foreign country in such manner, and subject to such conditions, as may be prescribed.

PART II—*Private Placement*

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.

(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.

Explanation 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 the provisions of Part I of this Chapter.

Explanation II.— For the purposes of this section, the expression—

(i) "qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirments) Regulations, 2009 as amended from time to time.

(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.

(3) 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.

(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.

(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.

(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 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 :

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 otherthan—

(a) for adjustment against allotment of securities ; or

(b) for the repayment of monies where the company is unable to allot securities.

(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.

(8) No company offering securities under this section shall release any public advertisement or utilise any media, marketing or distribution channels or agents to inform the public at large about such an offer.

(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.

(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.

CHAPTER IV

SHARE CAPITAL AND DEBENTURES

43. *Kinds of share capital.*—The share capital of a company limited by shares shall be of two kinds, namely:—

(a) equity share capital—

(i) with voting rights; or

(ii) with differential rights as to dividend, voting or otherwise in accordance with such rules as may be prescribed; and

(b) preference share capital:

Provided that nothing contained in this Act shall affect the rights of the preference shareholders who are entitled to participate in the proceeds of winding up before the commencement of this Act.

Explanation.—For the purposes of this section,—

(i) "equity share capital", with reference to any company limited by shares, means all share capital which is not preference share capital;

(ii) "preference share capital", with reference to any company limited by shares, means that part of the issued share capital of the company which carries or would carry a preferential right with respect to—

(a) payment of dividend, either as a fixed amount or an amount calculated at a fixed rate, which may either be free of or subject to income-tax; and

(b) repayment, in the case of a winding up or repayment of capital, of the amount of the share capital paid-up or deemed to have been paid-up, whether or not, there is a preferential right to the payment of any fixed premium or premium on any fixed scale, specified in the memorandum or articles of the company;

(iii) capital shall be deemed to be preference capital, notwithstanding that it is entitled to either or both of the following rights, namely:—

(a) that in respect of dividends, in addition to the preferential rights to the amounts specified in sub-clause *(a)* of clause *(ii)*, it has a right to participate, whether fully or to a limited extent, with capital not entitled to the preferential right aforesaid;

(b) that in respect of capital, in addition to the preferential right to the repayment, on a winding up, of the amounts specified in sub-clause *(b)* of clause (*ii)*, it has a right to participate, whether fully or to a limited extent, with capital not entitled to that preferential right in any surplus which may remain after the entire capital has been repaid.

44. *Nature of shares or debentures.*—The shares or debentures or other interest of any member in a company shall be movable property transferable in the manner provided by the articles of the company.

45. *Numbering of shares.*—Every share in a company having a share capital shall be distinguished by its distinctive number:

Provided that nothing in this section shall apply to a share held by a person whose name is entered as holder of beneficial interest in such share in the records of a depository.

46. *Certificate of shares.*—*(1)* A certificate, issued under the common seal of the company, specifying the shares held by any person, shall be *prima facie* evidence of the title of the person to such shares.

(2) A duplicate certificate of shares may be issued, if such certificate

(a) is proved to have been lost or destroyed; or

(b) has been defaced, mutilated or torn and is surrendered to the company.

(3) Notwithstanding anything contained in the articles of a company, the manner of issue of a certificate of shares or the duplicate thereof, the form of such certificate, the particulars to be entered in the register of members and other matters shall be such as may be prescribed.

(4) Where a share is held in depository form, the record of the depository is the *prima facie* evidence of the interest of the beneficial owner.

(5) If a company with intent to defraud issues a duplicate certificate of shares, the company shall be punishable with fine which shall not be less than five times the face value of the shares involved in the issue of the duplicate certificate but which may extend to ten times the face value of such shares or rupees ten crores whichever is higher and every officer of the company who is in default shall be liable for action under section 447.

47. *Voting rights.—(1)* Subject to the provisions of section 43 and sub-section (2) of section 50,—

(a) every member of a company limited by shares and holding equity share capital therein, shall have a right to vote on every resolution placed before the company; and

(b) his voting right on a poll shall be in proportion to his share in the paid-up equity share capital of the company.

(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:

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:

Provided further that 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.

48. *Variation of shareholders rights.—(1)* Where a share capital of the company is divided into different classes of shares, the rights attached to the shares of any class may be varied with the consent in writing of the holders of not less than three-fourths of the issued shares of that class or by means of a special resolution passed at a separate meeting of the holders of the issued shares of that class,—

(a) if provision with respect to such variation is contained in the memorandum or articles of the company; or

(b) in the absence of any such provision in the memorandum or articles, if such variation is not prohibited by the terms of issue of the shares of that class:

Provided that if variation by one class of shareholders affects the rights of any other class of shareholders, the consent of three-fourths of such other class of shareholders shall also be obtained and the provisions of this section shall apply to such variation.

(2) Where the holders of not less than ten per cent. of the issued shares of a class did not consent to such variation or vote in favour of the special resolution for the variation, they may apply to the Tribunal to have the variation cancelled, and where any such application is made, the variation shall not have effect unless and until it is confirmed by the Tribunal:

Provided that an application under this section shall be made within twenty-one days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) The decision of the Tribunal on any application under sub-section *(2)* shall be binding on the shareholders.

(4) The company shall, within thirty days of the date of the order of the Tribunal, file a copy thereof with the Registrar.

(*5*) Where any default is made in complying with 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 six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

49. *Calls on shares of same class to be made on uniform basis.*— Where any calls for further share capital are made on the shares of a class, such calls shall be made on a uniform basis on all shares falling under that class.

Explanation.—For the purposes of this section, shares of the same nominal value on which different amounts have been paid-up shall not be deemed to fall under the same class.

50. *Company to accept unpaid share capital, although not called up.*— *(1)* A company may, if so authorised by its articles, accept from any member, the whole or a part of the amount remaining unpaid on any shares held by him, even if no part of that amount has been called up.

(*2*) A member of the company limited by shares shall not be entitled to any voting rights in respect of the amount paid by him under sub-section *(1)* until that amount has been called up.

51. *Payment of dividend in proportion to amount paid up.*— A company may, if so authorised by its articles, pay dividends in proportion to the amount paid-up on each share.

52. *Application of premiums received on issue of shares.*—(*1*) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount of the premium received on those shares shall be transferred to a "securities premium account" and the provisions of this Act relating to reduction of share capital of a company shall, except as provided in this section, apply as if the securities premium account were the paid-up share capital of the company.

(*2*) Notwithstanding anything contained in sub-section (*1*), the securities premium account may be applied by the company—

(a) towards the issue of unissued shares of the company to the members of the company as fully paid bonus shares;

(b) in writing off the preliminary expenses of the company;

(c) in writing off the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company;

(d) in providing for the premium payable on the redemption of any redeemable preference shares or of any debentures of the company; or

(e) for the purchase of its own shares or other securities under section 68.

(*3*) The securities premium account may, notwithstanding anything contained in sub-sections (*1*) and (*2*), be applied by such class of companies, as may be prescribed and whose financial statement comply with the accounting standards prescribed for such class of companies under section 133,—

(a) in paying up unissued equity shares of the company to be issued to members of the company as fully paid bonus shares; or

(b) in writing off the expenses of or the commission paid or discount allowed on any issue of equity shares of the company; or

(c) for the purchase of its own shares or other securities under section 68.

53. *Prohibition on issue of shares at discount.*— (*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 discounted price 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.

54. *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 by a special resolution passed by the company;

(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;

(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

(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.

(*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.

55. *Issue and redemption of preference shares.*— *(1)* No company limited by shares shall, after the commencement of this Act, issue any preference shares which are irredeemable.

(*2*) A company limited by shares may, if so authorised by its articles, issue preference shares which are liable to be redeemed within a period not exceeding twenty years from the date of their issue subject to such conditions as may be prescribed:

Provided that a company may issue preference shares for a period exceeding twenty years for infrastructure projects, subject to the redemption of such percentage of shares as may be prescribed on an annual basis at the option of such preferential shareholders:

Provided further that—

(a) no such shares shall be redeemed except out of the profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of such redemption;

(b) no such shares shall be redeemed unless they are fully paid

(c) where such shares are proposed to be redeemed out of the profits of the company, there shall, out of such profits, be transferred, a sum equal to the nominal amount of the shares to be redeemed, to a reserve, to be called the Capital Redemption Reserve Account, and the provisions of this Act relating to reduction of share capital of a company shall, except as provided in this section, apply as if the Capital Redemption Reserve Account were paid-up share capital of the company; and

(d) (*i*) in case of such class of companies, as may be prescribed and whose financial statement comply with the accounting standards prescribed for such class of companies under section 133, the premium, if any, payable on redemption shall be provided for out of the profits of the company, before the shares are redeemed:

Provided also that premium, if any, payable on redemption of any preference shares issued on or before the commencement of this Act by any such company shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(ii) in a case not falling under sub-clause (*i*) above, the premium, if any, payable on redemption shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(3) Where a company is not in a position to redeem any preference shares or to pay dividend, if any, on such shares in accordance with the terms of issue (such shares hereinafter referred to as unredeemed preference shares), it may, with the consent of the holders of three-fourths in value of such preference shares and with the approval of the Tribunal on a petition made by it in this behalf, issue further redeemable preference shares equal to the amount due, including the dividend thereon, in respect of the unredeemed preference shares, and on the issue of such further redeemable preference shares, the unredeemed preference shares shall be deemed to have been redeemed:

Provided that the Tribunal shall, while giving approval under this sub-section, order the redemption forthwith of preference shares held by such persons who have not consented to the issue of further redeemable preference shares.

Explanation. —For the removal of doubts, it is hereby declared that the issue of further redeemable preference shares or the redemption of preference shares under this section shall not be deemed to be an increase or, as the case may be, a reduction, in the share capital of the company.

(4) The capital redemption reserve account may, notwithstanding anything in this section, be applied by the company, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

Explanation.—For the purposes of sub-section *(2)*, the term "infrastructure projects" means the infrastructure projects specified in Schedule VI.

56. *Transfer and transmission of securities.*— *(1)* A company shall not register a transfer of securities of the company, or the interest of a member in the company in the case of a company having no share capital, other than the transfer between persons both of whose names are entered as holders of

beneficial interest in the records of a depository, unless a proper instrument of transfer, in such form as may be prescribed, duly stamped, dated and executed by or on behalf of the transferor and the transferee and specifying the name, address and occupation, if any, of the transferee has been delivered to the company by the transferor or the transferee within a period of sixty days from the date of execution, along with the certificate relating to the securities, or if no such certificate is in existence, along with the letter of allotment of securities:

Provided that where the instrument of transfer has been lost or the instrument of transfer has not been delivered within the prescribed period, the company may register the transfer on such terms as to indemnity as the Board may think fit.

(2) Nothing in sub-section (*1*) shall prejudice the power of the company to register, on receipt of an intimation of transmission of any right to securities by operation of law from any person to whom such right has been transmitted.

(3) Where an application is made by the transferor alone and relates to partly paid shares, the transfer shall not be registered, unless the company gives the notice of the application, in such manner as may be prescribed, to the transferee and the transferee gives no objection to the transfer within two weeks from the receipt of notice.

(4) Every company shall, unless prohibited by any provision of law or any order of Court, Tribunal or other authority, deliver the certificates of all securities allotted, transferred or transmitted—

(a) within a period of two months from the date of incorporation, in the case of subscribers to the memorandum;

(b) within a period of two months from the date of allotment, in the case of any allotment of any of its shares;

(c) within a period of one month from the date of receipt by the company of the instrument of transfer under sub-section *(1)* or, as the case may be, of the intimation of transmission under sub-section *(2)*, in the case of a transfer or transmission of securities;

(d) within a period of six months from the date of allotment in the case of any allotment of debenture:

Provided that where the securities are dealt with in a depository, the company shall intimate the details of allotment of securities to depository immediately on allotment of such securities.

(5) The transfer of any security or other interest of a deceased person in a company made by his legal representative shall, even if the legal representative is not a holder thereof, be valid as if he had been the holder at the time of the execution of the instrument of transfer.

(6) Where any default is made in complying with the provisions of sub-sections *(1)* to *(5)*, 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 fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(7) Without prejudice to any liability under the Depositories Act, 1996 (22 of 1996), where any depository or depository participant, with an intention to defraud a person, has transferred shares, it shall be liable under section 447.

57. *Punishment for personation of shareholder.*—If any person deceitfully personates as an owner of any security or interest in a company, or of any share warrant or coupon issued in pursuance of this Act, and thereby obtains or attempts to obtain any such security or interest or any such share warrant or coupon, or receives or attempts to receive any money due to any such owner, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

58. *Refusal of registration and appeal against refusal.—(1)* If a privatac company limited by shares refuses, whether in pursuance of any power of the company under its articles or otherwise, to register the transfer of, or the transmission by operation of law of the right to, any securities or interest of a member in the company, it shall within a period or thirty days from the date on which the instrument of transfer, or the intimation of such transmission, as the case may be, was delivered to the company, send notice of the refusal to the transferor and the transferee or to the person giving intimation of such transmission, as the case may be, giving reasons for such refusal.

(2) Without prejudice to sub-section *(1)*, the securities or other interest of any member in a public company shall be freely transferable:

Provided that any contract or arrangement between two or more persons in respect of transfer of securities shall be enforceable as a contract.

(3) The transferee may appeal to the Tribunal against the refusal within a period of thrity days from the date of receipt of the notice or in case no notice has been sent by the company, within a period of sixty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, was delivered to the company.

(4) If a public company without sufficient cause refues to register the transfer of securities within a period of thirty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, is delivered to the company, the transferee may, within a period of sixty days of such refusal or where no intimation has been received from the company, within ninety days of the delivery of the instrument of transfer or intimation of transmission, appeal to the Tribunal.

(5) The Tribunal, while dealing with an appeal made under sub-section *(3)* or sub-section *(4)*, may, after hearing the parties, either dismiss the appeal, or by order—

(a) direct that the transfer or transmission shall be registered by the company and the company shall comply with such order within a period of ten days of the receipt of the order; or

(b) direct rectification of the register and also direct the company to pay damages, if any, sustained by any party aggrieved.

(6) If a person contravenes the order of the Tribunal under this section, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

59. *Rectification of register of members.—(1)* If the name of any person is, without sufficient cause, entered in the register of members of a company, or after having been entered in the register, is, without sufficient cause, omitted therefrom, or if a default is made, or unnecessary delay takes place in entering in the register, the fact of any person having become or ceased to be a member, the person aggrieved, or any member of the company, or the company may appeal in such form as may be prescribed, to the Tribunal, or to a competent court outside India, sepcified by the Central Government by notification, in respect of foreign members or debenture holders residing outside India, for rectification of the register.

(2) The Tribunal may, after hearing the parties to the appeal under sub-section *(1)* by order, either dismiss the appeal or direct that the transfer or transmission shall be registered by the company within a period of ten days of the receipt of the order or direct rectification of the records of the depository or the register and in the latter case, direct the company to pay damages, if any, sustained by the party aggrieved.

(3) The provisions of this section shall not restrict the right of a holder of securities, to transfer such securities and any person acquiring such securities shall be entitled to voting rights unless the voting rights have been suspended by an order of the Tribunal.

(4) Where the transfer of securities is in contravention of any of the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Securities and Exchange Board of India Act, 1992 (15 of 1992) or this Act or any other law for the time being in force, the Tribunal may, on an application made by the depository, company, depository participant, the holder of the securities or the Securities and Exchange Board, direct any company or a depository to set right the contravention and rectify its register or records concerned.

(5) If any default is made in complying with the order of the Tribunal under 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 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 one lakh rupees but which may extend to three lakh rupees, or with both.

60. *Publication of authorised, subscribed and paid-up capital.—(1)* Where any notice, advertisement or other official publication, or any business letter, billhead or letter paper of a company contains a statement of the amount of the authorised capital of the company, such notice, advertisement or other official publication, or such letter, billhead or letter paper shall also contain a statement, in an equally prominent position and in equally conspicuous characters, of the amount of the capital which has been subscribed and the amount paid-up.

(2) If any default is made in complying with the requirements of sub-section *(1)*, the company shall be liable to pay a penalty of ten thousand rupees and every officer of the company who is in default shall be liable to pay a penalty of five thousand rupees, for each default.

61. *Power of limited company to alter its share capital.—(1)* A limited company having a share capital may, if so authorised by its articles, alter its memorandum in its general meeting to—

(a) increase its authorised share capital by such amount as it thinks expedient;

(b) consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares:

Provided that no consolidation and division which results in changes in the voting percentage of shareholders shall take effect unless it is approved by the Tribunal on an application made in the prescribed manner;

(c) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination;

(d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The cancellation of shares under sub-section *(1)* shall not be deemed to be a reduction of share capital.

62. *Further issue of share capital.—(1)* Where at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such shares shall be offered—

(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:—

(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;

(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;

(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 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;

(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

(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 of a registered valuer subject to such conditions as may be prescribed.

(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.

(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 debentures issued or loan raised by the company to convert such debentures or loans into shares in the company:

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.

(4) Notwithstanding anything contained in sub-section *(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:

Provided that where the terms and conditions of such conversion are not acceptable to the company, it may, within 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.

(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.

(6) Where the Government has, by an order made under sub-section *(4)*, directed that any debenture or loan or any part thereof shall be converted into shares in a company and where no appeal has been preferred to the Tribunal under sub-section *(4)* or where such appeal has been dismissed, the memorandum of such company shall, where such order has the effect of increasing the authorised share capital of the company, stand altered and the authorised share capital of such company shall stand increased by an amount equal to the amount of the value of shares which such debentures or loans or part thereof has been converted into.

63. *Issue of bonus shares.—(1)* A company may issue fully paid-up bonus shares to its members, in any manner whatsoever, out of—

(i) its free reserves;

(ii) the securities premium account; or

(iii) the capital redemption reserve account :

Provided that no issue of bonus shares shall be made by capitalising reserves created by the revaluation of assets.

(2) No company shall capitalise its profits or reserves for the purpose of issuing fully paid-up bonus shares under sub-section (1), unless—

(a) it is authorised by its articles;

(b) it has, on the recommendation of the Board, been authorised in the general meeting of the company;

(c) it has not defaulted in payment of interest or principal in respect of fixed deposits or debt securities issued by it;

(d) it has not defaulted in respect of the payment of statutory dues of the employees, such as, contribution to provident fund, gratuity and bonus;

(e) the partly paid-up shares, if any outstanding on the date of allotment, are made fully paid-up;

(f) it complies with such conditions as may be prescribed.

(3) The bonus shares shall not be issued in lieu of dividend.

64. *Notice to be given to Registrar for alteration of share capital.—(1)* Where—

(a) a company alters its share capital in any manner specified in sub-section *(1)* of Section 61 ;

(b) an order made by the Government under sub-section *(4)* read with sub-section *(6)* of Section 62 has the effect of increasing authorised capital of a company; or

(c) a company redeems any redeemable preference shares,

the company shall file a notice in the prescribed form with the Registrar within a period of thirty days of such alteration or increase or redemption, as the case may be, along with an altered memorandum.

(2) If a company and any officer of the company who is in default contravenes the provisions of sub-section *(1)*, it or he shall be punishable with fine which may extend to one thousand rupees for each day during which such default continues, or five lakh rupees. whichever is less.

65. *Unlimited company to provide for reserve share capital on conversion into limited company.*—An unlimited company having a share capital may, by a resolution for registration as a limited company under this Act, do either or both of the following things, namely—

(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;

(b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

66. *Reduction of share capital.*—*(1)* Subject to conformation by the Tribunal on an application by the company, a company limited by shares or limited by guarantee and having a share capital may, by a special resolution, reduce the share capital in any manner and in particular, may—

(a) extinguish or reduce the liability on any of its shares in respect of the share capital not paid-up; or

(b) either with or without extinguishing or reducing liability on any of its shares,—

(i) cancel any paid-up share capital which is lost or is unrepresented by available assets; or

(ii) payoff any paid-up share capital which is in excess of the wants of the company,

alter its memorandum by reducing the amount of its share capital and of its shares accordingly:

Provided that no such reduction shall be made if the company is in arrears in the repayment of any deposits accepted by it, either before or after the commencement of this Act, or the interest payable thereon.

(2) The Tribunal shall give notice of every application made to it under sub-section *(1)* to the Central Government, Registrar and to the Securities and Exchange Board, in the case of listed companies, and the creditors of the company and shall take into consideration the representations, if any, made to it by that Government, Registrar, the Securities and Exchange Board and the creditors within a period of three months from the date of receipt of the notice :

Provided that where no representation has been received from the Central Government, Registrar, the Securities and Exchange Board or the creditors within the said period, it shall be presumed that they have no objection to the reduction.

(3) The Tribunal may, if it is satisfied that the debt or claim of every creditor of the company has been discharged or determined or has been secured or his consent is obtained, make an order confirming the reduction of share capital on such terms and conditions as it deems fit :

Provided that no application for reduction of share capital shall be sanctioned by the Tribunal unless the accounting treatment, proposed by the company for such reduction is in conformity with the accounting standards specified in Section 133 or any other provision of this Act and a certificate to that effect by the company's auditor has been filed with the Tribunal.

(4) The order of conformation of the reduction of share capital by the Tribunal under sub-section *(3)* shall be published by the company in such manner as the Tribunal may direct.

(5) The company shall deliver a certified copy of the order of the Tribunal under sub-section *(3)* and of a minute approved by the Tribunal showing—

(a) the amount of share capital;

(b) the number of shares into which it is to be divided;

(c) the amount of each share; and

(d) the amount, if any, at the date of registration deemed to be paid up on each share,

to the Registrar within thirty days of the receipt of the copy of the order, who shall register the same and issue a certificate to that effect.

(6) Nothing in this section shall apply to buy-back of its own securities by a company under Section 68.

(7) A member of the company, past or present, shall not be liable to any call or contribution in respect of any share held by him exceeding the amount of difference, if any, between the amount paid on the share, or reduced amount, if any, which is to be deemed to have been paid thereon, as the case may be, and the amount of the share as fixed by the order of reduction.

(8) Where the name of any creditor entitled to object to the reduction of share capital under this section is, by reason of his ignorance of the proceedings for reduction or of their nature and effect with respect to his debt or claim, not entered on the list of creditors, and after such reduction, the company is unable, within the meaning of sub-section *(2)* of Section 271, to pay the amount of his debt or claim,—

(a) every person, who was a member of the company on the date of the registration of the order for reduction by the Registrar, shall be liable to contribute to the payment of that debt or claim, an amount not exceeding the amount which he would have been liable to contribute if the company had commenced winding up on the day immediately before the said date; and

(b) if the company is wound up, the Tribunal may, on the application of any such creditor and proof of his ignorance as aforesaid, if it thinks fit, settle a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.

(9) Nothing in sub-section *(8)* shall affect the rights of the contributories among themselves.

(10) If any officer of the company—

(a) knowingly conceals the name of any creditor entitled to object to the reduction;

(b) knowingly misrepresents the nature or amount of the debt or claim of any creditor; or

(c) abets or is privy to any such concealment or misrepresentation as aforesaid, he shall be liable under Section 447.

(11) If a company fails to comply with the provisions of sub-section *(4)*, it shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees.

67. *Restrictions on purchase by company or giving of loans by it for purchase of its shares.*—(*1*) No company limited by shares or by guarantee and having a share capital shall have power to buy its own shares unless the consequent reduction of share capital is effected under the provisions of this Act.

(*2*) No public company shall give, whether directly or indirectly and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase or subscription made or to be made, by any person of or for any shares in the company or in its holding company.

(*3*) Nothing in sub-section (*2*) shall apply to—

(*a*) the lending of money by a banking company in the ordinary course of its business;

(*b*) the provision by a company of money in accordance with any scheme approved by company through special resolution and in accordance with such requirements as may be prescribed, for the purchase of, or subscription for, fully paid-up shares in the company or its holding company, if the purchase of, or the subscription for, the shares held by trustees for the benefit of the employees or such shares held by the employee of the company ;

(*c*) the giving of loans by a company to persons in the employment of the company other than its directors or key managerial personnel, for an amount not exceeding their salary or wages for a period of six months with a view to enabling them to purchase or subscribe for fully paid-up shares in the company or its holding company to be held by them by way of beneficial ownership:

Provided that disclosures in respect of voting rights not exercised directly by the employees in respect of shares to which the scheme relates shall be made in the Board's report in such manner as may be prescribed.

(*4*) Nothing in this section shall affect the right of a company to redeem any preference shares issued by it under this Act or under any previous company law.

(*5*) If a company contravenes the provisions of this section, it shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-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 three years and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

68. *Power of company to purchase its own securities.*— *(1)* Notwithstanding anything contained in this Act, but subject to the provisions of sub-section (*2*), a company may purchase its own shares or other specified securities (hereinafter referred to as buy-back) out of—

(a) its free reserves;

(b) the securities premium account; or

(c) the proceeds of the issue of any shares or other specified securities:

Provided that no buy-back of any kind of shares or other specified securities shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

(*2*) No company shall purchase its own shares or other specified securities under sub-section *(1)*, unless—

(a) the buy-back is authorised by its articles;

(b) a special resolution has been passed at a general meeting of the company authorising the buy-back:

Provided that nothing contained in this clause shall apply to a case where—

(i) the buy-back is, ten per cent. or less of the total paid-up equity capital and free reserves of the company; and

(ii) such buy-back has been authorised by the Board by means of a resolution passed at its meeting;

(c) the buy-back is twenty-five per cent. or less of the aggregate of paid-up capital and free reserves of the company:

Provided that in respect of the buy-back of equity shares in any financial year, the reference to twenty-five per cent. in this clause shall be construed with respect to its total paid-up equity capital in that financial year;

(*d*) the ratio of the aggregate of secured and unsecured debts owed by the company after buy-back is not more than twice the paid-up capital and its free reserves:

Provided that the Central Government may, by order, notify a higher ratio of the debt to capital and free reserves for a class or classes of companies;

(e) all the shares or other specified securities for buy-back are fully paid-up;

(*f*) the buy-back of the shares or other specified securities listed on any recognised stock exchange is in accordance with the regulations made by the Securities and Exchange Board in this behalf; and

(*g*) the buy-back in respect of shares or other specified securities other than those specified in clause (*f*) is in accordance with such rules as may be prescribed:

Provided that no offer of buy-back under this sub-section shall be made within a period of one year reckoned from the date of the closure of the preceeding offer of buy-back, if any.

(3) The notice of the meeting at which the special resolution is proposed to be passed under clause *(b)* of sub-section (*2*) shall be accompanied by an explanatory statement stating—

(a) a full and complete disclosure of all material facts;

(b) the necessity for the buy-back;

(c) the class of shares or securities intended to be purchased under the buy-back;

(d) the amount to be invested under the buy-back; and

(e) the time-limit for completion of buy-back.

(*4*) Every buy-back shall be completed within a period of one year from the date of passing of the special resolution, or as the case may be, the resolution passed by the Board under clause *(b)* of sub-section (*2*).

(5) The buy-back under sub-section *(1)* may be—

(a) from the existing shareholders or security holders on a proportionate basis;

(b) from the open market;

(c) by purchasing the securities issued to employees of the company pursuant to a scheme of stock option or sweat equity.

(6) Where a company proposes to buy-back its own shares or other specified securities under this section in pursuance of a special resolution under clause *(b)* of sub-section *(2)* or a resolution under item *(ii)* of the proviso thereto, it shall, before making such buy-back, file with the Registrar and the Securities and Exchange Board, a declaration of solvency signed by atleast two directors of the company, one of whom shall be the managing director, if any, in such form as may be prescribed and verified by an affidavit to the effect that the Board of Directors of the company has made a full inquiry into the affairs of the company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year from the date of declaration adopted by the Board:

Provided that no declaration of solvency shall be filed with the Securities and Exchange Board by a company whose shares are not listed on any recognised stock exchange.

(7) Where a company buys back its own shares or other specified securities, it shall extinguish and physically destroy the shares or securities so bought back within seven days of the last date of completion of buy-back.

(8) Where a company completes a buy-back of its shares or other specified securities under this section, it shall not make a further issue of the same kind of shares or other securities including allotment of new shares under clause *(a)* of sub-section *(1)* of section 62 or other specified securities within a period of six months except by way of a bonus issue or in the discharge of subsisting obligations such as conversion of warrants, stock option schemes, sweat equity or conversion of prefence shares or debentures into equity shares.

(9) Where a company buys back its shares or other specified securities under this section, it shall maintain a register of the shares or securities so bought, the consideration paid for the shares or securities bought back, the date of cancellation of shares or securities, the date of extinguishing and physically destroying the shares or securities and such other particulars as may be prescribed.

(10) A company shall, after the completion of the buy-back under this section, file with the Registrar and the Securities and Exchange Board a return containing such particulars relating to the buy-back within thirty days of such completion, as may be prescribed :

Provided that no return shall be filed with the Securities and Exchange Board by a company whose shares are not listed on any recognised stock exchange.

(11) If a company makes any default in complying with the provisions of this section or any regulation made by the Securities and Exchange Board, for the purposes of clause *(f)* of sub-section *(2)*, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees, or with both.

Explanation I.—For the purposes of this section and section 70, "specified securities" includes employees' stock option or other securities as may be notified by the Central Government from time to time.

Explanation II.—For the purposes of this section, "free reserves" includes securities premium account.

69. *Transfer of certain sums to capital redemption reserve account*— (*1*) Where a company purchases its own shares out of free reserves or securities premium account, a sum equal to the nominal value of the shares so purchased shall be transferred to the capital redemption reserve account and details of such transfer shall be disclosed in the balance sheet.

(2) The capital redemption reserve account may be applied by the company, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

70. *Prohibition for buy-back in certain circumstances.*—*(1)* No company shall directly or indirectly purchase its own shares or other specified securities—

(a) through any subsidiary company including its own subsidiary companies;

(b) through any investment company or group of investment companies; or

(c) if a default, is made by the company, in the repayment of deposits accepted either before or after the commencement of this Act, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any financial institution or banking company:

Provided that the buy-back is not prohibited, if the default is remedied and a period of three years has lapsed after such default ceased to subsist.

(2) No company shall, directly or indirectly, purchase its own shares or other specified securities in case such company has not complied with the provisions of sections 92, 123, 127 and section 129.

71. *Debentures.*—*(1)* A company may issue debentures with an option to convert such debentures into shares, either wholly or partly at the time of redemption:

Provided that the issue of debentures with an option to convert such debentures into shares, wholly or partly, shall be approved by a special resolution passed at a general meeting.

(2) No company shall issue any debentures carrying any voting rights.

(3) Secured debentures may be issued by a company subject to such terms and conditions as may be prescribed.

(4) Where debentures are issued by a company under this section, the company shall create a debenture redemption reserve account out of the profits of the company available for payment of dividend and the amount credited to such account shall not be utilised by the company except for the redemption of debentures.

(5) No company shall issue a prospectus or make an offer or invitation to the public or to its members exceeding five hundred for the subscription of its debentures, unless the company has, before such issue or offer, appointed one or more debenture trustees and the conditions governing the appointment of such trustees shall be such as may be prescribed.

(6) A debenture trustee shall take steps to protect the interests of the debenture-holders and redress their grievances in accordance with such rules as may be prescribed.

(7) Any provision contained in a trust deed for securing the issue of debentures, or in any contract with the debenture-holders secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereoffrom, or indemnifying him against, any liability for breach of trust, where he fails to show the degree of care and due diligence required of him as a trustee, having regard to the provisions of the trust deed conferring on him any power, authority or discretion:

Provided that the liability of the debenture trustee shall be subject to such exemptions as may be agreed upon by a majority of debenture-holders holding not less than three-fourths in value of the total debentures at a meeting held for the purpose.

(8) A company shall pay interest and redeem the debentures in accordance with the terms and conditions of their issue.

(9) Where at any time the debenture trustee comes to a conclusion that the assets of the company are insufficient or are likely to become insufficient to discharge the principal amount as and when it becomes due, the debenture trustee may file a petition before the Tribunal and the Tribunal may, after hearing the company and any other person interested in the matter, by order, impose such restrictions on the incurring of any further liabilities by the company as the Tribunal may consider necessary in the interests of the debenture-holders.

(10) Where a company fails to redeem the debentures on the date of their maturity or fails to pay interest on the debentures when it is due, the, Tribunal may, on the application of any or all of the debenture-holders, or debenture trustee and, after hearing the parties concerned, direct, by order, the company to redeem the debentures forthwith on payment of principal and interest due thereon.

(11) If any default is made in complying with the order of the Tribunal under this section, every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than two lakh rupees but which may extend to five lakh rupees, or with both.

(12) A contract with the company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

(13) The Central Government may prescribe the procedure, for securing the issue of debentures, the form of debenture trust deed, the procedure for the debenture-holders to inspect the trust deed and to obtain copies thereof quantum of debenture redemption reserve required to be created and such other matters.

72. *Power to nominate.—(1)* Every holder of securities of a company may, at any time, nominate, in the prescribed manner, any person to whom his securities shall vest in the event of his death.

(2) Where the securities of a company are held by more than one person jointly, the joint holders may together nominate, in the prescribed manner, any person to whom all the rights in the securities shall vest in the event of death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of the securities of a company, where a nomination made in the prescribed manner purports to confer on any person the right to vest the securities of the company, the nominee shall, on the death of the holder of securities or, as the case may be, on the death of the joint holders, become entitled to all the rights in the securities, of the holder or, as the case may be, of all the joint holders, in relation to such securities, to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the holder of the securities, making the nomination to appoint, in the prescribed manner, any person to become entitled to the securities of the company, in the event of the death of the nominee during his minority.

CHAPTER V

ACCEPTANCE OF DEPOSITS BY COMPANIES

73. *Prohibition on acceptance of deposits from public.—(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:

Provided that nothing in this sub-section shall apply to a banking company and non-banking 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.

(2) A company may, subject to the passing of a 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:—

(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;

(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;

(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 next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account;

(d) providing such deposit insurance in such manner and to such extent as may be prescribed;

(*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 such deposits; and

(*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:

Provided that in case where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as "unsecured deposits" and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.

(3) Every deposit accepted by a company under sub-section *(2)* shall be repaid with interest in accordance with the terms and conditions of the agreement referred to in that sub-section.

(4) Where a company fails to repay the deposit or part thereof or any interest thereon under sub-section *(3)*, the depositor concerned may apply to the Tribunal for an order directing the company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment and for such other orders as the Tribunal may deem fit.

(5) The deposit repayment reserve account referred to in clause (c) of sub-section (2) shall not be used by the company for any purpose other than repayment of deposits.

74. *Repayment of deposits, etc., accepted before commencement of this Act.—(1)* Where in respect of any deposit 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—

(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

(b) repay within one year from such commencement or from the date on which such payments are due, whichever is earlier.

(2) The Tribunal may on an application made by the company, after considering the financial condition of the company, the amount of deposit or part thereof and the interest payable thereon and such other matters, allow further time as considered reasonable to the company to repay the deposit.

(3) If a company fails to repay the deposit or part thereof or any interest thereon within the time specified in sub-section *(1)* or such further time as may be allowed by the Tribunal under sub-section *(2)*, 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 one crore rupees but which may extend to ten crore rupees and 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.

75. *Damages for fraud.—(1)* Where a company fails to repay the deposit or part thereof or any interest thereon referred to in section 74 within the time specified in sub-section *(1)* of that section or such further time as may be allowed by the Tribunal under sub-section *(2)* of that section, and it is proved that the deposits had been accepted with intent to defraud the depositors or for any fraudulent purpose, every officer of the company who was responsible for the acceptance of such deposit shall, without prejudice to the provisions contained in sub-section *(3)* of that section and liability under section 447, be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by the depositors.

(2) Any suit, proceedings or other action may be taken by any person, group of persons or any association of persons who had incurred any loss as a result of the failure of the company to repay the deposits or part thereof or any interest thereon.

76. *Acceptance of deposits from public by certain companies.—(1)* Notwithstanding anything contained in Section 73, a public company, having such net worth or turnover as may be prescribed, may accept deposits from persons other than its members subject to compliance with the requirements provided in sub-section *(2)* of section 73 and subject to such rules as the Central Government may, in consultation with the Reserve Bank of India, prescribe:

Provided that such a company shall be required to obtain the rating (including its networth, liquidity and ability to pay its deposits on due date) from a recognised credit rating agency for informing the public the rating given to the company at the time of invitation of deposits from the public which ensures adequate safety and the rating shall be obtained for every year during the tenure of deposits:

Provided further that every company accepting secured deposits from the public shall within thirty days of such acceptance, create a charge on its assets of an amount not less than the amount of deposits accepted in favour of the deposit holders in accordance with such rules as may be prescribed.

(2) The provisions of this Chapter shall, *mutatis mutandis,* apply to the acceptance of deposits from public under this section.

CHAPTER VI

REGISTRATION OF CHARGES

77. *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 charge-holder 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:

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:

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:

Provided also that any subsequent registration of a charge shall not prejudice any right acquired in respect of any property before the charge is actually registered.

(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.

(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)*.

(4) Nothing in sub-section *(3)* shall prejudice any contract or obligation for the repayment of the money secured by a charge.

78. *Application for registration of charge.*—Where a company fails to register the charge within the period specified in Section 77, without prejudice to its liability in respect of any offence under this Chapter, the person in 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:

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.

79. *Section 77 to apply in certain matters.*—The provisions of section 77 relating to registration of charges shall, so far as may be, apply to—

(a) a company acquiring any property subject to a charge within the meaning of that section; or

(b) any modification in the terms or conditions or the extent or operation of any charge registered under that section.

80. *Date of notice of charge.*—Where any charge on any property or assets of a company or any of its undertakings is registered under section 77, any person acquiring such property, assets, undertakings or part thereof or any share or interest therein shall be deemed to have notice of the charge from the date of such registration.

81. *Register of charges to be kept by Registrar.—(1)* The Registrar shall, in respect of every company, keep a register containing particulars of the charges registered under this Chapter in such form and in such manner as may be prescribed.

(2) A register kept in pursuance of this section shall be open to inspection by any person on payment of such fees as may be prescribed for each inspection.

82. *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 and the provisions of sub-section *(1)* of section 77 shall, as far as may be, apply to an intimation given under this section.

(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:

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.

(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.

(4) Nothing in this section shall be deemed to affect the powers of the Registrar to make an entry in the register of charges under section 83 or otherwise than on receipt of an intimation from the company.

83. *Power of Registrar to make entries of satisfaction and release in absence of intimation from company.—(1)* The Registrar may, on evidence being given to his satisfaction with respect to any registered charge,—

(a) that the debt for which the charge was given has been paid or satisfied in whole or in part; or

(b) that part of the property or undertaking charged has been released from the charge or has ceased to form part of the company's property or undertaking,

enter in the register of charges a memorandum of satisfaction in whole or in part, or of the fact that part of the property or undertaking has been released from the charge or has ceased to form part of the company's property or undertaking, as the case may be notwithstanding the fact that no intimation has been received by him from the company.

(2) The Registrar shall inform the affected parties within thirty days of making the entry in the register of charges kept under sub-section *(1)* of section 81.

84. *Intimation of appointment of receiver or manager.—(1)* If any person obtains an order for the appointment of a receiver of, or of a person to manage, the property, subject to a charge, of a company or if any person appoints such receiver or person under any power contained in any instrument, he shall, within a period of thirty days from the date of the passing of the order or of the making of the appointment, give notice of such appointment to the company and the Registrar along with a copy of the order or instrument and the Registrar shall, on payment of the prescribed fees, register particulars of the receiver, person or instrument in the register of charges.

(2) Any person appointed under sub-section *(1)* shall, on ceasing to hold such appointment, give to the company and the Registrar a notice to that effect and the Registrar shall register such notice.

85. *Company's register of charges.—(1)* Every company shall keep at its registered office a register of charges in such form and in such manner as may be prescribed, which shall include therein all charges and floating charges affecting any property or assets of the company or any of its undertakings, indicating in each case such particulars as may be prescribed:

Provided that a copy of the instrument creating the charge shall also be kept at the registered office of the company along with the register of charges.

(2) The register of charges and instrument of charges, kept under sub-section *(1)* shall be open for inspection during business hours.

(a) by any member or creditor without any payment of fees; or

(b) by any other person on payment of such fees as may be prescribed,

subject to such reasonable restrictions as the company may, by its articles, impose.

86. *Punishment for contravention.*—If any company contravenes any provision of this Chapter, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh 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 twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

87. *Rectification by Central Government in register of charges.—(1)* The Central Government on being satisfied that—

(i) *(a)* the omission to file with the Registrar the particulars of any charge created by a company or any charge subject to which any property has been acquired by a company or any modification of such charge; or

(b) the omission to register any charge within the time required under this Chapter or the omission to give intimation to the Registrar of the payment or the satisfaction of a charge, within the time required under this Chapter; or

(c) The omission or mis-statement of any particular with respect to any such charge or modification or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83,

was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors or shareholders of the company; or

(ii) on any other grounds, it is just and equitable to grant relief, it may on the application of the company or any person interested and on such terms and conditions as it may seem to the Central Government just and expedient, direct that the time for the filing of the particulars or for the registration of the charge or for the giving of intimation of payment or satisfaction shall be extended or, as the case may require, that the omission or mis-statement shall be rectified.

(2) Where the Central Government extends the time for the registration of a charge the order shall not prejudice any rights acquired in respect of the property concerned before the charge is actually registered.

CHAPTER VII

MANAGEMENT AND ADMINISTRATION

88. *Register of members, etc.—(1)* Every company shall keep and maintain the following registers in such form and in such manner as may be prescribed, namely:—

(*a*) register of members indicating separately for each class of equity and preference shares held by each member residing in or outside India;

(*b*) register of debenture-holders; and

(*c*) register of any other security holders.

(2) Every register maintained under sub-section *(1)* shall include an index of the names included therein.

(3) The register and index of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996 (22 of 1996), shall be deemed to be the corresponding register and index for the purposes of this Act.

(4) A company may, if so authorised by its articles, keep in any country outside India, in such manner as may be prescribed, a part of the register referred to in sub-section *(1)*, called "foreign register" containing the names and particulars of the members, debenture-holders, other security holders or beneficial owners residing outside India.

(5) If a company does not maintain a register of members or debenture-holders or other security holders or fails to maintain them in accordance with the provisions of sub-section *(1)* or sub-section *(2)*, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three 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.

89. *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.

(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.

(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 days from the date of such change, make a declaration to the company in such form and containing such particulars as may be prescribed.

(4) The Central Government may make rules to provide for the manner of holding and disclosing beneficial interest and beneficial ownership under this section.

(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.

(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 time specified under section 403.

(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.

(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.

(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.

90. *Investigation of beneficial ownership of shares in certain 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.

91. *Power to close register of members or debenture-holders or other security holders.*— *(1)* A company may close the register of members or the register of debenture holders or the register of other security holders for any period or periods not exceeding in the aggregate forty-five days in each year, but not exceeding thirty days at anyone time, subject to giving of previous

notice of at least seven days or such lesser period as may be specified by Securities and Exchange Board for listed companies or the companies which intend to get their securities listed, in such manner as may be prescribed.

(2) If the register of members or of debenture-holders or of other security holders is closed without giving the notice as provided in sub-section *(1)* or after giving shorter notice than that so provided, or for a continuous or an aggregate period in excess of the limits specified in that sub-section, the company and every officer of the company who is in default shall be liable to a penalty of five thousand rupees for every day subject to a maximum of one lakh rupees during which the register is kept closed.

92. *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;

(c) its indebtedness;

(d) its members and debenture-holders along with changes therein since the close of the previous financial year;

(e) its promoters, directors, key managerial personnel along with changes therein since the close of the previous financial year;

(f) meetings of members or a class thereof, Board and its various committees along with attendance details;

(g) remuneration of directors and key managerial personnel;

(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;

(i) matters relating to certification of compliances, disclosures as may be prescribed;

(j) details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them; and

(k) such other matters as may be prescribed,

and signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice:

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.

(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.

(3) An extract of the annual return in such form as may be prescribed shall form part of the Board's report.

(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 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.

(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 fee, 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.

(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.

93. *Return to be filed with Registrar in case promoters stake 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.

94. *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 and the Registrar has been given a copy of the proposed special resolution in advance:

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 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.

(3) Any such member, debenture-holder, other security holder or beneficial owner or any other person may—

(a) take extracts from any register, or index or return without payment of any fee; or

(b) require a copy of any such register or entries therein or return on payment of such fees as may be prescribed.

(4) If any inspection or the making of any extract or copy required under this section is refused, the company and every officer of the company who is in default shall be liable, for each such default, to a penalty of one thousand rupees for every day subject to a maximum of one lakh rupees during which the refusal or default continues.

(5) The Central Government may also, by order, direct an immediate inspection of the document, or direct that the extract required shall forthwith be allowed to be taken by the person requiring it.

95. *Registers, etc., to be evidence.*—The registers, their indices and copies of annual returns maintained under sections 88 and 94 shall be *prima facie* evidence of any matter directed or authorised to be inserted therein by or under this Act.

96. *Annual general meeting.—(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:

Provided that 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 year of the company and in any other case, within a period of six months, from the date of closing of the financial year:

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:

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.

(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:

Provided that the Central Government may exempt any company from the provisions of this sub-section subject to such conditions as it may impose.

Explanation.—For the purposes of this sub-section, "National Holiday" means and includes a day declared as National Holiday by the Central Government.

97. *Power of Tribunal to call annual general meeting.—(1)* If any default is made in holding the annual general meeting of a company under section 96, the Tribunal may, notwithstanding anything contained in this Act or the articles of the company, on the application of any member of the company, call, or direct the calling of, an annual general meeting of the company and give such ancillary or consequential directions as the Tribunal thinks expedient:

Provided that such directions may include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(2) A general meeting held in pursuance of sub-section *(1)* shall, subject to any directions of the Tribunal, be deemed to be an annual general meeting of the company under this Act.

98. *Power of Tribunal to call meetings of members, etc.—(1)* If for any reason it is impracticable to call a meeting of a company, other than an annual general meeting, in any manner in which meetings of the company may be called, or to hold or conduct the meeting of the company in the manner prescribed by this Act or the articles of the company, the Tribunal may, either *suo motu* or on the application of any director or member of the company who would be entitled to vote at the meeting,—

(a) order a meeting of the company to be called, held and conducted in such manner as the Tribunal thinks fit; and

(b) give such ancillary or consequential directions as the Tribunal thinks expedient, including directions modifying or supplementing in relation to the calling, holding and conducting of the meeting, the operation of the provisions of this Act or articles of the company:

Provided that such directions may include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(2) Any meeting called, held and conducted in accordance with any order made under sub-section *(1)* shall, for all purposes, be deemed to be a meeting of the company duly called, held and conducted.

99. *Punishment for default in complying with provisions of sections 96 to 98.*—If any default is made in holding a meeting of the company in accordance with section 96 or section 97 or section 98 or in complying with any directions of the Tribunal, the company and every officer of the company who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues.

100. *Calling of extraordinary general meeting.—(1)* The Board may, whenever it deems fit, call an extraordinary general meeting of the company.

(2) The Board shall, at the requisition made by,—

(a) in the case of a company having a share 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;

(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,

call an extraordinary general meeting of the company within the period specified in sub-section *(4)*.

(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.

(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 and held by the requisitonists themselves within a period of three months from the date of the requisition.

(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.

(6) Any reasonable expenses incurred by the requisitionists in calling a meeting under sub-section *(4)* shall be reimbursed to the requisitionists by the company and the sums so paid shall be deducted from any fee or other remuneration under section 197 payable to such of the directors who were in default in calling the meeting.

101. *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:

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.

(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.

(3) The notice of every meeting of the company shall be given to—

(a) every member of the company, legal representative of any deceased member or the assignee of an insolvent member;

(b) the auditor or auditors of the company ; and

(c) every director of the company.

(4) Any accidental omission to give notice to, or the non-receipt of such notice by, any member or other person who is entitled to such notice for any meeting shall not invalidate the proceedings of the meeting.

102. *Statement to be annexed to notice.—(1)* A statement setting out the following material facts concerning each item of special business to be transacted at a general meeting, shall be annexed to the notice calling such meetmg, namely:—

(a) the nature of concern or interest, financial or otherwise, if any, in respect of each items of—

(i) every director and the manager, if any;

(ii) every other key managerial personnel; and

(iii) relatives of the persons mentioned in sub-clauses *(i)* and *(ii)*;

(b) any other information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decision thereon.

(2) For the purposes of sub-section *(1)*,—

(*a*) in the case of an annual general meeting, all business to be transacted thereat shall be deemed special, other than—

(i) the consideration of financial statements and the reports of the Board of Directors and auditors;

(ii) the declaration of any dividend;

(iii) the appointment of directors in place of those retiring;

(iv) the appointment of, and the fixing of the remuneration of, the auditors; and

(*b*) in the case of any other meeting, all business shall be deemed to be special:

Provided that where any item of special business to be transacted at a meeting of the company relates to or affects any other company, the extent of shareholding interest in that other company of every promoter, director, manager, if any, and of every other key managerial personnel of the first mentioned company shall, if the extent of such shareholding is not less than two per cent. of the paid-up share capital of that company, also be set out in the statement.

(3) Where any item of business refers to any document, which is to be considered at the meeting, the time and place where such document can be inspected shall be specified in the statement under sub-section *(1)*.

(4) Where as a result of the non-disclosure or insufficient disclosure in any statement referred to in sub-section *(1)*, being made by a promoter, director, manager, if any, or other key managerial personnel, any benefit which accrues to such promoter, director, manager or other key managerial personnel or their relatives, either directly or indirectly, the promoter, director, manager or other key managerial personnel, as the case may be, shall hold such benefit in trust for the company, and shall, without prejudice to any other action being taken against him under this Act or under any other law for the time being in force, be liable to compensate the company to the extent of the benefit received by him.

(5) If any default is made in complying with the provisions of this section, every promoter, director, manager or other key managerial personnel who is in default shall be punishable with fine which may extend to fifty thousand rupees or five times the amount of benefit accruing to the promoter, director, manager or other key managerial personnel or any of his relatives, whichever is more.

103. *Quorum for meetings.—(1)* Unless the articles of the company provide for a larger number,—

(*a*) in case of a public company,—

(i) five members personally present if the number of members as on the date of meeting is not more than one thousand;

(ii) fifteen members personally present if the number of members as on the date of meeting is more than one thousand but up to five thousand;

(iii) thirty members personally present if the number of members as on the date of the meeting exceeds five thousand;

(b) in the case of a private company, two members personally present, shall be the quorum for a meeting of the company.

(2) If the quorum is not present within half-an-hour from the time appointed for holding a meeting of the company—

(a) the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other date and such other time and place as the Board may determine; or

(b) the meeting, if called by requisitionists under section 100, shall stand cancelled:

Provided that in case of an adjourned meeting or of a change of day, time or place of meeting under clause *(a)*, the company shall give not less than three days notice to the members either individually or by publishing an advertisement in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated.

(3) If at the adjourned meeting also, a quorum is not present within half-an-hour from the time appointed for holding meeting, the members present shall be the quorum.

104. *Chairman of meetings.—(1)* Unless the articles of the company otherwise provide the members personally present at the meeting shall elect one of themselves to be the Chairman thereof on a show of hands.

(2) If a poll is demanded on the election of the Chairman, it shall be taken forthwith in accordance with the provisions of this Act and the Chairman elected on a show of hands under sub-section *(1)* shall continue to be the Chairman of the meeting until some other person is elected as Chairman as a result of the poll, and such other person shall be the Chairman for the rest of the meeting.

105. *Proxies.— (1)* Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person as a proxy to attend and vote at the meeting on his behalf:

Provided that a proxy shall not have the right to speak at such meeting and shall not be entitled to vote except on a poll:

Provided further that, unless the articles of a company otherwise provide, this sub-section shall not apply in the case of a company not having a share capital:

Provided also that the Central Government may prescribe a class or classes of companies whose members shall not be entitled to appoint another person as a proxy:

Provided also that a person appointed as proxy shall act on behalf of such member or number of members not exceeding fifty and such number of shares as may be prescribed.

(2) In every notice calling a meeting of a company which has a share capital, or the articles of which provide for voting by proxy at the meeting, there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy, or, where that is allowed, one or more proxies, to attend and vote instead of himself, and that a proxy need not be a member.

(3) If default is made in complying with sub-section *(2)*, every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees.

(4) Any provision contained in the articles of a company which specifies or requires a longer period than forty-eight hours before a meeting of the company, for depositing with the company or any other person any instrument appointing a proxy or any other document necessary to show the validity or otherwise relating to the appointment of a proxy in order that the appointment may be effective at such meeting, shall have effect as if a period of forty-eight hours had been specified in or required by such provision for such deposit.

(5) If for the purpose of any meeting of a company, invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company's expense, to any member entitled to have a notice of the meeting sent to him and to vote thereat by proxy, every officer of the company who knowingly issues the invitations as aforesaid or wilfully authorises or permits their issue shall be punishable with fine which may extend to one lakh rupees:

Provided that an officer shall not be punishable under this sub-section by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy, or of a list of persons willing to act as proxies, if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

(6) The instrument appointing a proxy shall—

(a) be in writing; and

(b) be signed by the appointer or his attorney duly authorised in writing or, if the appointer is a body corporate, be under its seal or be signed by an officer or an attorney duly authorised by it.

(7) An instrument appointing a proxy, if in the form as may be prescribed, shall not be questioned on the ground that it fails to comply with any special requirements specified for such instrument by the articles of a company.

(8) Every member entitled to vote at a meeting of the company, or on any resolution to be moved thereat, shall be entitled during the period beginning twenty-four hours before the time fixed for the commencement of the meeting and ending with the conclusion of the meeting, to inspect the proxies lodged, at any time during the business hours of the company, provided not less than three days' notice in writing of the intention so to inspect is given to the company.

106. *Restriction on voting rights.—(1)* Notwithstanding anything contained in this Act, the articles of a company may provide that no member shall exercise any voting right in respect of any shares registered in his name on which any calls or other sums presently payable by him have not been paid, or in regard to which the company has exercised any right of lien.

(2) A company shall not, except on the grounds specified in sub-section *(1)*, prohibit any member from exercising his voting right on any other ground.

(3) On a poll taken at a meeting of a company, a member entitled to more than one vote, or his proxy, where allowed, or other person entitled to vote for him, as the case may be, need not, if he votes, use all his votes or "cast in the same way all the votes he uses.

107. *Voting by show of hands.—(1)* At any general meeting, a resolution put to the vote of the meeting shall, unless a poll is demanded under section 109 or the voting is carried out electronically, be decided on a show of hands.

(2) A declaration by the Chairman of the meeting of the passing of a resolution or otherwise by show of hands under sub-section *(1)* and an entry to that effect in the books containing the minutes of the meeting of the company shall be conclusive evidence of the fact of passing of such resolution or otherwise.

108. *Voting through electronic means.*—The Central Government may prescribe the class or classes of companies and manner in which a member may exercise his right to vote by the electronic means.

109. *Demand for poll.—(1)* Before or on the declaration of the result of the voting on any resolution on show of hands, a poll may be ordered to be taken by the Chairman of the meeting on his own motion, and shall be ordered to be taken by him on a demand made in that behalf,—

(a) in the case a company having a share capital, by the members present in person or by proxy, where allowed, and having not less than one-tenth of the total voting power or holding shares on which an aggregate sum of not less than five lakh rupees or such higher amount as may be prescribed has been paid-up; and

(b) in the case of any other company, by any member or members present in person or by proxy, where allowed, and having not less than one-tenth of the total voting power.

(2) The demand for a poll may be withdrawn at any time by the persons who made the demand.

(3) A poll demanded for adjournment of the meeting or appointment of Chairman of the meeting shall be taken forthwith.

(4) A poll demanded on any question other than adjournment of the meeting or appointment of Chairman shall be taken at such time, not being later than forty-eight hours from the time when the demand was made, as the Chairman of the meeting may direct.

(5) Where a poll is to be taken, the Chairman of the meeting shall appoint such number of persons, as he deems necessary, to scrutinise the poll process and votes given on the poll and to report thereon to him in the manner as may be prescribed.

(6) Subject to the provisions of this section, the Chairman of the meeting shall have power to regulate the manner in which the poll shall be taken.

(7) The result of the poll shall be deemed to be the decision of the meeting on the resolution on which the poll was taken.

110. *Postal ballot.—(1)* Notwithstanding anything contained in this Act, a company—

(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) 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.

(*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.

111. *Circulation of members resolution.*— (*1*) A company shall, on requisition in writing of such number of members, as required in section 100,—

(a) give notice to members of any resolution which may properly be moved and is intended to be moved at a meeting; and

(b) circulate to members any statement with respect to the matters referred to in proposed resolution or business to be dealt with at that meeting.

(2) A company shall not be bound under this section to give notice of any resolution or to circulate any statement unless—

(a) a copy of the requisition signed by the requisitionists (or two or more copies which, between them, contain the signatures of all the requisitionists) is deposited at the registered office of the company,—

(i) in the case of a requisition requiring notice of a resolution, not less than six weeks before the meeting;

(ii) in the case of any other requisition, not less than two weeks before the meeting; and

(b) there is deposited or tendered with the requisition, a sum reasonably sufficient to meet the company's expenses in giving effect thereto:

Provided that if, after a copy of a requisition requiring notice of a resolution has been deposited at the registered office of the company, an annual general meeting is called on a date within six weeks after the copy has been deposited, the copy, although not deposited within the time required by this sub-section, shall be deemed to have been properly deposited for the purposes thereof.

(*3*) The company shall not be bound to circulate any statement as required by clause (*b*) of sub-section (*1*), if on the application either of the company or of any other person who claims to be aggrieved, the Central Government, by order, declares that the rights conferred by this section are being abused to secure needless publicity for defamatory matter.

(*4*) An order made under sub-section (*3*) may also direct that the cost incurred by the company by virtue of this section shall be paid to the company by the requisitionists, notwithstanding that they are not parties to the application.

(*5*) If any default is made in complying with the provisions of this section, the company and every officer of the company who is in default shall be liable to a penalty of twenty-five thousand rupees.

112. *Representation of President and Governors in meetings.—(1)* The President of India or the Governor of a State, if he is a member of a company, may appoint such person as he thinks fit to act as his representative at any meeting of the company or at any meeting of any class of members of the company.

(*2*) A person appointed to act under sub-section *(1)* shall, for the purposes of this Act, be deemed to be a member of such a company and shall be entitled to exercise the same rights and powers, including the right to vote by proxy and postal ballot as the President or, as the case may be, the Governor could exercise as a member of the company.

113. *Representation of corporations at meeting of companies and of creditors.—(1)* A body corporate, whether a company within the meaning of this Act or not, may,—

(a) if it is a member of a company within the meaning of this Act, by resolution of its Board of Directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the company, or at any meeting of any class of members of the company;

(b) if it is a creditor, including a holder of debentures, of a company within the meaning of this Act, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorised by resolution under sub-section (*1*) shall be entitled to exercise the same rights and powers, including the right to vote by proxy and by postal ballot, on behalf of the body corporate which he represents as that body could exercise if it were an individual member, creditor or holder of debentures of the company.

114. *Ordinary and special resolutions.*— (*1*) A resolution shall be an ordinary resolution if the notice required under this Act has be duly given and it is required to be passed by the votes cast, whether on a show of hands, or electronically or on a poll, as the case may be, in favour of the resolution, including the casting vote, if any, of the Chairman, by members who, being entitled so to do, vote in person, or where proxies are allowed, by proxy or by postal ballot, exceed the votes, if any, cast against the resolution by members, so entitled and voting.

(*2*) A resolution shall be a special resolution when—

(a) the intention to propose the resolution as a special resolution has been duly specified in the notice calling the general meeting or other intimation given to the members of the resolution;

(b) the notice required under this Act has been duly given; and

(c) the votes cast in favour of the resolution, whether on a show of hands, or electronically or on a poll, as the case may be, by members who, being entitled so to do, vote in person or by proxy or by postal ballot, are required to be not less than three times the number of the votes, if any, cast against the resolution by members so entitled and voting.

115. *Resolutions requiring special notice.*— Where, by any provision contained in this Act or in the articles of a company, special notice is required of any resolution, notice of the intention to move such resolution shall be given to the company by such number of members holding not less than one per cent. of total voting power or holding shares on which such aggregate sum not exceeding five lakh rupees, as may be prescribed, has been paid-up and the company shall give its members notice of the resolution in such manner as may be prescribed.

116. *Resolutions passed at adjourned meeting.*— Where a resolution is passed at an adjourned meeting of—

(*a*) a company; or

(*b*) the holders of any class of shares in a company; or

(*c*) the Board of Directors of a company,

the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

117. *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 fee, 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 every officer of the company who is in default, including liquidator of the company, if any, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(*3*) The provisions of this section shall apply to—

(*a*) special resolutions;

(*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;

(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;

(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 agreed to by all those members;

(e) 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;

(f) resolutions requiring a company to be wound up voluntarily passed in pursuance of section 304;

(g) resolutions passed in pursuance of sub-section (3) of section 179; and

(h) any other resolution or agreement as may be prescribed and placed in the public domain.

118. *Minutes of proceedings of general meeting, meeting of Board of Directors and other meeting and resolutions passed by postal ballot.*—(1) Every company shall cause minutes of the proceedings of every general meeting of any class of shareholders or creditors, and every resolution passed by postal ballot and every meeting of its Board of Directors or of every committee of the Board, to be prepared and signed in such manner as may be prescribed and kept within thirty days of the conclusion of every such meeting concerned, or passing of resolution by postal ballot in books kept for that purpose with their pages consecutively numbered.

(*2*) The minutes of each meeting shall contain a fair and correct summary of the proceedings thereat.

(*3*) All appointments made at any of the meetings aforesaid shall be included in the minutes of the meeting.

(*4*) In the case of a meeting of the Board of Directors or of a committee of the Board, the minutes shall also contain—

(*a*) the names of the directors present at the meeting; and

(*b*) in the case of each resolution passed at the meeting, the names of the directors, if any, dissenting from, or not concurring with the resolution.

(*5*) There shall not be included in the minutes, any matter which, in the opinion of the Chairman of the meeting,—

(*a*) is or could reasonably be regarded as defamatory of any person; or

(*b*) is irrelevant or immaterial to the proceedings; or

(*c*) is detrimental to the interests of the company.

(*6*) The Chairman shall exercise absolute discretion in regard to the inclusion or non-inclusion of any matter in the minutes on the grounds specified in sub-section (5).

(*7*) The minutes kept in accordance with the provisions of this section shall be evidence of the proceedings recorded therein.

(*8*) Where the minutes have been kept in accordance with sub-section (*1*) then, until the contrary is proved, the meeting shall be deemed to have been duly called and held, and all proceedings thereat to have duly taken place, and the resolutions passed by postal ballot to have been duly passed and in particular, all appointments of directors, key managerial personnel, auditors or company secretary in practice, shall be deemed to be valid.

(*9*) No document purporting to be a report of the proceedings of any general meeting of a company shall be circulated or advertised at the expense of the company, unless it includes the matters required by this section to be contained in the minutes of the proceedings of such meeting.

(*10*) Every company shall observe secretarial standards with respect to general and Board meetings specified by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 (56 of 1980), and approved as such by the Central Government.

(*11*) If any default is made in complying with the provisions of this section in respect of any meeting, 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.

(*12*) If a person is found guilty of tampering with the minutes of the proceedings of meeting, he 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.

119. *Inspection of minute-books of general meeting.*— (*1*) The books containing the minutes of the proceedings of any general meeting of a company or of a resolution passed by postal ballot, shall—

(a) be kept at the registered office of the company; and

(b) be open, during business hours, to the inspection by any member without charge, subject to such reasonable restrictions as the company may, by its articles or in general meeting, impose, so, however, that not less than two hours in each business day are allowed for inspection.

(*2*) Any member shall be entitled to be furnished, within seven working days after he has made a request in that behalf to the company, and on payment of such fees as may be prescribed, with a copy of any minutes referred to in sub-section (*1*).

(*3*) If any inspection under sub-section (*1*) is refused, or if any copy required under sub-section (*2*) is not furnished within the time specified therein, 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 for each such refusal or default, as the case may be.

(*4*) In the case of any such refusal or default, the Tribunal may, without prejudice to any action being taken under sub-section (*3*), by order, direct an immediate inspection of the minute-books or direct that the copy required shall forthwith be sent to the person requiring it.

120. *Maintenance and inspection of documents in electronic form.*— Without prejudice to any other provisions of this Act, any document, record, register, minutes, etc.,—

(a) required to be kept by a company; or

(b) allowed to be inspected or copies to be given to any person by a company under this Act, may be kept or inspected or copies given, as the case may be, in electronic form in such form and manner as may be prescribed.

121. *Report on annual general meeting.*— (*1*) Every listed public company shall prepare in the prescribed manner a report on each annual general meeting including the confirmation to the effect that the meeting was convened, held and conducted as per the provisions of this Act and the rules made thereunder.

(*2*) The company shall file with the Registrar a copy of the report referred to in sub-section (*1*) within thirty days of the conclusion of the annual general meeting with such fees as may be prescribed, or with such additional fees as may be prescribed, within the time as specified, under section 403.

(*3*) If the company fails to file the report under sub-section (*2*) before the expiry of the period specified under section 403 with additional fee, 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 of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

122. *Applicability of this Chapter to One Person Company.*— (*1*) The provisions of section 98 and sections 100 to 111 (both inclusive) shall not apply to a One Person Company.

(*2*) The ordinary businesses as mentioned under clause (a) of sub-section (2) of section 102 which a company, other than a One Person Company, is required to transact at its annual general meeting, shall be transacted, in case of One Person Company, as provided in sub-section (3).

(*3*) For the purposes of section 114, any business which is required to be transacted at an annual general meeting or other general meeting of a company by means of an ordinary or special resolution, it shall be sufficient if, in case of One Person Company, the resolution is communicated by the member to the company and entered in the minutes-book required to be maintained under section 118 and signed and dated by the member and such date shall be deemed to be the date of the meeting for all the purposes under this Act.

(*4*) Notwithstanding anything in this Act, where there is only one director on the Board of Director of a One Person Company, any business which is required to be transacted at the meeting of the Board of Directors of a company, it shall be sufficient if, in case of such One Person Company, the resolution by such director is entered in the minutes-book required to be maintained under section 118 and signed and dated by such director and such date shall be deemed to be the date of the meeting of the Board of Directors for all the purposes under this Act.

CHAPTER VIII

DECLARATION AND PAYMENT OF DIVIDEND

123. *Declaration of dividend.*— (*1*) No dividend shall be declared or paid by a company for any financial year except—

(*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 both; or

(*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:

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:

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:

Provided also that no dividend shall be declared or paid by a company from its reserves other than free reserves.

(*2*) For the purposes of clause (*a*) of sub-section (*1*), depreciation shall be provided in accordance with the provisions of Schedule II.

(*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.

(*4*) The amount of the dividend, including interim dividend, shall be deposited in a scheduled bank in a separate account within five days from the date of declaration of such dividend.

(*5*) No dividend shall be paid by a company in respect of any share therein except to the registered shareholder of such share or to his order or to his banker and shall not be payable except in cash:

Provided that nothing in this sub-section shall be deemed to prohibit the capitalisation of profits or reserves of a company for the purpose of issuing fully paid-up bonus shares or paying up any amount for the time being unpaid on any shares held by the members of the company:

Provided further that any dividend payable in cash may be paid by cheque or warrant or in any electronic mode to the shareholder entitled to the payment of the dividend.

(*6*) A company which fails to comply with the provisions of sections 73 and 74 shall not, so long as such failure continues, declare any dividend on its equity shares.

124. *Unpaid dividend Account.* —(*1*) Where a dividend has been declared by a company but has not been paid or claimed within thirty days from the date of the declaration to any shareholder entitled to the payment of the dividend, the company shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in that behalf in any scheduled bank to be called the Unpaid Dividend Account.

(*2*) The company shall, within a period of ninety days of making any transfer of an amount under sub-section (1) to the Unpaid Dividend Account, prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the website of the company, if any, and also on any other website approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed.

(*3*) If any default is made in transferring the total amount referred to in sub-section (*1*) or any part thereof to the Unpaid Dividend Account of the company, it shall pay, from the date of such default, interest on so much of the amount as has not been transferred to the said account, at the rate of twelve per cent. per annum and the interest accruing on such amount shall enure to the benefit of the members of the company in proportion to the amount remaining unpaid to them.

(*4*) Any person claiming to be entitled to any money transferred under sub-section (*1*) to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed.

(*5*) Any money transferred to the Unpaid Dividend Account of a company in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company along with interest accrued, if any, thereon to the Fund established under sub-section (*1*) of section 125 and the company shall send a statement in the prescribed form of the details of such transfer to the authority which administers the said Fund and that authority shall issue a receipt to the company as evidence of such transfer.

(*6*) All shares in respect of which unpaid or unclaimed dividend has been transferred under sub-section (*5*) shall also be transferred by the company in the name of Investor Education and Protection Fund along with a statement containing such details as may be prescribed:

Provided that any claimant of shares transferred above shall be entitled to claim the transfer of shares from Investor Education and Protection Fund in accordance with such procedure and on submission of such documents as may be prescribed.

(*7*) If a company fails to comply with any of the requirements 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 every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

125. *Investor Education and Protection Fund.*—(*1*) The Central Government shall establish a Fund to be called the Investor Education and Protection Fund (herein referred to as the Fund).

(*2*) There shall be credited to the Fund—

(*a*) the amount given by the Central Government by way of grants after due appropriation made by Parliament by law in this behalf for being utilised for the purposes of the Fund;

(*b*) donations given to the Fund by the Central Government, State Governments, companies or any other institution for the purposes of the Fund;

(*c*) the amount in the Unpaid Dividend Account of companies transferred to the Fund under sub-section (*5*) of section 124;

(*d*) the amount in the general revenue account of the Central Government which had been transferred to that account under sub-section (5) of section 205A of the Companies Act, 1956 (1 of 1956) as it stood immediately before the commencement of the Companies (Amendment) Act, 1999 (21 of 1999) and remaining unpaid or unclaimed on the commencement of this Act;

(*e*) the amount lying in the Investor Education and Protection Fund under section 205C of the Companies Act, 1956 (1 of 1956);

(*f*) the interest or other income received out of investments made from the Fund;

(*g*) the amount received under sub-section (*4*) of section 38;

(*h*) the application money received by companies for allotment of any securities and due for refund;

(*i*) matured deposits with companies other than banking companies;

(*j*) matured debentures with companies;

(*k*) interest accrued on the amounts referred to in clauses (*h*) to (*j*);

(*l*) sale proceeds of fractional shares arising out of issuance of bonus shares, merger and amalgamation for seven or more years;

(*m*) redemption amount of preference shares remaining unpaid or unclaimed for seven or more years; and

(*n*) such other amount as may be prescribed:

Provided that no such amount referred to in clauses (*h*) to (*j*) shall form part of the Fund unless such amount has remained unclaimed and unpaid for a period of seven years from the date it became due for payment.

(*3*) The Fund shall be utilised for—

(*a*) the refund in respect of unclaimed dividends, matured deposits, matured debentures, the application money due for refund and interest thereon;

(*b*) promotion of investors' education, awareness and protection;

(*c*) distribution of any disgorged amount among eligible and identifiable applicants for shares or debentures, shareholders, debenture-holders or depositors who have suffered losses due to wrong actions by any person, in accordance with the orders made by the Court which had ordered disgorgement;

(*d*) reimbursement of legal expenses incurred in pursuing class action suits under sections 37 and 245 by members, debenture-holders or depositors as may be sanctioned by the Tribunal; and

(*e*) any other purpose incidental thereto,

in accordance with such rules as may be prescribed:

Provided that the person whose amounts referred to in clauses (*a*) to (*d*) of sub-section (2) of section 205C transferred to Investor Education and Protection Fund, after the expiry of the period of seven years as per provisions of the Companies Act, 1956 (1 of 1956) shall be entitled to get refund out of the Fund in respect of such claims in accordance with rules made under this section.

Explanation.—The disgorged amount refers to the amount received through disgorgement or disposal of securities.

(*4*) Any person claiming to be entitled to the amount referred in sub-section (*2*) may apply to the authority constituted under sub-section (*5*) for the payment of the money claimed.

(*5*) The Central Government shall constitute, by notification, an authority for administration of the fund consisting of a chairperson and such other members, not exceeding seven and a chief executive officer, as the Central Government may appoint.

(*6*) The manner of administration of the fund, appointment of chairperson, members and chief executive officer, holding of meetings of the authority shall be in accordance with such rules as may be prescribed.

(*7*) The Central Government may provide to the authority such offices, officers, employees and other resources in accordance with such rules as may be prescribed.

(*8*) The authority shall administer the fund and maintain separate accounts and other relevant records in relation to the fund in such form as may be prescribed after consultation with the Comptroller and Auditor-General of India.

(*9*) It shall be competent for the authority constituted under sub-section (*5*) to spend money out of the Fund for carrying out the objects specified in sub-section (*3*).

(*10*) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually by the authority to the Central Government.

(*11*) The authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.

126. *Right to dividend, rights shares and bonus shares to be held in abeyance pending registration of transfer of shares.*— Where any instrument of transfer of shares has been delivered to any company for registration and the transfer of such shares has not been registered by the company, it shall, notwithstanding anything contained in any other provision of this Act,—

(*a*) transfer the dividend in relation to such shares to the Unpaid Dividend Account referred to in section 124 unless the company is authorised by the registered holder of such shares in writing to pay such dividend to the transferee specified in such instrument of transfer; and

(*b*) keep in abeyance in relation to such shares, any offer of rights shares under clause (*a*) of sub-section (*1*) of section 62 and any issue of fully paid-up bonus shares in pursuance of first proviso to sub-section (*5*) of section 123.

127. *Punishment for failure to distribute dividends.*—Where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within thirty days from the date of declaration to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment which may extend to two years and with fine which shall not be less than one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of eighteen per cent. per annum during the period for which such default continues:

Provided that no offence under this section shall be deemed to have been committed:—

(*a*) where the dividend could not be paid by reason of the operation of any law;

(*b*) where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with and the same has been communicated to him;

(c) where there is a dispute regarding the right to receive the dividend;

(d) where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder; or

(e) where, for any other reason, the failure to pay the dividend or to post the warrant within the period under this section was not due to any default on the part of the company.

CHAPTER IX

ACCOUNTS OF COMPANIES

128. *Books of account etc., to be kept by company.*—*(1)* Every company shall prepare and keep at its registered office books of account and other relevant books and papers and financial statement for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any, and explain the transactions effected both at the registered office and its branches and such books shall be kept on accrual basis and according to the double entry system of accounting:

Provided that all or any of the books of account aforesaid and other relevant papers may be kept at such other place in India as the Board of Directors may decide and where such a decision is taken, the company shall, within seven days thereof, file with the Registrar a notice in writing giving the full address of that other place:

Provided further that the company may keep such books of account or other relevant papers in electronic mode in such manner as may be prescribed.

(2) Where a company has a branch office in India or outside India, it shall be deemed to have complied with the provisions of sub-section *(1)*, if proper books of account relating to the transactions effected at the branch office are kept at that office and proper summarised returns periodically are sent by the branch office to the company at its registered office or the other place referred to in sub-section *(1)*.

(3) The books of account and other books and papers maintained by the company within India shall be open for inspection at the registered office of the company or at such other place in India by any director during business

hours, and in the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions as may be prescribed:

Provided that the inspection in respect of any subsidiary of the company shall be done only by the person authorised in this behalf by a resolution of the Board of Directors.

(*4*) Where an inspection is made under sub-section *(3)*, the officers and other employees of the company shall give to the person making such inspection all assistance in connection with the inspection which the company may reasonably be expected to give.

(*5*) The books of account of every company relating to a period of not less than eight financial years immediately preceding a financial year, or where the company had been in existence for a period less than eight years, in respect of all the preceding years together with the vouchers relevant to any entry in such books of account shall be kept in good order:

Provided that where an investigation has been ordered in respect of the company under Chapter XIV, the Central Government may direct that the books of account may be kept for such longer period as it may deem fit.

(*6*) If the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person of a company charged by the Board with the duty of complying with the provisions of this section, contravenes such provisions, such managing director, whole-time director in charge of finance, Chief Financial officer or such other person of the company shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.

129. *Financial statement.—(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 forms as may be provided for different class or classes of companies in Schedule III:

Provided that the items contained in such financial statements shall be in accordance with the accounting standards:

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:

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—

(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);

(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);

(c) in the case of a 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);

(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.

(*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.

(*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*):

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:

Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed.

Explanation.—For the purposes of this sub-section, the word "subsidiary" shall include associate company and joint venture.

(*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*).

(*5*) Without prejudice to sub-section *(1)*, where the financial statements of a company do not comply with the accounting standards referred to in sub-section *(1)*, the company shall disclose in its financial statements, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.

(*6*) The Central Government may, on its own or on an application by a class or classes of companies, by notification, exempt any class or classes of companies from complying with any of the requirements of this section or the rules made thereunder, if it is considered necessary to grant such exemption in the public interest and any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification.

(*7*) If a company contravenes the provisions of this section, the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person charged by the Board with the duty of complying with the requirements of this section and in the absence of any of the officers mentioned above, all the directors shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Explanation.—For the purposes of this section, except where the context otherwise requires, any reference to the financial statement shall include any notes annexed to or forming part of such financial statement, giving information required to be given and allowed to be given in the form of such notes under this Act.

130. *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 the Tribunal to the effect that—

(i) the relevant earlier accounts were prepared in a fraudulent manner; or

(ii) the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statement:

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 regulatory body or authority concerned and shall take into consideration the representations, if any, made by that Government or the authorities, Securities and Exchange Board or the body or authority concerned before passing any order under this section.

(*2*) Without prejudice to the provisions contained in this Act the accounts so revised or re-cast under sub-section (*1*) shall be final.

131. *Voluntary revision of financial statements or Board's report.*—(*1*) If it appears to the directors of a company that—

(a) the financial statement of the company; or

(b) the report of the Board,

do not comply with the provisions of section 129 or section 134 they may prepare revised financial statement or a revised report in respect of any of the three preceding financial years after obtaining approval of the Tribunal on an application made by the company in such form and manner as may be prescribed and a copy of the order passed by the Tribunal shall be filed with the Registrar:

Provided that the Tribunal shall give notice to the Central Government and the Income-tax authorities and shall take into consideration the representations, if any, made by that Government or the authorities before passing any order under this section:

Provided further that such revised financial statement or report shall not be prepared or filed more than once in a financial year:

Provided also that the detailed reasons for revision of such financial statement or report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made.

(*2*) Where copies of the previous financial statement or report have been sent out to members or delivered to the Registrar or laid before the company in general meeting, the revisions must be confined to—

(a) the correction in respect of which the previous financial statement or report do not comply with the provisions of section 129 or section 134; and

(b) the making of any necessary consequential alternation.

(*3*) The Central Government may make rules as to the application of the provisions of this Act in relation to revised financial statement or a revised director's report and such rules may, in particular—

(a) make different provisions according to which the previous financial statement or report are replaced or are supplemented by a document indicating the corrections to be made;

(b) make provisions with respect to the functions of the company's auditor in relation to the revised financial statement or report;

(c) require the directors to take such step as may be prescribed.

132. *Constitution of National Financial Reporting Authority.—(1)* The Central Government may, by notification, constitute a National Financial Reporting Authority to provide for matters relating to accounting and auditing standards under this Act.

(*2*) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—

(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;

(b) monitor and enforce the compliance with accounting standards and auditing standards in such manner as may be prescribed;

(*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

(*d*) perform such other functions relating to clauses *(a)*, *(b)* and *(c)* as may be prescribed.

(*3*) The National Financial Reporting Authority shall consist of a chairperson, who shall be a person of eminence and having expertise in accountancy, 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:

Provided that the terms and conditions and the manner of appointment of the chairperson and members shall be such as may be prescribed:

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:

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.

(*4*) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—

(a) have the power to investigate, either *suo motu* or on a reference 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;

(*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:—

(*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;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person 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 ten lakh rupees, but which may extend to ten times of the fees received, in case of firms;

(*B*) debarring the member or the firm from engaging himself or itself from practice as member of the Institute of Chartered Accountant of India referred to in clause *(e)* of sub-section *(1)* of section 2 of the Chartered Accountants Act, 1949 (38 of 1949), for a minimum period of six months or for such higher period not exceeding ten years as may be decided by the National Financial Reporting Authority.

Explanation.—For the purposes of his sub-section, the expression "professional or other misconduct" shall have the same meaning assigned to it under section 22 of the Chartered Accountants Act, 1949 (38 of 1949).

(*5*) Any person aggrieved by any order of the National Financial Reporting Authority issued under clause (c) of sub-section *(4)*, may prefer an appeal before the Appellate Authority constituted under sub-section *(6)* in such manner as may be prescribed.

(*6*) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, an Appellate Authority consisting of a Chairperson and not more then two other members, to be appointed by the Central Government, for hearing appeals arising out of the orders of the National Financial Reporting Authority.

(*7*) The qualifications for appointment of the chairperson and members of the Appellate Authority, the manner of selection, the terms and conditions of their service and the requirement of the supporting staff and procedure (including places of hearing the appeals, form and manner in which the appeals shall be filed) to be followed by the Appellate Authority shall be such as may be prescribed.

(*8*) The fee for filing the appeal shall be such as may be prescribed.

(*9*) The officer authorised by the Appellate Authority shall prepare in such form and at such time as may be prescribed its annual report giving a full account of its activities and forward a copy thereof to the Central Government and the Central Government shall cause the annual report to be laid before each House of Parliament.

(*10*) The National Financial Reporting Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings in such manner as may be prescribed.

(*11*) The Central Government may appoint a secretary and such other employees as it may consider necessary for the efficient performance of functions by the National Financial Reporting Authority under this Act and the terms and conditions of service of the secretary and employees shall be such as may be prescribed.

(*12*) The head office of the National Financial Reporting Authority shall be at New Delhi and the National Financial Reporting Authority may, meet at such other places in India as it deems fit.

(*13*) The National Financial Reporting Authority shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as the Central Government may, in consultation with the Comptroller and Auditor-General of India prescribe.

(*14*) The accounts of the National Financial Reporting Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such accounts as certified by the Comptroller and Auditor-General of India together with the audit report thereon shall be forwarded annually to the Central Government by the National Financial Reporting Authority.

(*15*) The National Financial Reporting Authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy

thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.

133. *Central Government to prescribe accounting standards.*—The Central Government may prescribe the standards of accounting 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.

134. *Financial Statement, Board's report, etc.*—(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 director, for submission to the auditor for his report thereon.

(2) The auditors' report shall be attached to every financial statement.

(3) There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include—

(a) the extract of the annual return as provided under sub-section *(3)* of section 92;

(b) number of meetings of the Board;

(c) Directors' Responsibility Statement;

(d) a statement on declaration given by independent directors under sub-section *(6)* of section 149;

(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;

(f) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made—

(i) by the auditor in his report; and

(ii) by the company secretary in practice in his secretarial audit report;

(g) particulars of loans, guarantees or investments under section 186;

(h) particulars of contracts or arrangements with related parties referred to in sub-section *(1)* of section 188 in the prescribed form;

(i) the state of the company's affairs;

(j) the amounts, if any, which it proposes to carry to any reserves;

(k) the amount, if any, which it recommends should be paid by way of dividend;

(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;

(m) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed;

(n) a statement indicating development and 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;

(o) the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;

(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 annual evaluation has been made by the Board of its own performance and that of its committees and individual directors;

(q) such other matters as may be prescribed.

(4) The report of the Board of Directors to be attached to the financial statement under this section shall, in case of a One Person Company, mean a report containing explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report.

(5) The Directors' Responsibility Statement referred to in clause *(c)* of sub-section (3) shall state that—

(a) in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;

(b) the directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period;

(c) the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;

(d) the directors had prepared the annual accounts on a going concern basis; and

(e) the directors, in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.

Explanation.—For the purposes of this clause, the term "internal financial controls" means the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its business, including adherence to company's policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information;

(f) the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.

(6) The Board's report and any annexures thereto under sub-section (3) shall be signed by its chairperson of the company if he is authorised by the

Board and where he is not so authorised, shall be signed by at least two directors, one of whom shall be a managing director, or by the director where there is one director.

(7) A signed copy of every financial statement, including consolidated financial statement, if any, shall be issued, circulated or published along with a copy each of—

(a) any notes annexed to or forming part of such financial statement;

(b) the auditor's report; and

(c) the Board's report referred to in sub-section (*3*).

(8) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-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 three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

135. *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 any financial year 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 an independent director.

(*2*) The Board's report under sub-section (*3*) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.

(*3*) The Corporate Social Responsibility Committee shall,—

(a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;

(b) recommend the amount of expenditure to be incurred on the activities referred to in clause *(a)*; and

(c) monitor the Corporate Social Responsibility Policy of the company from time to time.

(*4*) The Board of every company referred to in sub-section *(1)* shall,—

(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

(b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

(*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:

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:

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.

Explanation.—For the purposes of this section "average net profit" shall be calculated in accordance with the provisions of section 198.

136. *Right of member to copies of audited financial statement.*—*(1)* Without prejudice to the provisions of section 101, 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:

Provided that 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 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:

Provided further 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:

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 :

Provided also that every company having a subsidiary or subsidiaries shall,—

(a) place separate audited accounts in respect of each of its subsidiary on its website, if any ;

(b) provide a copy of separate audited financial statements in respect of each of its subsidiary, to any shareholder of the company who asks for it.

(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.

(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.

137. *Copy of financial statement to be filed with Registrar.*— *(1)* A copy of the finacial 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:

Provided that where the financial statements under 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:

Provided also that a company shall, along 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.

(2) Where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (I), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under section 403.

(3) If a company fails to file the copy of the financial statements under sub-section (I) or sub-section (2), as the case may be, before the expiry of the period specified in section 403, the company shall be punishable with fine of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the managing director and the Chief Financial Officer of the cpmpany, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, 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.

138. *Internal Audit—(1)* Such class or classes of companies as may be prescribed shall be required to appoint an internal auditor, who shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.

(2) The Central Government may, by rules, prescribe the manner and the intervals in which the internal audit shall be conducted and reported to the Board.

CHAPTER X

AUDIT AND AUDITORS

139. *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:

Provided that the company shall place the matter relating to such appointment for ratification by members at every annual general meeting:

Provided further that before such appointment is made, the written consent of the auditor to such appointment, and a certificate from him or it that the appointment, if made, shall be in accordance with the conditions as may be prescribed, shall be obtained from the auditor:

Provided also that the certificate shall also indicate whether the auditor satisfies the criteria provided in section 141 :

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.

Explanation.—For the purposes of this Chapter, "appointment" includes re-appointment.

(2) No listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint—

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

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

Provided that—

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

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

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

Provided also that every company, existing on or before the commencement of this Act which is required to comply with provisions of this sub-section, shall comply with the requirements of this sub-section within three years from the date of commencement of this Act:

Provided also that, nothing contained in this sub-section shall prejudice the right of the company to remove an auditor or the right of the auditor to resign from such office of the company.

(3) Subject to the provisions of this Act, members of a company may resolve to provide that—

(a) in the audit firm appointed by it, the auditing partner and his team shall be rotated at such intervals as may be resolved by members; or

(b) the audit shall be conducted by more than one auditor.

(4) The Central Government may, by rules, prescribe the manner in which the companies shall rotate their auditors in pursuance of sub-section (2).

Explanation.—For the purposes of this Chapter, the word "firm" shall include a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008 (6 of 2009).

(5) Notwithstanding anything contained in sub-section (1), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor-General of India shall, in respect of a financial year, appoint an auditor duly qualified to be appointed as an auditor of companies under this Act, within a period of one hundred and eighty days from the commencement of the financial year, who shall hold office till the conclusion of the annual general meeting.

(6) Notwithstanding anything contained in sub-section (1), the first auditor of a company, other than a Government company, shall be appointed by the Board of Directors within thirty days from the date of registration of the company and in the case of failure of the Board to appoint such auditor, it shall inform the members of the company, who shall within ninety days at an extraordinary general meeting appoint such auditor and such auditor shall hold office till the conclusion of the first annual general meeting.

(7) Notwithstanding anything contained in sub-section (1) or sub-section (5), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government, or Governments, or partly by the Central Government and partly by one or more State Governments, the first auditor shall be appointed by the Comptroller and Auditor-General of India within sixty days from the date of registration of the company and in case the Comptroller and Auditor-General of India does not appoint such auditor within the said period, the Board of Directors of the company shall appoint such auditor within the next thirty days; and in the case of failure of the Board to appoint such auditor within the next thirty days, it shall inform the members of the company who shall appoint such auditor within the sixty days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting.

(8) Any casual vacancy in the office of an auditor shall—

(i) in the case of a company other than a company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Board of Directors within thirty days, but if such casual vacancy is as a result of the resignation of an auditor, such appointment shall also be approved by the company at a general meeting convened within three months of the recommendation of the Board and he shall hold the office till the conclusion of the next annual general meeting;

(ii) in the case of a company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Comptroller and Auditor-General of India within thirty days:

Provided that in case the Comptroller and Auditor-General of India does not fill the vacancy within the said period, the Board of Directors shall fill the vacancy within next thirty days.

(9) Subject to the provisions of sub-section (1) and the rules made thereunder, a retiring auditor may be re-appointed at an annual general meeting, if—

(a) he is not disqualified for re-appointment;

(b) he has not given the company a notice in writing of his unwillingness to be re-appointed; and

(c) a special resolution has not been passed at that meeting appointing some other auditor or providing expressly that he shall not be re-appointed.

(10) Where at any annual general meeting, no auditor is appointed or re-appointed, the existing auditor shall continue to be the auditor of the company.

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

140. *Removal, resignation of auditior 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:

Provided that before taking any action under this sub-section, the auditor concerned shall be given a reasonable opportunity of being heard.

(*2*) The auditor who has resigned from the 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.

(*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 fifty thousand rupees but which may extend to five lakh rupees.

(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.

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

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

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

(b) send a copy of the representation to every member of the company to whom notice of the meeting is sent, whether before or after the receipt of the representation by the company,

and if a copy of the representation is not sent as aforesaid because it was received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representation shall be read out at the meeting:

Provided that if a copy of representation is not sent as aforesaid, a copy thereof shall be filed with the Registrar:

Provided further that if the Tribunal is satisfied on an application either of the company or of any other aggrieved person that the rights conferred by this sub-section are being abused by the auditor, then, the copy of the representation may not be sent and the representation need not be read out at the meeting.

(5) Without prejudice to any action under the provisions of this Act or any other law for the time being in force, the Tribunal either *suo motu* or on an application made to it by the Central Government or by any person concerned, if it is satisfied that the auditor of a company has, whether directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, it may, by order, direct the company to change its auditors:

Provided that if the application is made by the Central Government and the Tribunal is satisfied that any change of the auditor is required, it shall within fifteen days of receipt of such application, make an order that he shall not function as an auditor and the Central Government may appoint another auditor in his place:

Provided further that an auditor, whether individual, or firm, against whom final order has been passed by the Tribunal under this section shall not be eligible to be appointed as an auditor of any company for a period of five years from the date of passing of the order and the auditor shall also be liable for action under section 447.

Explanation I.—It is hereby clarified that the case of a firm, the liability shall be of the firm and that of every partner or partners who acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its director or officers.

Explanation II.—For the purposes of this Chapter the word "auditor" includes a firm of auditors.

141. *Eligibility, qualifications and disqualifications of auditors.—(1)* A person shall be eligible for 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.

(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.

(3) The following persons shall not be eligible for appointment as an auditor of a company, namely:—

(a) a body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009);

(b) an officer or employee of the company;

(c) a person who is a partner, or who is in the employment, of an officer or employee of the company;

(d) a person who, or his relative or partner—

(i) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company:

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;

(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;

(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;

(f) a person whose relative is a director or is in the employment of the company as a director or key managerial personnel;

(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;

(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;

(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.

(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.

142. *Remuneration of auditors.— (1)* The remuneration of the auditor of a company shall be fixed in its general meeting or in such manner as may be determined therein:

Provided that the Board may fix remuneration of the first auditor appointed by it.

(2) The remuneration under sub-section *(1)* shall, in addition to the fee payable to an auditor, include the expenses, if any, incurred by the auditor in connection with the audit of the company and any facility extended to him but does not include any remuneration paid to him for any other service rendered by him at the request of the company.

143. *Powers and duties of auditors and auditing standards.*—(1) Every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company, whether kept at the registered office of the company or at any other place and shall be entitled to require from the officers of the company such information and explanation as he may consider necessary for the performance of his duties as auditor and amongst other matters inquire into the following matters, namely:—

(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;

(b) whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company;

(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;

(d) whether loans and advances made by the company have been shown as deposits;

(e) whether personal expenses have been charged to revenue account;

(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.

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 subsidiaries in so far as it relates to the consolidation of its financial statements with that of its subsidiaries.

(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 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 sub-section *(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.

(3) The auditor's report shall also state—

(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;

(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;

(c) whether the report on the accounts of any 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;

(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;

(e) whether, in his opinion, the financial statements comply with the accounting standards;

(f) the observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company;

(g) whether any director is disqualified from being appointed as a director under sub-section *(2)* of section 164;

(h) any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith;

(i) whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls;

(j) such other matters as may be prescribed.

(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.

(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.

(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,—

(a) conduct a supplementary audit of the financial statement of the company by such person or persons as he may 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

(b) comment upon or supplement such audit report:

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 (/) 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.

(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 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."

(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:

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 who shall deal with it in his report in such manner as he considers necessary.

(9) Every auditor shall comply with the auditing standards.

(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:

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.

(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.

(12) Notwithstanding anything contained in this 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.

(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.

(14) The provisions of this section shall *mutatis mutandis* apply to—

(a) the cost accountant in practice conducting cost audit under section 148; or

(b) the company secretary in practice conducting secretarial audit under section 204.

(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 rupees.

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

(a) accounting and book keeping services;

(b) internal audit;

(c) design and implementation of any financial information system;

(d) actuarial services;

(e) investment advisory services;

(f) investment banking services;

(g) rendering of outsourced financial services;

(h) management services; and

(i) any other kind of services as may be prescribed:

Provided that an auditor or audit firm who or which has been performing any non-audit services on or before the commencement of this Act shall comply with the provisions of this section before the closure of the first financial year after the date of such commencement.

Explanation.—For the purposes of this sub-section, the term "directly or indirectly" shall include rendering of services by the auditor,—

(i) in case of auditor being an individual, either himself or through his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual;

(ii) in case of auditor being a firm, either itself or through any of its partners or through its parent, subsidiary or associate entity or through any other entity, whatsoever, in which the firm or any partner of the firm has significant influence or control, or whose name or trade mark or brand is used by the firm or any of its partners.

145. *Auditor to sign audit reports,—etc.*— The person appointed as an auditor of the company shall sign the auditor's report or sign or certify any other document of the company in accordance with the provisions of sub-section (2) of section 141, and the qualifications, observations or comments on financial transactions or matters, which have any adverse effect on the functioning of the company mentioned in the auditor's report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

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

147. *Punishment 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.

(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 five lakh rupees :

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 and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

(3) Where an auditor has been convicted under sub-section *(2)*, he shall be liable to

(i) refund the remuneration received by him to the company; and

(ii) pay for damages to the company, statutory bodies or authorities or to any other persons for loss arising out of incorrect or misleading statements of particulars made in his audit report.

(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.

(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 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.

148. *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 necessary to do so, it may, by order, direct that the audit of cost records of class of companies, which are covered under sub-section *(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.

(3) The audit under sub-section *(2)* shall be conducted by a Cost Accountant in practice who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed :

Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records:

Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.

Explanation.—For the purposes of this sub-section, the expression "cost auditing standards" mean such standards as are issued by the Institute of Cost and Works Accountants of India, constituted under the Cost and Works Accountants Act, 1959 (23 of 1959) with the approval of the Central Government.

(4) An audit conducted under this section shall be in addition to the audit conducted under Section 143.

(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:

Provided that the report on the audit of cost records shall be submitted by the cost accountant in practice to the Board of Directors of the company.

(6) A company shall within thirty days from the date of receipt of a copy of the cost audit report prepared in pursuance of a direction under sub-section *(2)* furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein.

(7) If, after considering the cost audit report referred to under this section and the information and explanation furnished by the company under sub-section *(6)*, the Central Government is of the opinion that any further information or explanation is necessary, it may call for such further information and explanation and the company shall furnish the same within such time as may be specified by that Government.

(8) If any default is made in complying with the provisions of this section,—

(a) the company and every officer of the company who is in default shall be punishable in the manner as provided in sub-section (1) of section 147;

(b) the cost auditor of the company who is in default shall be punishable in the manner as provided in sub-sections *(2)* to *(4)* of Section 147.

CHAPTER XI

APPOINTMENT AND QUALIFICATIONS OF DIRECTORS

149. *Company to have Board of Directors.*—*(1)* Every company shall have a Board of Directors consisting of individuals as directors and shall have—

(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

(b) a maximum of fifteen directors :

Provided that a company may appoint more than 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.

(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)*.

(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.

(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.

Explanation.—For the purposes of this sub-section, any fraction contained in such one-third number shall be rounded off as one.

(5) Every company existing on or before the date of commencement of 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)*.

(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,—

(a) who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;

(b) (*i*) who is or was not a promoter of the company or its holding, subsidiary or associate company;

(*ii*) who is not related to promoters or directors in the company, its holding, subsidiary or associate company;

(c) who has or had no pecuniary relationship 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;

(d) none of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate 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;

(e) who, neither himself nor any of his relatives—

(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;

(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—

(A) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or

(B) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent. or more of the gross turnover of such firm;

(iii) holds together with his relatives two per cent. or more of the total voting power of the company; or

(iv) is a Chief Executive or director, by whatever name called, of any non-profit organisation that receives twenty-five per cent. or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. or more or the total voting power of the company; or

(f) who possesses such other qualifications as may be prescribed.

(7) Every independent 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 circumstances which may affect his status as an independent director, give a declaration that he meets the criteria of independence as provided in sub-section *(6)*.

Explanation.—For the purposes of this section, "nominee director" means a director nominated by any financial institution in pursuance of the provisions of any law for the time being in force, or of any agreement, or appointed by any Govemment, or any other person to represent its interests.

(8) The company and independent directors shall abide by the provisions specified in Schedule IV.

(9) Notwithstanding anything contained in any other provision of this Act, but subject to the provisions of sections 197 and 198, an independent director shall not be entitled to any stock option and may receive remuneration by way of fee provided under sub-section (5) of section 197, reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.

(10) Subject to the provisions of section 152, an independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for re-appointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.

(11) Notwithstanding anything contained in sub-section *(10)*, no independent director shall hold office for more than two consecutive terms, but such independent director shall be eligible for appointment after the expiration of three years of ceasing to become an independent director:

Provided that an independent director shall not, during the said period of three years, be appointed in or be associated with the company in any other capacity, either directly or indirectly.

Explanation.—For the purposes of sub-sections *(10)* and *(11)*, any tenure of an independent director on the date of commencement of this Act shall not be counted as a term under those sub-sections.

(12) Notwithstanding anything contained in this Act,—

(i) an independent director;

(ii) a non-executive director not being promoter or key managerial personnel,

shall be held liable, only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently.

(13) The provisions of sub-sections (*6*) and (*7*) of section 152 in respect of retirement of directors by rotation shall not be applicable to appointment of independent directors.

150. *Manner of selection of independent directors and maintenance of data bank of independent directors.— (1)* Subject to the provisions contained in sub-section (*5*) of section 149, an independent director may be selected from a data bank containing names, addresses and qualifications of persons who are eligible and willing to act as independent directors, maintained by any body, institute or association, as may by notified by the Central Government, having expertise in creation and maintenance of such data bank and put on their website for the use by the company making the appointment of such directors:

Provided that responsibility of exercising due diligence before selecting a person from the data bank referred to above, as an independent director shall lie with the company making such appointment.

(2) The appointment of independent director shall be approved by the company in general meeting as provided in sub-section *(2)* of section 152 and the explanatory statement annexed to the notice of the general meeting called to consider the said appointment shall indicate the justification for choosing the appointee for appointment as independent director.

(3) The data bank referred to in sub-section *(1)*, shall create and maintain data of persons willing to act as independent director in accordance with such rules as may be prescribed.

(4) The Central Government may prescribe the manner and procedure of selection of independent directors who fulfil the qualifications and requirements specified under section 149.

151. *Appointment of director elected by small shareholders.*—A listed company may have one director elected by such small shareholders in such manner and with such terms and conditions as may be prescribed.

Explanation.—For the purposes of this section "small shareholders" means a shareholder holding shares of nominal value of not more than twenty thousand rupees or such other sum as may be prescribed.

152. *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 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.

(2) Save as otherwise expressly provided in this Act, every director shall be appointed by the company in general meeting.

(3) No person shall be appointed as a director of a company unless he has been allotted the Director Identification number under section 154.

(4) Every person proposed to be appointed as a director by the company in general meeting or otherwise, shall furnish his Director Identification Number and a declaration that he is not disqualified to become a director under this Act.

(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:

Provided that in the case of appointment of an 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.

(6) (a) Unless the articles provide for the retirement of all directors at every annual general meeting, not less than two-thirds of the total number of directors of a public company shall—

(i) be persons whose period of office is liable to determination by retirement of directors by rotation; and

(ii) save as otherwise expressly provided in this Act, be appointed by the company in general meeting.

(b) The remaining directors in the case of any such company shall, in default of, and subject to any regulations in the articles of the company, also be appointed by the company in general meeting.

(c) At the first annual general meeting of a public company held next after the date of the general meeting at which the first directors are appointed in accordance with clauses *(a)* and *(b)* and at every subsequent annual general meeting, one-third of such of the directors for the time being as are liable to retire by rotation, or if their number is neither three nor a multiple of three, then, the number nearest to one-third, shall retire from office.

(d) The directors to retire by rotation at every annual general meeting shall be those who have been longest in office since their last appointment but as between persons who became directors on the same day, those who are to retire shall, in default of and subject to any agreement among themselves, be determined by lot.

(e) At the annual general meeting at which a director retires as aforesaid, the company may fill up the vacancy by appointing the retiring director or some other person thereto.

Explanation.—For the purposes of this sub-section, "total number of directors" shall not include independent directors, whether appointed under this Act or any other law for the time being in force, on the Board of a company.

(7) (a) If the vacancy of the retiring director is not so filled-up and the meeting has not expressly resolved not to fill the vacancy, the meeting shall stand adjourned till the same day in the next week, at the same time and place, or if that day is a national holiday, till the next succeeding day which is not a holiday, at the same time and place.

(b) If at the adjourned meeting also, the vacancy of the retiring director is not filled up and that meeting also has not expressly resolved not to till the vacancy, the retiring director shall be deemed to have been re-appointed at the adjourned meeting, unless—

(i) at that meeting or at the previous meeting a resolution for the re-appointment of such director has been put to the meeting and lost;

(ii) the retiring director has, by a notice in writing addressed to the company or its Board of directors, expressed his unwillingness to be so re-appointed;

(iii) he is not qualified or is disqualified for appointment;

(iv) a resolution, whether special or ordinary, is required for his appointment or re-appointment by virtue of any provisions of this Act; or

(v) section 162 is applicable to the case.

Explanation.—For the purposes of this section and section 160, the expression "retiring director" means a director retiring by rotation.

153. *Application for allotment of Director Identification Number.*—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.

154. *Allotment of Director Identification Number.*—The Central Government shall, within one month from the receipt of the application under section 153, allot a Director Identification Number to an applicant in such manner as may be prescribed.

155. *Prohibition to obtain more than one Director Identification Number.*—No individual, who has already been allotted a Director Identification Number under section 154, shall apply for, obtain or possess another Director Identification Number.

156. *Director to intimate Director Identification Number.*—Every existing director shall, within one month of the receipt of Director Identification Number from the Central Government, intimate his Director Identification Number to the company or all companies wherein he is a director.

157. *Company to inform Director Identification Number to Registrar.*—*(1)* Every company shall, within fifteen days of the receipt of intimation under section 156; furnish the Director Identification Number of all its directors to the Registrar or any other officer or authority as may be specified by the Central Government with such fees as may be prescribed or with such additional fees as may be prescribed within the time specified under section 403 and every such intimation shall be furnished in such form and manner as may be prescribed.

(2) If a company fails to furnish Director Identification Number under sub-section *(1)*, before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

158. *Obligation to Indicate Director dentification Number.*—Every person or company, while furnishing any return, information or particulars as are required to be furnished under this Act, shall mention the Director Identification Number in such return, information or particulars in case such return, information or particulars relate to the director or contain any reference of any director.

159. *Punishment for contravention.*—If any individual or director of a company, contravenes any of the provisions of section 152, section 155 and section 156, such individual or director of the company shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which the contravention continues.

160. *Right of persons other than retiring directors to stand for directorship.—(1)* 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 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.

(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.

161. *Appointment of additional director, alternate director and nominee director.—(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 annual general meeting should have been held, whichever is earlier.

(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 alternate directorship for any other director in the company, to act as an alternate director for a director during his absence for a period of not less than three months from India:

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:

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:

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 directors in default of another appointment shall apply to the original, and not to the alternate director.

(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.

(4) In the case of a public company, 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 may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board:

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.

162. *Appointment of directors to be voted individually.—(1)* At a general meeting of a company, a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be moved unless a proposal to move such a motion has first been agreed to at the meeting without any vote being cast against it.

(2) A resolution moved in contravention of sub-section (1) shall be void, whether or not any objection was taken when it was moved.

(3) A motion for approving a person for appointment, or for nominating a person for appointment as a director, shall be treated as a motion for his appointment.

163. *Option to adopt principle of proportional represenation for appointment of directors.*—Notwithstanding anything contained in this Act, the articles of a company may provide for the appointment of not less than two-thirds of the total number of the directors of a company in accordance with the principle of proportional representation, whether by the single transferable vote or by a system of cumulative voting or otherwise and such appointments may be made once in every three years and casual vacancies of such directors shall be filled as provided in sub-section (4) of section 161.

164. *Disqualifications for appointment of director.*— *(1)* A person shall not be eligible for appointment as a director of a company, if—

(a) he is of unsound mind and stands so declared by a competent court;

(b) he is an undischarged insolvent;

(c) he has applied to be adjudicated as an insolvent and his application is pending;

(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:

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;

(e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;

(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;

(g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or

(h) he has not complied with sub-section *(3)* of section 152.

(2) No person who is or has been a director of a company which—

(a) has not filed financial statements or annual returns for any continuous period of three financial years; or

(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,

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.

(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)*:

Provided that the disqualifications referred to in clauses *(d)*, *(e)* and *(g)* of sub-section *(1)* shall not take effect—

(*i*) for thirty days from the date of conviction or order of disqualification;

(*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

(*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.

165. *Number of directorships.*—*(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:

Provided that the maximum number of public companies in which a person can be appointed as a director shall not exceed ten.

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 public company shall be included.

(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.

(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,—

(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;

(b) resign his office as director in the other remaining companies; and

(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.

(4) Any resignation made in pursuance of clause *(b)* of sub-section (3) shall become effective immediately on the despatch thereof to the company concerned.

(5) No such person shall act as director in more than the specified number of companies,—

(a) after despatching the resignation of his office as director or non-executive director thereof, in pursuance of clause *(b)* of sub-section *(3)*; or

(b) after the expiry of one year from the commencement of this Act, whichever is earlier.

(6) If a person accepts an appointment as a director in contravention of sub-section *(1)*, he shall be punishable with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees for every day after the first during which the contravention continues.

166. *Duties of Directors.—(1)* Subject to the provisions of this Act, a director of a company shall act in accordance with the articles of the company.

(2) A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.

(3) A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.

(4) A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.

(5) A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.

(6) A director of a company shall not assign his office and any assignment so made shall be void.

(7) If a director of the company contravenes the provisions of this section such director shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

167. *Vacation of Office of director.—(1)* The office of a director shall become vacant in case—

(a) he incurs any of the disqualifications specified in section 164;

(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;

(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;

(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;

(e) he becomes disqualified by an order of a court or the Tribunal;

(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:

Provided that the office shall be vacated by the director even if he has filed an appeal against the order of such court;

(g) he is removed in pursuance of the provisions of this Act;

(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.

(2) If a person, functions as a director even when he knows that the office of director held by him has become vacant on account of any of the disqualifications specified in sub-section *(1)*, he shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

(3) Where all the directors of a company vacate their offices under any of the disqualifications specified in sub-section (1), the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in the general meeting.

(4) A private company may, by its articles, provide any other ground for the vacation of the office of a director in addition to those specified in sub-section *(1)*.

168. *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:

Provided that a director shall also forward 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.

(2) The resignation of a director shall take effect from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later:

Provided that the director who has resigned shall be liable even after his resignation for the offences which occurred during his tenure.

(3) Where all the directors of a company resign from their offices, or vacate their offices under section 167, the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in general meeting.

169. *Removal of directors.—(1)* A company may, by ordinary resolution, remove a director, not being a director appointed by the Tribunal under section 242, before the expiry of the period of his office after giving him a reasonable opportunity of being heard:

Provided that nothing contained in this sub-section shall apply where the company has availed itself of the option given to it under section 163 to appoint not less than two-thirds of the total number of directors according to the principle of proportional representation.

(2) A special notice shall be required of any resolution, to remove a director under this section, or to appoint somebody in place of a director so removed, at the meeting at which he is removed.

(3) On receipt of notice of a resolution to remove a director under this section, the company shall forthwith send a copy thereof to the director concerned, and the director, whether or not he is a member of the company, shall be entitled to be heard on the resolution at the meeting.

(4) Where notice has been given of a resolution to remove a director under this section and the director concerned makes with respect thereto representation in writing to the company and requests its notification to members of the company, the company shall, if the time permits it to do so,—

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

(b) send a copy of the representation to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representation by the company),

and if a copy of the representation is not sent as aforesaid due to insufficient time or for the company's default, the director may without prejudice to his right to be heard orally require that the representation shall be read out at the meeting:

Provided that copy of the representation need not be sent out and the representation need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the Tribunal is satisfied that the rights conferred by this sub-section are being abused to secure needless publicity for defamatory matter; and the Tribunal may order the company's costs on the application to be paid in whole or in part by the director notwithstanding that he is not a party to it.

(5) A vacancy created by the removal of a director under this section may, if he had been appointed by the company in general meeting or by the Board, be filled by the appointment of another director in his place at the meeting at which he is removed, provided special notice of the intended appointment has been given under sub-section *(2)*.

(6) A director so appointed shall hold office till the date up to which his predecessor would have held office if he had not been removed.

(7) If the vacancy is not filled under sub-section *(5)*, it may be filled as a casual vacancy in accordance with the provisions of this Act:

Provided that the director who was removed from office shall not be re-appointed as a director by the Board of Directors.

(8) Nothing in this section shall be taken—

(a) as depriving a person removed under this section of any compensation or damages payable to him in respect of the termination of his appointment as director as per the terms of contract or terms of his appointment as director, or of any other appointment terminating with that as director; or

(b) as derogating from any power to remove a director under other provisions of this Act.

170. *Register of directors and key managerial personnel and their shareholding.—(1)* Every company shall keep at its registered office a register containing such particulars of its directors and key managerial personnel as may be prescribed, which shall include the details of securities held by each of them in the company or its holding, subsidiary, subsidiary of company's holding company or associate companies.

(2) A return containing such particulars and documents as may be prescribed, of the directors and the key managerial personnel shall be filed with the Registrar within thirty days from the appointment of every director and key managerial personnel, as the case may be, and within thirty days of any change taking place.

171. *Members right to inspect.— (1)* The register kept under sub-section *(1)* of section 170,—

(a) shall be open for inspection during business hours and the members shall have a right to take extracts therefrom and copies thereof, on a request by the members, be provided to them free of cost within thirty days; and

(b) shall also be kept open for inspection at every annual general meeting of the company and shall be made accessible to any person attending the meeting.

(2) If any inspection as provided in clause *(a)* of sub-section *(1)* is refused, or if any copy required under that clause is not sent within thirty days from the date of receipt of such request, the Registrar shall on an application made to him order immediate inspection and supply of copies required thereunder.

172. *Punishment.*—If a company contravenes any of the provisions of this Chapter and for which no specific punishment is 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 fifty thousand rupees but which may extend to five lakh rupees.

CHAPTER XII

MEETINGS OF BOARD AND ITS POWERS

173. *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 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 sub-section 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.

(*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:

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.

(*3*) A meeting of the Board shall be called by giving 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:

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:

Provided further that in case of absence of independent directors from such a meeting of the Board, decisions taken at such a meeting shall be circulated to all the directors and shall be final only on ratification thereof by at least one independent director, if any.

(*4*) Every officer of the company whose duty is to give notice under this section and who fails to do so shall be liable to a penalty of twenty-five thousand rupees.

(5) A One Person Company, small company and dormant company shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days:

Provided that nothing contained in this sub-section and in section 174 shall apply to One Person Company in which there is only one director on its Board of Directors.

174. *Quorum for meetings of Board.*—(1) The quorum for a meeting of the Board of Directors of a company shall be one-third of its total strength or two directors, whichever is higher, and the participation of the directors by video conferencing or by other audio visual means shall also be counted for the purposes of quorum under this sub-section.

(2) The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company and for no other purpose.

(3) Where at any time the number of interested directors exceeds or is equal to two-thirds of the total strength of the Board of Directors, the number of directors who are not interested directors and present at the meeting, being not less than two, shall be the quorum during such time.

Explanation.—For the purposes of this sub-section, "interested director" means a director within the meaning of sub-section (2) of section 184.

(4) Where a meeting of the Board could not be held for want of quorum, then, unless the articles of the company otherwise provide, the meeting shall automatically stand adjourned to the same day at the same time and place in the next week or if that day is a national holiday, till the next succeeding day, which is not a national holiday, at the same time and place.

Explanation.—For the purposes of this section,—

(i) any fraction of a number shall be rounded off as one;

(ii) "total strength" shall not include directors whose places are vacant.

175. *Passing of resolution by circulation.*—(1) No resolution shall be deemed to have been duly passed by the Board or by a committee there of by circulation, unless the resolution has been circulated in draft, together with the necessary papers, if any, to all the directors, or members of the committee, as the case may be, at their addresses registered with the company in India by hand delivery or by post or by courier, or through such electronic means as may be prescribed and has been approved by a majority of the directors or members, who are entitled to vote on the resolution:

Provided that, where not less than one-third of the total number of directors of the company for the time being require that any resolution under circulation must be decided at a meeting, the chairperson shall put the resolution to be, decided at a meeting of the Board.

(2) A resolution under sub-section (1) shall be noted at a subsequent meeting of the Board or the committee there of, as the case may be, and made part of the minutes of such meeting.

176. *Defects in appointment of directors not to invalidate actions taken.*—No act done by a person as a director shall be deemed to be invalid, notwithstanding that it was subsequently noticed that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in this Act or in the articles of the company:

Provided that nothing in this section shall be deemed to give validity to any act done by the director after his appointment has been noticed by the company to be invalid or to have terminated.

177. *Audit Committee.*—(1) The Board of Directors of every listed company and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.

(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.

(3) Every Audit Committee of a company existing immediately before the commencement of this Act shall, within one year of such commencement, be reconstituted in accordance with sub-section (2).

(4) Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, *inter alia,* include,—

(i) the recominendation for appointment, remuneration and terms of appointment of auditors of the company;

(ii) review and monitor the auditor's independence and performance, and effectiveness of audit process;

(iii) examination of the financial statement and the auditors' report thereon;

(iv) approval or any subsequent modification of transactions of the company with related parties;

(v) scrutiny of inter-corporate loans and investments;

(vi) valuation of undertakings or assets of the company, wherever it is necessary;

(vii) evaluation of internal financial controls and risk 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 discuss any related issues with the internal and statutory auditors and the management of the company.

(6) The Audit Committee shall have authority to investigate into any matter in relation to the items specified in sub-section (4) or referred to it by the Board and for this purpose shall have power to obtain professional advice from external sources and have full access to information contained in the records of the company.

(7) The auditors of a company and the key managerial personnel shall have a right to be heard in the meetings of the Audit Committee when it considers the auditor's report but shall not have the right to vote.

(8) The Board's report under sub-section (3) of section 134 shall disclose the composition of an Audit Committee and where the Board had not accepted any recommendation of the Audit Committee, the same shall be disclosed in such report along with the reasons therefor.

(9) Every listed company or such class or classes of companies, as may be prescribed, shall establish a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed.

(10) The vigil mechanism under sub-section (9) shall provide for adequate safeguards against victimisation of persons who use such mechanism and make provision for direct access to the chairperson of the Audit Committee in appropriate or exceptional cases:

Provided that the details of establishment of such mechanism shall be disclosed by the company on its website, if any, and in the Board's report.

178. *Nomination and Remuneration Committee and Stakeholders Relationship Committee.*—*(1)* The Board of Directors of every listed company 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 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 shall carry out evaluation of every director's performance.

(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.

(4) The Nomination and Remuneration Committee shall, while formulating the policy under sub-section *(3)* ensure that—

(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;

(b) relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and

(c) remuneration to directors, key managerial personnel and senior 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:

Provided that such policy shall be disclosed in the Board's report

(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.

(6) The Stakeholders Relationship Committee shall consider and resolve the grievances of security holders of the company.

(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.

(8) In case of any contravention of the provisions of section 177 and 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 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:

Provided that non-consideration of resolution of any grievance by the Stake holders Relationship Committee in good faith shall not constitute a contravention of this section.

Explanation.—The expression "senior management" means personnel of the company who are members of its core management team excluding Board of Directors comprising all members of management one level below the executive directors, including the functional heads.

179. *Powers of Board.*—*(1)*The Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorised to exercise and do:

Provided that in exercising such power or doing such act or thing, the Board shall be subject to the provisions contained in that behalf in this Act, or in the memorandum or articles, or in any regulations not inconsistent therewith and duly made thereunder, including regulations made by the company in general meeting:

Provided further that the Board shall not exercise any power or do any act or thing which is directed or required, whether under this Act or by the memorandum or articles of the company or otherwise, to be exercised or done by the company in general meeting.

(2) No regulation made by the company in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made.

(3) The Board of Directors of a company shall exercise the following powers on behalf of the company by means of resolutions passed at meetings of the Board, namely:—

(a) to make calls on shareholders in respect of money unpaid on their shares;

(b) to authorise buy-back of securities under section 68;

(c) to issue securities, including debentures, whether in or outside India;

(d) to borrow monies;

(e) to invest the funds of the company;

(f) to grant loans or give guarantee or provide security in respect of loans;

(g) to approve financial statement and the Board's report;

(h) to diversify the business of the company;

(i) to approve amalgamation, merger or reconstruction;

(j) to take over a company or acquire a controlling or substantial stake in another company;

(k) any other matter which may be prescribed:

Provided that the Board may, by a resolution passed at a meeting, delegate to any committee of directors, the managing director, the manager or any other principal officer of the company or in the case of a branch office of the company, the principal officer of the branch office, the powers specified in clauses *(d)* to *(f)* on such conditions as it may specify:

Provided further 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 withdrawable by cheque, draft, order or otherwise, or the placing of monies on deposit by a banking company with another banking company on such conditions as the Board may prescribe, shall not be deemed to be a borrowing of monies or, as the case may be, a making of loans by a banking company within the meaning of this section.

Explanation I.—Nothing in clause *(d)* shall apply to borrowings by a banking company from other banking companies or from the Reserve Bank of India, the State Bank of India or any other banks established by or under any Act.

Explanation II—In respect of dealings between a company and its bankers, the exercise by the company of the power specified in clause *(d)* shall mean the arrangement made by the company with its bankers for the borrowing of money by way of overdraft or cash credit or otherwise and not the actual day-to-day operation on overdraft, cash credit or other accounts by means of which the arrangement so made is actually availed of.

(4) Nothing in this section shall be deemed to affect the right of the company in general meeting to impose restrictions and conditions on the exercise by the Board of any of the powers specified in this section.

180. *Restrictions 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:—

(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.

Explanation.—For the purposes of this clause,—

(*i*) "undertaking" shall mean an undertaking in 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;

(*ii*) the expression "substantially the whole of the undertaking" 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;

(*b*) to invest otherwise in trust securities the amount of compensation received by it as a result of any merger or amalgamation;

(*c*) to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital and free reserves, apart from temporary loans obtained from the company's bankers in the ordinary course of business:

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 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.

Explanation.—For the purposes of this clause, the expression "temporary loans" 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;

(*d*) to remit, or give time for the repayment of, any debt due from a director.

(2) Every special resolution passed by the company in general meeting in relation to the exercise of the powers referred to in clause *(c)* of sub-section *(1)* shall specify the total amount up to which monies may be borrowed by the Board of Directors.

(3) Nothing contained in clause *(a)* of sub-section *(1)* shall affect—

(*a*) the title of a buyer or other person who buys or takes on lease any property, investment or undertaking as is referred to in that clause, in good faith; or

(*b*) the sale or lease of any property of the company where the ordinary business of the company consists of, or comprises, such selling or leasing.

(4) Any special resolution passed by the company consenting to the transaction as is referred to in clause *(a)* of sub-section *(1)* may stipulate such conditions as may be specified in such resolution, including conditions regarding the use, disposal or investment of the sale proceeds which may result from the transactions:

Provided that this sub-section shall not be deemed to authorise the company to effect any reduction in its capital except in accordance with the provisions contained in this Act.

(5) No debt incurred by the company in excess of the limit imposed by clause *(c)* of sub-section *(1)* shall be valid or effectual, unless the lender proves that he advanced the loan in good faith and without knowledge that the limit imposed by that clause had been exceeded.

181. *Company to contribute to bona fide and charitable funds etc.*— The Board of Directors of a company may contribute to *bona fide* charitable and other funds :

Provided that prior permission of the company in general meeting shall be required for such contribution in case any amount the aggregate of which, in any financial year, exceed five per cent. of its average net profits for the three immediately preceding financial years.

182. *Prohibitions and restrictions regarding political contributions.*— *(1)* Notwithstanding anything contained in any other provision of this Act, a company, other than a Government company and a company which has been in existence for less than three financial years, may contribute any amount directly or indirectly to any political party:

Provided that the amount referred to in sub-section *(1)* or, as the case may be, the aggregate of the amount which may be so contributed by the company in any financial year shall not exceed seven and a half per cent. of its average net profits during the three immediately preceding financial years:

Provided further that no such contribution shall be made by a company unless a resolution authorising the making of such contribution is passed at a meeting of the Board of Directors and such resolution shall, subject to the other provisions of this section, be deemed to be justification in law for the making and the acceptance of the contribution authorised by it.

(2) Without prejudice to the generality of the provisions of sub-section (1),—

(a) a donation or subscription or payment caused to be given by a company on its behalf or on its account to a person who, to its knowledge, is carrying on any activity which, at the time at which such donation or subscription or payment was given or made, can reasonably be regarded as likely to affect public support for a political party shall also be deemed to be contribution of the amount of such donation, subscription or payment to such person for a political purpose;

(b) the amount of expenditure incurred, directly or indirectly, by a company on an advertisement in any publication, being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like, shall also be deemed,-

(i) where such publication is by or on behalf of a political party, to be a contribution of such amount to such political party, and

(ii) where such publication is not by or on behalf of, but for the advantage of a political party, to be a contribution for a political purpose.

(3) Every company shall disclose in its profit and loss account any amount or amounts contributed by it to any political party during the financial year to which that account relates, giving particulars of the total amount contributed and the name of the party to which such amount has been contributed.

(4) If a company makes any contribution in contravention of the provisions of this section, the company shall be punishable with fine which may extend to five times the amount so contributed and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to five times the amount so contributed.

Explanation.—For the purposes of this section, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).

183. *Power of Board and other persons to make contributions to national defence fund, etc.*—(1) The Board of Directors of any company or any person or authority exercising the powers of the Board of Directors of a company, or of the company in general meeting, may, notwithstanding anything contained in sections 180, 181 and section 182 or any other provision of this Act or in the memorandum, articles or any other instrument relating to the company, contribute such amount as it thinks fit to the National Defence Fund or any other Fund approved by the Central Government for the purpose of national defence.

(2) Every company shall disclose in its profits and loss account the total amount or amounts contributed by it to the Fund referred to in sub-section (1) during the financial year to which the amount relates.

184. *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 individuals which shall include the shareholding, in such manner as may be prescribed.

(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—

(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

(b) with a firm or other entity in which, such director is a partner, owner or member, as the case may be,

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:

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 forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested.

(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.

(4) If a director of the company contravenes the provisions of sub-section (1) or sub-section (2), such director shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees, or with both.

(5) Nothing in this section—

(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;

(b) shall apply to any contract or arrangement entered into or to be entered into between two companies where 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.

185. Loan to directors, etc.—*(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 sub-section shall apply to—

(a) the giving of any loan to a managing or whole-time director—

(i) as a part of the conditions of service extended by the company to all its employees; or

(ii) pursuant to any scheme approved by the members by a special resolution; or

(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 bank rate declared by the Reserve Bank of India.

Explanation.—For the purposes of this section, the expression "to any other person in whom director is interested" means—

(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;

(b) any firm in which any such director or relative is a partner;

(c) any private company of which any such director is a director or member;

(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

(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.

(*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 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.

186. *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,—

(*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;

(*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.

(*2*) No company shall directly or indirectly—

(*a*) give any loan to any person or other body corporate;

(*b*) give any guarantee or provide security in connection with a loan to any other body corporate or person; and

(*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.

(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.

(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 security.

(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:

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.

(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 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.

(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.

(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.

(*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.

(*10*) The register referred to in sub-section (*9*) shall be kept at the registered office of the company and—

(*a*) shall be open to inspection at such office; and

(*b*) extracts may be taken 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.

(*11*) Nothing contained in this section, except sub-section (*1*), shall apply—

(*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*) to any acquisition—

(*i*) made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 934 (2 of 1934)and whose principal business is acquisition of securities:

Provided that exemption to non-banking financial company shall be in respect of its investment and lending activities;

(*ii*) made by a company whose principal business is the acquisition of securities;

(*iii*) of shares allotted in pursuance of clause (*a*) of sub-section (*1*) of section 62.

(*12*) The Central Government may make rules for the purposes of this section.

(*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.

Explanation.—For the purposes of this section,—

(*a*) the expression "investment company" means a company whose principal business is the acquisition of shares, debentures or other securities;

(*b*) the expression "infrastructure facilities" means the facilities specified in Schedule VI.

187. *Investments of company to be held in its own name.*—(*1*) All investments made or held by a company in any property, security or other asset shall be made and held by it in its own name:

Provided that the company may hold any shares in its subsidiary company in the name of any nominee or nominees of the company, if it is "necessary to do so, to ensure that the number of members of the subsidiary company is not reduced below the statutory limit

(*2*) Nothing in this section shall be deemed to prevent a company—

(*a*) from depositing with a bank, being the bankers of the company, any shares or securities for the collection of any dividend or interest payable thereon; or

(*b*) from depositing with, or transferring to, or holding in the name of, the State Bank of India or a scheduled bank, being the bankers of the company, shares or securities, in order to facilitate the transfer thereof:

Provided that if within a period of six months from the date on which the shares or securities are transferred by the company to, or are first held by the company in the name of, the State Bank of India or a scheduled bank as aforesaid, no transfer of such shares or securities takes place, the company shall, as soon as practicable after the expiry of that period, have the shares or securities re-transferred to it from the State Bank of India or the scheduled bank or, as the case may be, again hold the shares or securities in its own name; or

(*c*) from depositing with, or transferring to, any person any shares or securities, by way of security for the repayment of any loan advanced to the company or the performance of any obligation undertaken by it;

(*d*) from holding investments in the name of a depository when such investments are in the form of securities held by the company as a beneficial owner.

(*3*) Where in pursuance of clause *(d)* of sub-section *(2)*, any shares or securities in which investments have been made by a company are not held by it in its own name, the company shall maintain a register which shall contain such particulars as may be prescribed and such register shall be open to inspection by any member or debenture-holder of the company without any charge during business hours subject to such reasonable restrictions as the company may by its articles or in general meeting impose.

(*4*) 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 twenty-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 six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

188. *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 arrangement with a related party with respect to—

(*a*) sale, purchase or supply of any goods or materials;

(*b*) selling or otherwise disposing of, or buying, property of any kind;

(*c*) leasing of property of any kind;

(*d*) availing or rendering of any services;

(*e*) appointment of any agent for purchase or sale of goods, materials, services or property;

(f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and

(g) underwriting the subscription of any securities or derivatives thereof, of the company:

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 not exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a special resolution:

Provided further that no member of the company shall vote on such special resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party:

Provided also that nothing in this sub-section shaH 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.

Explanation.—In this sub-section,—

(a) the expression "office or place of profit" 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 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;

(b) the expression "arm's length transaction" means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

(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.

(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 special 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 was entered into, such contract or arrangement shall be voidable at the option of the Board 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.

(*4*) Without prejudice to anything contained in sub-section *(3)*, it shall be open to the company to proceed against a director or any other employee who had entered into such contract or arrangement in contravention of the provisions of this section for recovery of any loss sustained by it as a result of such contract or arrangement.

(5) Any director or any other employee of a company, who had entered into or authorised the contract or arrangement in violation of the provisions of this section shall,—

(i) in case of listed company, 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 five lakh rupees, or with both; and

(ii) in case of any other company, be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

189. *Register of contracts or arrangements in which directors are interested.*—(*1*) Every company shall keep one or more registers giving separately the particulars of all contracts or arrangements to which sub-section (*2*) of section 184 or section 188 applies, in such manner and containing such particulars as may be prescribed and after entering the particulars, such register or registers shall be placed before the next meeting of the Board and signed by all the directors present at the meeting.

(*2*) Every director or key managerial personnel shall, within a period of thirty days of his appointment, or relinquishment of his office, as the case may be, disclose to the company the particulars specified in sub-section *(1)* of section 184 relating to his concern or interest in the other associations which are required to be included in the register under that sub-section or such other information relating to himself as may be prescribed.

(*3*) The register referred to in sub-section *(1)* shall be kept at the registered office of the company and it shall be open for inspection at such office during business hours and extracts may be taken therefrom, and copies thereof as may be required by any member of the company shall be furnished by the company to such extent, in such manner, and on payment of such fees as may be prescribed.

(4) The register to be kept under this section shall also be produced at the commencement of every annual general meeting of the company and shall remain open and accessible during the continuance of the meeting to any person having the right to attend the meeting.

(5) Nothing contained in sub-section *(1)* shall apply to any contract or arrangement—

(a) for the sale, purchase or supply of any goods, materials or services if the value of such goods and materials or the cost of such services does not exceed five lakh rupees in the aggregate in any year; or

(b) by a banking company for the collection of bills in the ordinary course of its business.

(6) Every director who fails to comply with the provisions of this section and the rules made thereunder shall be liable to a penalty of twenty-five thousand rupees.

190. *Contract of employment with managing or whole-time directors.*— *(1)* Every company shall keep at its registered office,—

(a) where a contract of service with a managing or whole-time director is in writing, a copy of the contract; or

(b) where such a contract is not in writing, a written memorandum setting out its terms.

(2) The copies of the contract or the memorandum kept under sub-section *(1)* shall be open to inspection by any member of the company without payment of fee.

(3) If any default is made in complying with the provisions of sub-section *(1)* or sub-section *(2)*, 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 for each default.

(4) The provisions of this section shall not apply to a private company.

191. *Payment to director for loss of office, etc., in connection with transfer of undertaking, property or shares —(1)* No directer of a company shall, in connection with—

(a) the transfer of the whole or any part of any undertaking or property of the company; or

(b) the transfer to any person of all or any of the shares in a company being a transfer resulting from—

(i) an offer made to the general body of shareholders;

(ii) an offer made by or on behalf of some other body corporate with a view to a company becoming a subsidiary company of such body corporate or a subsidiary company of its holding company;

(iii) an offer made by or on behalf of an individual with a view to his obtaining the right to exercise, or control the exercise of, not less than one-third of the total voting power at any general meeting of the company; or

(iv) any other offer which is conditional on acceptance to a given extent, receive any payment by way of compensation for loss of office or as consideration for retirement from office, or in connection with such loss or retirement from such company or from the transferee of such undertaking or property, or from the transferees of shares or from any other person, not being such company, unless particulars as may be prescribed with respect to the payment proposed to be made by such transferee or person, including the amount thereof, have been disclosed to the members of the company and the proposal has been approved by the company in general meeting.

(2) Nothing in sub-section *(1)* shall affect any payment made by a company to a managing director or whole-time director or manager of the company by way of compensation for loss of office or as consideration for retirement from office or in connection with such loss or retirement subject to limits or priorities, as may be prescribed.

(3) If the payment under sub-section *(1)* or sub-section *(2)* is not approved for want of quorum either in a meeting or an adjourned meeting, the proposal shall not be deemed to have been approved.

(4) Where a director of a company receives payment of any amount in contravention of sub-section *(1)* or the proposed payment is made before it is approved in the meeting, the amount so received by the director shall be deemed to have been received by him in trust for the company.

(5) If a director of the company contravenes the provisions of this section, such director shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(6) Nothing in this section shall be taken to prejudice the operation of any law requiring disclosure to be made with respect to any payment received under this section or such other like payments made to a director.

192. Restriction on non-cash transactions involving directors.—*(1)* No company shall enter into an arrangement by which—

(a) a director of the company or its holding, subsidiary or associate company or a person connected with him acquires or is to acquire assets for consideration other than cash, from the company; or

(b) the company acquires or is to acquire assets for consideration other than cash, from such director or person so connected,

unless prior approval for such arrangement is accorded by a resolution of the company in general meeting and if the director or connected person is a director of its holding company, approval under this sub-section shall also be required to be obtained by passing a resolution in general meeting of the holding company.

(2) The notice for approval of the resolution by the company or holding company in general meeting under sub-section *(1)* shall include the particulars of the arrangement along with the value of the assets involved in such arrangement duly calculated by a registered valuer.

(3) Any arrangement entered into by a company or its holding company in contravention of the provisions of this section shall be voidable at the instance of the company unless—

(a) the restitution of any money or other consideration which is the subject-matter of the arrangement is no longer possible and the company has been indemnified by any other person for any loss or damage caused to it; or

(b) any rights are acquired *bona fide* for value and without notice of the contravention of the provisions of this section by any other person.

193. *Contract by One Person Company.—(1)* Where One Person Company limited by shares or by guarantee enters into a contract with the sole member of the company who is also the director of the company, the company shall, unless the contract is in writing, ensure that the terms of the contract or offer are contained in a memorandum or are recorded in the minutes of the first meeting of the Board of Directors of the company held next after entering into contract:

Provided that nothing in this sub-section shall apply to contracts entered into by the company in the ordinary course of its business.

(2) The company shall inform the Registrar about every contract entered into by the company and recorded in the minutes of the meeting of its Board of Directors under sub-section *(1)* within a period of fifteen days of the date of approval by the Board of Directors.

194. *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—

(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) 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.

(2) If a director or any key managerial personnel of the 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.

(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.

Explanation.—For the purposes of this section, "relevant shares" and "relevant debentures" mean shares and debentures of the company in which the concerned person is a whole-time director or other key managerial personnel or shares and debentures of its holding and subsidiary companies.

195. *Prohibition on insider trading of securities.—(1)* No person including any director or key managerial personnel of a company shall enter into insider trading:

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.

Explanation.—For the purposes of this section,—

(a) "insider trading" means—

(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

(ii) an act of counselling about procuring or communicating directly or indirectly any non-public price-sensitive information to any person;

(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.

(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.

CHAPTER XIII

APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL

196. *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.

(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 at a time:

Provided that no re-appointment shall be made earlier than one year before the expiry of his term.

(3) No company shall appoint or continue the employment of any person as managing director, whole-time director or manager who—

(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;

(b) is an undischarged insolvent or has at any time been adjudged as an insolvent;

(c) has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them; or

(d) has at any time been convicted by a court of an offence and sentenced for a period of more than six months.

(4) Subject to the provisions of section 197 and Schedule V, a managing director, whole-time director or manager 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 specified in that Schedule:

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:

Provided further that a return in the prescribed form shall be filed within sixty days of such appointment with the Registrar.

(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.

197. *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, with the approval of the Central Government, authorise the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V:

Provided further that, except with the approval of the company in general meeting,—

(i) the remuneration payable to anyone managing director; or whole-time director or manager shall not exceed five per cent. of the net profits of the 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;

(ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,—

(A) one per cent. of the net profits of the company, if there is a managing or whole-time director or manager;

(B) three per cent. of the net profits in any other case.

(*2*) The percentages aforesaid shall be exclusive of any fees payable to directors under sub-section (5).

(*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 provisions, with the previous approval of the Central Government.

(*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—

(a) the services rendered are of a professional nature; and

(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.

(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.

(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.

(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.

(8) The net profits for the purposes of this section shall be computed in the manner referred to in section 198.

(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.

(10) The company shall not waive the recovery of any sum refundable to it under sub-section (*9*) unless permitted by the Central Government.

(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 conditions specified in that Schedule and if such conditions are not being complied, the approval of the Central Government had been obtained.

(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.

(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.

(14) Subject to the provisions of this section, any director who is in receipt of any commission 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.

(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.

198. *Calculation of profits:*—*(1)* In computing the net profits of a company in any financial year for the purpose of section 197,—

(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

(b) the sums specified in sub-section *(4)* shall be deducted, and those specified in sub-section *(5)* shall not be deducted.

(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, by any Government, unless and except in so far as the Central Government otherwise directs.

(3) In making the computation aforesaid, credit shall not be given for the following sums, namely:—

(a) profits, by way of premium on shares or debentures of the company, which are issued or sold by the company;

(b) profits on sales by the company of forfeited shares;

(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;

(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:

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 between the original cost of that fixed asset and its written-down value;

(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.

(4) In making the computation aforesaid, the following sums shall be deducted, namely:—

(a) all the usual working charges;

(b) directors' remuneration;

(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;

(d) any tax notified by the Central Government as being in the nature of a tax on excess or abnormal profits;

(e) any tax on business profits imposed for special reasons or in special circumstances and notified by the Central Government in this behalf;

(f) interest on debentures issued by the company;

(g) interest on mortgages executed by the company and on loans and advances secured by a charge on its fixed or floating assets;

(h) interest on unsecured loans and advances;

(i) expenses on repairs, whether to immovable or to movable property, provided the repairs are not of a capital nature;

(j) outgoings inclusive of contributions made under section 181;

(k) depreciation to the extent specified in section 123;

(l) the excess of expenditure over income, which had arisen in computing the net profits in accordance with this section in any year which begins at or after the commencement of this Act, 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;

(m) any compensation or damages to be paid in virtue of any legal liability including a liability arising from a breach of contract;

(n) any sum paid by way of insurance against the risk of meeting any liability such as is referred to in clause *(m)*;

(o) debts considered bad and written off or adjusted during the year of account.

(5) In making the computation aforesaid, the following sums shall not be deducted, namely:—

(a) income-tax and super-tax payable by the company under the Income-tax Act, 1961 (43 of 1961) or any other tax on the income of the company not falling under clauses *(d)* and *(e)* of sub-section *(4)*;

(b) any compensation, damages or payments made voluntarily, that is to say, otherwise than in virtue of a liability such as is referred to in clause *(m)* of sub-section *(4)*;

(c) loss of a capital nature including loss on sale of the undertaking or any of the undertakings of the company or of any part thereof not including any excess of the written-down value of any asset which is sold, discarded, demolished or destroyed over its sale proceeds or its scrap value;

(d) 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.

199. *Recovery of remuneration in certain cases.*— Without prejudice to any liability incurred under the provisions of this Act or any other law for the time being in force, where a company is required to re-state its financial statements due to fraud or non-compliance with any requirement under this Act and the rules made thereunder, the company shall recover from any past or present managing director or whole-time director or manager or Chief Executive Officer (by whatever name called) who, during the period for which the financial statements are required to be re-stated, received the remuneration (including stock option) in excess of what would have been payable to him as per restatement of financial statements.

200. *Central Government of company to fix limit with regard to remuneration.*—Notwithstanding anything contained in this Chapter, the Central Government 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 Central Government or the company shall have regard to—

(a) the financial position of the company;

(b) the remuneration or commission drawn by the individual concerned in any other capacity;

(c) the remuneration or commission drawn by him from any other company;

(d) professional qualifications and experience of the individual concerned;

(e) such other matters as may be prescribed.

201. *Forms of and procedure in relation to certain applications.—(1)* Every application made to the Central Government under this Chapter shall be in such form as may be prescribed.

(2) (a) Before any application is made by a company to the Central Government under any of the sections aforesaid, 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.

(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.

(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.

202. *Compensation for loss of office of managing or whole-time director or manager:—(1)* A company may make payment to a managing or whole-time director or manager, but not to any other director, by way of compensation for loss of office, or as consideration for retirement from office or in connection with such loss or retirement.

(2) No payment shall be made under sub-section *(1)* in the following cases, namely:—

(a) where the director resigns from his office as a result of the reconstruction of the company, or of its amalgamation with any other body corporate or bodies corporate, and is appointed as the managing or whole-time director, manager or other officer of the reconstructed company or of the body corporate resulting from the amalgamation;

(b) where the director resigns from his office otherwise than on the reconstruction of the company or its amalgamation as aforesaid;

(c) where the office of the director is vacated under sub-section *(1)* of section 167;

(d) where the company is being wound up, whether by an order of the Tribunal or voluntarily, provided the winding up was due to the negligence or default of the director;

(e) where the director has been guilty of fraud or breach of trust in relation to, or of gross negligence in or gross mismanagement of, the conduct of the affairs of the company or any subsidiary company or holding company thereof; and

(f) where the director has instigated, or has taken part directly or indirectly in bringing about, the termination of his office.

(*3*) Any payment made to a managing or whole-time director or manager in pursuance of sub-section (*1*) shall not exceed the remuneration which he would have earned if he had been in office for the remainder of his term or for three years, whichever is shorter, calculated on the basis of the average remuneration actually earned by him during a period of three years immediately preceding the date on which he ceased to hold office, or where he held the office for a lesser period than three years, during such period:

Provided that no such payment shall be made to the director in the event of the commencement of the winding up of the company, whether before or at any time within twelve months after, the date on which he ceased to hold office, if the assets of the company on the winding up, after deducting the expenses thereof, are not sufficient to repay to the shareholders the share capital, including the premiums, if any, contributed by them.

(*4*) Nothing in this section shall be deemed to prohibit the payment to a managing or whole-time director, or manager, of any remuneration for services rendered by him to the company in any other capacity.

203. *Appointment of key managerial personnel.*— *(1)* Every company belonging to such class or classes of companies as may be prescribed shall have the following whole-time key managerial personnel,—

(*i*) managing director, or Chief Executive Officer or manager and in their absence, a whole-time director;

(*ii*) company secretary; and

(*iii*) Chief Financial Officer:

Provided that an individual shall not be appointed or reappointed as the chairperson of the company, in pursuance of the articles of the company, as well as the managing director or Chief Executive Officer of the company at the same time after the date of commencement of this Act unless,—

(*a*) the articles of such a company provide otherwise; or

(*b*) the company does not carry multiple businesses:

Provided further that nothing contained in the first proviso shall apply to such class of companies engaged in multiple businesses and which has appointed one or more Chief Executive Officers for each such business as may be notified by the Central Government.

(*2*) Every whole-time key managerial personnel of a company shall be appointed by means of a resolution of the Board containing the terms and conditions of the appointment including the remuneration.

(*3*) A whole-time key managerial personnel shall not hold office in more than one company except in its subsidiary company at the same time:

Provided that nothing contained in this sub-section shall disentitle a key managerial personnel from being a director of any company with the permission of the Board:

Provided further that whole-time key managerial personnel holding office in more than one company at the same time on the date of commencement of this Act, shall, within a period of six months from such commencement, choose one company, in which he wishes to continue to hold the office of key managerial personnel:

Provided also that a company may appoint or employ a person as its managing director, if he is the managing director or manager of one, and of not more than one, other company and such appointment or employment is made or approved by a resolution passed at a meeting of the Board with the consent of all the directors present at the meeting and of which meeting, and of the resolution to be moved thereat, specific notice has been given to all the directors then in India.

(*4*) If the office of any whole-time key managerial personnel is vacated, the resulting vacancy shall be filled-up by the Board at a meeting of the Board within a period of six months from the date of such vacancy.

(*5*) If 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 director and key managerial personnel of the company who is in default shall be punishable with fine which may extend to fifty thousand rupees and where the contravention is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.

204. *Secretarial audit for bigger companies.—(1)* Every listed company and a company belonging to other class of companies as may be prescribed shall annex with its Board's report made in terms of sub-section *(3)* of section 134, a secretarial audit report, given by a company secretary in practice, in such form as may be prescribed.

(*2*) It shall be the duty of the company to give all assistance and facilities to the company secretary in practice, for auditing the secretarial and related records of the company.

(*3*) The Board of Directors, in their report made in terms of sub-section *(3)* of section 134, shall explain in full any qualification or observation or other remarks made by the company secretary in practice in his report under sub-section *(1)*.

(*4*) If a company or any officer of the company or the company secretary in practice, contravenes the provisions of this section, the company, every officer of the company or the company secretary in practice, who is in default, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

205. *Functions of company secretary.—(1)* The functions of the company secretary shall include,—

(*a*) to report to the Board about compliance with the provisions of this Act, the rules made thereunder and other laws applicable to the company;

(*b*) to ensure that the company complies with the applicable secretarial standards;

(*c*) to discharge such other duties as may be prescribed.

Explanation.—For the purpose of this section, the expression "secretarial standards" means secretarial standards issued by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 (56 of 1980) and approved by the Central Government.

(*2*) The provisions contained in section 204 and section 205 shall not affect the duties and functions of the Board of Directors, Chairperson of the company, Managing Director or whole-time director under this Act, or any other law for the time being in force.

CHAPTER XIV

INSPECTION, INQUIRY AND INVESTIGATION

206. *Power to call for information inspect books and conduct inquiries.*—(1) Where on a scrutiny of any document filed by a company or on any information received by him, the Registrar is of the opinion that any further information or explanation or any further documents relating to the company is necessary, he may by a written notice require the company—

(a) to furnish in writing such information or explanation; or

(b) to produce such documents,

within such reasonable time, as may be specified in the notice.

(*2*) On the receipt of a notice under sub-section *(1)*, it shall be the duty of the company and of its officers concerned to furnish such information or explanation to the best of their knowledge and power and to produce the documents to the Registrar within the time specified or extended by the Registrar:

Provided that where such information or explanation relates to any past period, the officers who had been in the employment of the company for such period, if so called upon by the Registrar through a notice served on them in writing, shall also furnish such information or explanation to the best of their knowledge.

(3) If no information or explanation is furnished to the Registrar within the time specified under sub-section *(1)* or if the Registrar on an examination of the documents furnished is of the opinion that the information or explanation furnished is inadequate or if the Registrar is satisfied on a scrutiny of the documents furnished that an unsatisfactory state of affairs exists in the company and does not disclose a full and fair statement of the information required, he may, by another written notice, call on the company to produce for his inspection such further books of account, books, papers and explanations as he may require at such place and at such time as he may specify in the notice:

Provided that before any notice is served under this sub-section, the Registrar shall record his reasons in writing for issuing such notice.

(4) If the Registrar is satisfied on the basis of information available with or furnished to him or on a representation made to him by any person that the business of a company is being carried on for a fraudulent or unlawful purpose or not in compliance with the provisions of this Act or if the grievances of investors are not being addressed, the Registrar may, after informing the company of the allegations made against it by a written order, call on the company to furnish in writing any information or explanation on matters specified in the order within such time as he may specify therein and carry out such inquiry as he deems fit after providing the company a reasonable opportunity of being heard:

Provided that the Central Government may, if it is satisfied that the circumstances so warrant, direct the Registrar or an inspector appointed by it for the purpose to carry out the inquiry under this sub-section:

Provided further that where business of a company has been or is being carried on for a fraudulent or unlawful purpose, every officer of the company who is in default shall be punishable for fraud in the manner as provided in section 447.

(5) Without prejudice to the foregoing provisions of this section, the Central Government may, if it is satisfied that the circumstances so warrant, direct inspection of books and papers of a company by an inspector appointed by it for the purpose.

(6) The Central Government may, having regard to the circumstances by general or special order, authorise any statutory authority to carry out the inspection of books of account of a company or class of companies.

(7) If a company fails to furnish any information or explanation or produce any document required under this section, the company and every officer of the company, who is in default shall be punishable with a fine which may extend to one lakh rupees and in the case of a continuing failure, with an additional fine which may extend to five hundred rupees for every day after the first during which the failure continues.

207. *Conduct of inspection and inquiry.—(1)* Where a Registrar or inspector calls for the books of account and other books and papers under section 206, it shall be the duty of every director, officer or other employee of the company to produce all such documents to the Registrar or inspector and furnish him with such statements, information or explanations in such form as the Registrar or inspector may require and shall render all assistance to the Registrar or inspector in connection with such inspection.

(2) The Registrar or inspector, making an inspection or inquiry under section 206 may, during the course of such inspection or inquiry, as the case may be,—

(a) make or cause to be made copies of books of account and other books and papers; or

(b) place or cause to be placed any marks of identification in such books in token of the inspection having been made.

(3) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the Registrar or inspector making an inspection or inquiry shall have all the 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:—

(a) the discovery and production of books of account and other documents, at such place and time as may be specified by such Registrar or inspector making the inspection or inquiry;

(b) summoning and enforcing the attendance of persons and examining them on oath; and

(c) inspection of any books, registers and other documents of the company at any place.

(4) (i) If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section, the director or the officer shall be punishable with imprisonment which may extend to one year and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(ii) If a director or an officer of the company has been convicted of an offence under this section, the director or the officer shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall be disqualified from holding an office in any company.

208. *Report on inspection made.*—The Registrar or inspector shall after the inspection of the books of account or an inquiry under section 206 and other books and papers of the company under section 207, submit a report in writing to the Central Government along with such documents, if any, and such report may, if necessary, include a recommendation that further investigation into the affairs of the company is necessary giving his reasons in support.

209. *Search and seizure.—(1)* Where, upon information in his possession or otherwise, the Registrar or inspector has reasonable ground to believe that the books and papers of a company, or relating to the key managerial personnel or any director or auditor or company secretary in practice if the company has not appointed a company secretary, are likely to be destroyed, mutilated, altered, falsified or secreted, he may, after obtaining an order from the Special Court for the seizure of such books and papers,—

(a) enter, with such assistance as may be required, and search, the place or places were such books or papers are kept; and

(b) seize such books and papers as he considers necessary after allowing the company to take copies of, or extracts from, such books or papers at its cost.

(*2*) The Registrar or inspector shall return the books and papers seized under sub-section (*1*), as soon as may be, and in any case not later than one hundred and eightieth day after such seizure, to the company from whose custody or power such books or papers were seized:

Provided that the books and papers may be called for by the Registrar or inspector for a further period of one hundred and eighty days by an order in writing if they are needed again:

Provided further that the Registrar or inspector may, before returning such books and papers as aforesaid, take copies of, or extracts from them or place identification marks on them or any part thereof or deal with the same in such other manner as he considers necessary.

(*3*) The provisions of the Code of Criminal Procedure, 1973 *(2 of 1974)* relating to searches or seizures shall apply, *mutatis mutandis*, to every search and seizure made under this section.

210. *Investigation into affairs of company.—(1)* Where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company,—

(a) on the receipt of a report of the Registrar or inspector under section 208;

(b) on intimation of a special resolution passed by a company that the affairs of the company ought to be investigated; or

(c) in public interest,

it may order an investigation into the affairs of the company.

(*2*) Where an order is passed by a court or the Tribunal in any proceedings before it that the affairs of a company ought to be investigated, the Central Government shall order an investigation into the affairs of that company.

(3) For the purposes of this section, the Central Government may appoint one or more persons as inspectors to investigate into the affairs of the company and to report thereon in such manner as the Central Government may direct.

211. *Establishment of Serious Fraud Investigation Office.*—(*1*) The Central Government shall, by notification, establish an office to be called the Serious Fraud Investigation Office to investigate frauds relating to a company:

Provided that until the Serious Fraud Investigation Office is established under sub-section *(1)*, the Serious Fraud Investigation Office set-up by the Central Government in terms of the Government of India Resolution No. 45011/16/2003-Adm-I. dated the 2nd July, 2003 shall be deemed to be the Serious Fraud Investigation Office for the purpose of this section.

(*2*) The Serious Fraud Investigation Office shall be headed by a Director and consist of such number of experts from the following fields to be appointed by the Central Government from amongst persons of ability, integrity and experience in,—

(i) banking;

(ii) corporate affairs;

(iii) taxation;

(iv) forensic audit;

(v) capital market;

(vi) information technology;

(vii) law; or

(viii) such other fields as may be prescribed.

(*3*) The Central Government shall, by notification, appoint a Director in the Serious Fraud Investigation Office, who shall be an officer not below the rank of a Joint Secretary to the Government of India having knowledge and experience in dealing with matters relating to corporate affairs.

(*4*) The Central Government may appoint such experts and other officers and employees in the Serious Fraud Investigation Office as it considers necessary for the efficient discharge of its functions under this Act.

(5) The terms and conditions of service of Director, experts, and other officers and employees of the Serious Fraud Investigation Office shall be such as may be prescribed.

212. *Investigation into affairs of Company by serious Fraud Investigation Office.*—(1) Without prejudice to the provisions of section 210, where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company by the Serious Fraud Investigation Office—

(a) on receipt of a report of the Registrar or inspector under section 208;

(b) on intimation of a special resolution passed by a company that its affairs are required to be investigated;

(c) in the public interest; or

(d) on request from any Department of the Central Government or a State Government,

the Central Government may, by order, assign the investigation into the affairs of the said company to the Serious Fraud Investigation Office and its Director, may designate such number of inspectors, as he may consider necessary for the purpose of such investigation.

(2) Where any case has been assigned by the Central Government to the Serious Fraud Investigation Office for investigation under this Act, no other investigating agency of Central Government or any State Government shall proceed with investigation in such case in respect of any offence under this Act and in case any such investigation has already been Initiated, it shall not be proceeded further with and the concerned agency shall transfer the relevant documents and records in respect of such offences under this Act to Serious Fraud Investigation Office.

(3) Where the investigation into the affairs of a company has been assigned by the Central Government to Serious Fraud Investigation Office, it shall conduct the investigation in the manner and follow the procedure provided in this Chapter; and submit its report to the Central Government within such period as may be specified in the order.

(*4*) The Director, Serious Fraud Investigation Office shall cause the affairs of the company to be investigated by an Investigating Officer who shall have the power of the inspector under section 217.

(*5*) The company and its officers and employees, who are or have been in employment of the company shall be responsible to provide all information, explanation, documents and assistance to the Investigating Officer as he may require for conduct of the investigation.

(*6*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offences covered under sub-sections (*5*) and (*6*) of section 7, section 34, section 36, sub-section (*1*) of section 38, sub-section (*5*) of section 46, sub-section (*7*) of section 56, sub-section (*10*) of section 66, sub-section (*5*) of section 140, sub-section (*4*) of section 206, section 213, section 229, sub-section (*1*) of section 251, sub-section *(3)* of section 339 and section 448 which attract the punishment for fraud provided in section 447 of this Act shall be cognizable and no person accused of any offence under those sections shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs:

Provided further that the Special Court shall not take cognizance of any offence referred to this sub-section except upon a complaint in writing made by—

(i) the Director, Serious Fraud Investigation Office; or

(ii) any officer of the Central Government authorised, by a general or special order in writing in this behalf by that Government.

(*7*) The limitation on granting of bail specified in sub-section (6) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

(*8*) If the Director, Additional Director or Assistant Director of Serious Fraud Investigation Office authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession reason to believe (The reason for such belief to be recorded in writing) that any person has been guilty of any offence punishable under sections referred to in sub-section (*6*), he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(*9*) The Director, Additional Director or Assistant Director of Serious Fraud Investigation Office shall, immediately after arrest of such person under sub-section (*8*), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Serious Fraud Investigation Office in a sealed envelope, in such manner as may be prescribed and the Serious Fraud Investigation Office shall keep such order and material for such period as may be prescribed.

(*10*) Every person arrested under sub-section (*8*) shall within twenty-four hours, be taken to a Judical Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction :

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the Magistrate's Court.

(*11*) The Central Government if so directs, the Serious Fraud Investigation Office shall submit an interim report to the Central Government.

(*12*) On completion of the investigation, the Serious Fraud Investigation Office shall submit the investigation report to the Central Government.

(*13*) Notwithstanding anything contained in this Act or in any other law for the time being in force, a copy of the investigation report may be obtained by any person concerned by making an application in this regard to the court.

(*14*) On receipt of the investigation report, the Central Government may, after examination of the report (And after taking such legal advice, as it may think fit), direct the Serious Fraud Investigation Office to initiate prosecution against the company and its officers or employees, who are or have been in employment of the company or any other person directly or indirectly connected with the affairs of the company.

(*15*) Notwithstanding anything contained in this Act or in any other law for the time being in force, the investigation report filed with the Special Court for framing of charges shall be deemed to be a report filed by a police officer under Section 173 of the Code of Criminal Procedure, 1973 (2 of 1974).

(*16*) Notwithstanding anything contained in this Act, any investigation or other action taken or initiated by Serious Fraud Investigation Office under the provisions of the Companies Act, 1956 (1 of 1956) shall continue to be proceeded with under that Act as if this Act had not been passed.

(*17*) (a) In case Serious Fraud Investigation Office has been investigating any offence under this Act, any other investigating agency, State Government, Police authority, Income-tax authorities having any information or documents in respect of such offence shall provide all such information or documents available with it to the Serious Fraud Investigation Office ;

(b) The Serious Fraud Investigation Office shall share any information or documents available with it, with any investigating agency, State Government, Police authority or Income-tax authorities, which may be relevant or useful for such Investigating agency, State Government, Police authority or Income-tax authorities in respect of any offence or matter being investigated or examined by it under any other law.

213. *Investigation into company's affairs in other cases.*—The Tribunal may,—

(*a*) on an application made by—

(i) not less than one hundred members or members holding not less than one-tenth of the total voting power, in the case of a company having a share capital ; or

(ii) not less than one-fifth of the persons on the company's register of members, in the case of a company having no share capital,

and supported by such evidence as may be necessary for the purpose of showing that the applicants have good reasons for seeking an order for conducting an investigation into the affairs of the company; or.

(b) on an application made to it by any other person or otherwise, if it is satisfied that there are circumstances suggesting that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose ;

(ii) persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members ; or

(iii) the members of the company have not been given all the information with respect to its affairs which they might reasonably expect, including information relating to the calculation of the commission payable to a managing or other director, or the manager, of the company,

order, after giving a reasonable opportunity of being heard to the parties concerned, that the affairs of the company ought to be investigated by an inspector or inspectors appointed by the Central Government and where such an order is passed, the Central Government shall appoint one or more competent persons as inspectors to investigate into the affairs of the company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct :

Provided that if after investigation it is proved that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose, or that the company was formed for any fraudulent or unlawful purpose ; or

(ii) any person concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud,

then, every officer of the company who is in default and the person or persons concerned in the formation of the company or the management of its affairs shall be punishable for fraud in the manner as provided in section 447.

214. *Security for payment of costs and expenses of investigation.*—Where an investigation is ordered by the Central Government in pursuance of clause *(b)* of sub-section *(1)* of section 210, or in pursuance of an order made by the Tribunal under Section 213, the Central Government may before appointing an inspector under sub-section *(3)* of Section 210 or Clause *(b)* of Section 213, require the applicant to give such security not exceeding twenty-five thousand rupees as may be prescribed, as it may think fit, for payment of the costs and expenses of the investigation and such security shall be refunded to the applicant if the investigation results in prosecution.

215. *Firm, body corporate or association not to be appointed as inspector.*—No firm, body corporate or other association shall be appointed as an inspector.

216. *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—

(a) who are or have been financially interested in the success or failure, whether real or apparent, of the company ; or

(b) who are or have been able to control or to materially influence the policy of the company.

(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)*.

(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.

(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 practice and which is relevant for the purposes of his investigation.

217. *Procedure, powers, etc. of inspectors.—(1)* It shall be the duty of all officers and other employees and agents including the former officers, employees and agents of a company which is under investigation in accordance with the provisions contained in this Chapter, and where the affairs of any other body corporate or a person are investigated under section 219, of all officers and other employees and agents including former officers, employees and agents of such body corporate or a person—

(a) to preserve and to produce to an inspector or any person authorised by him in this behalf all books and papers of, or relating to, the Company or, as the case may be, relating to the other body corporate or the person, which are in their custody or power; and

(b) otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.

(2) The inspector may require any body corporate, other than a body corporate referred to in sub-section *(1)*, to furnish such information to, or produce such books and papers before him or any person authorised by him in this behalf as he may consider necessary, if the furnishing of such information or the production of such books and papers is relevant or necessary for the purposes of his investigation.

(3) The inspector shall not keep in his custody any books and papers produced under sub-section *(1)* or sub-section *(2)* for more than one hundred and eighty days and return the same to the company, body corporate, firm or individual by whom or on whose behalf the books and papers were produced:

Provided that the books and papers may be called for by the inspector if they are needed again for a further period of one hundred and eighty days by an order in writing.

(*4*) An inspector may examine on oath—

(a) any of the persons referred to in sub-section *(1)*; and

(b) with the prior approval of the Central Government, any other person,

in relation to the affairs of the company, or other body corporate or person, as the case may be, and for that purpose may require any of those persons to appear before him personally:

Provided that in case of an investigation under section 212, the prior approval of Director, Serious Fraud Investigation Office shall be sufficient under clause *(b)*.

(*5*) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the inspector, being an officer of the Central Government, making an investigation under this Chapter shall have all the 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:—

(a) the discovery and production of books of account and other documents, at such place and time as may be specified by such person;

(b) summoning and enforcing the attendance of persons and examining them on oath; and

(c) inspection of any books, registers and other documents of the company at any place.

(*6*) *(i)* If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section, the director or the officer shall be punishable with imprisonment which may extend to one year and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(ii) If a director or an officer of the company has been convicted of an offence under this section, the director or the officer shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall be disqualified from holding an office in any company.

(*7*) The notes of any examination under sub-section *(4)* shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

(*8*) If any person fails without reasonable cause or refuses—

(a) to produce to an inspector or any person authorised by him in this behalf any book or paper which is his duty under sub-section *(1)* or sub-section *(2)* to produce;

(b) to furnish any information which is his duty under sub-section *(2)* to furnish;

(c) to appear before the inspector personally when required to do so under sub-section *(4)* or to answer any question which is put to him by the inspector in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section *(7)*,

he shall be punishable with imprisonment for a term which may extend to six months and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, and also with a further fine which may extend to two thousand rupees for every day after the first during which the failure or refusal continues.

(*9*) The officers of the Central Govemment, State Government, police or statutory authority shall provide assistance to the inspector for the purpose of inspection, inquiry or investigation, which the inspector may, with the prior approval of the Central Government, require.

(*10*) The Central Government may enter into an agreement with the Government of a foreign State for reciprocal arrangements to assist in any inspection, inquiry or investigation under this Act or under the corresponding law in force in that State and may, by notification, render the application of this Chapter in relation to a foreign State with which reciprocal arrangements have been made subject to such modifications, exceptions, conditions and qualifications as may be deemed expedient for implementing the agreement with that State.

(*11*) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974) if, in the course of an investigation into the affairs of the company, an application is made to the competent court in India by the inspector stating that evidence is, or may be, available in a country or place outside India, such court may issue a letter of request to a court or an authority in such country or place, competent to deal with such request, to examine orally, or otherwise, any person, supposed to be acquainted with the facts and circumstances of the case, to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing, which may be in his possession pertaining to the case, and to forward all the evidence so taken or collected or the authenticated copies thereof or the things so collected to the court in India which had issued such letter of request:

Provided that the letter of request shall be transmitted in such manner as the Central Government may specify in this behalf:

Provided further that every statement recorded or document or thing received under this sub-section shall be deemed to be the evidence collected during the course of investigation.

(*12*) Upon receipt of a letter of request from a court or an authority in a country or place outside India, competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to affairs of a company under investigation in that country or place, the Central Government may, if it thinks fit, forward such letter of request to the court concerned, which shall thereupon summon the person before it and record his statement or cause any document or thing to be produced, or send the letter to any inspector for investigation, who shall thereupon investigate into the affairs of company in the same manner as the affairs of a company are investigated under this Act and the inspector shall submit the report to such court within thirty days or such extended time as the court may allow for further action:

Provided that the evidence taken or collected under this sub-section or authenticated copies thereof or the things so collected shall be forwarded by the court, to the Central Government for transmission, in such manner as the Central Government may deem fit, to the court or the authority in country or place outside India which had issued the letter of request.

218. *Protection of employees during investigation.*—Notwithstanding anything contained in any other law for the time being in force, if—

(a) during the course of any investigation of the affairs and other matters of or relating to a company, other body corporate or person under section 210, section 212, section 213 or section 219 or of the membership and other matters of or relating to a company, or the ownership of shares in or debentures of a company or body corporate, or the affairs and other matters of or relating to a company, other body corporate or person, under section 216; or

(b) during the pendency of any proceeding against any person concerned in the conduct and management of the affairs of a company under Chapter XVI,

such company, other body corporate or person proposes—

(i) to discharge of suspend any employee; or

(ii) to punish him, whether by dismissal, removal, reduction in rank or otherwise;

or

(iii) to change the terms of employment to his disadvantage,

the company, other body corporate or person, as the case may be, shall obtain approval of the Tribunal of the action proposed against the employee and if the Tribunal has any objection to the action proposed, it shall send by post notice thereof in writing to the company, other body corporate or person concerned.

(*2*) If the company, other body corporate or person concerned does not receive within thirty days of making of application under sub-section *(1)*, the approval of the Tribunal, then and only then, the company, other body corporate or person concerned may proceed to take against the employee, the action proposed.

(*3*) If the company, other body corporate or person concerned is dissatisfied with the objection raised by the Tribunal, it may, within a period of thirty days of the receipt of the notice of the objection, prefer an appeal to the Appellate Tribunal in such manner and on payment of such fees as may be prescribed.

(*4*) The decision of the Appellate Tribunal on such appeal shall be final and binding on the Tribunal and on the company, other body corporate or person concerned.

(*5*) For the removal of doubts, it is hereby declared that the provisions of this section shall have effect without prejudice to the provisions of any other law for the time being in force.

219. *Power of inspector to conduct investigation into affairs of related companies, etc.*—If an inspector appointed under section 210 or section 212 or section 213 to investigate into the affairs of a company considers it necessary for the purposes of the investigation, to investigate also the affairs of—

(a) any other body corporate which is, or has at any relevant time been the company's subsidiary company or holding company, or a subsidiary company of its holding company;

(b) any other body corporate which is, or has at any relevant time been managed by any person as managing director or as manager, who is, or was, at the relevant time, the managing director or the manager of the company;

(c) any other body corporate whose Board of Directors comprises nominees of the company or is accustomed to act in accordance with the directions or instructions of the company or any of its directors; or

(d) any person who is or has at any relevant time been the company's managing director or manager or employee,

he shall, subject to the prior approval of the Central Government, investigate into and report on the affairs of the other body corporate or of the managing director or manager, in so far as he considers that the results of his investigation are relevant to the investigation of the affairs of the company for which he is appointed.

220. *Seizure of documents by inspector.*—(*1*) Where in the course of an investigation under this Chapter, the inspector has reasonable grounds to believe that the books and papers of, or relating to, any company or other body corporate or managing director or manager of such company are likely to be destroyed, mutilated, altered, falsified or secreted, the inspector may—

(a) enter, with such assistance as may be required, the place or places where such books and papers are kept in such manner as may be required; and

(b) seize books and papers as he considers necessary after allowing the company to take copies of, or extracts from, such books and papers at its cost for the purposes of his investigation.

(*2*) The inspector shall keep in his custody the books and papers seized under this section for such a period not later than the conclusion of the investigation as he considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person from whose custody or power they were seized :

Provided that the inspector may, before returning such books and papers as aforesaid, take copies of, or extracts from them or place identification marks on them or any part thereof or deal with the same in such manner as he considers necessary.

(*3*) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches or seizures shall apply *mutatis mutandis* to every search or seizure made under this section.

221. *Freezing of assets of company on inquiry and investigation.*— (*1*) Where it appears to the Tribunal, on a reference made to it by the Central Government or in connection with any inquiry or investigation into the affairs of a company under this Chapter or on any complaint made by such number of members as specified under sub-section (*1*) of section 244 or a creditor having one lakh amount outstanding against the company or any other person having a reasonable ground to believe that the removal, transfer or disposal of funds, assets, properties of the company is likely to take place in a manner that is prejudicial to the interests of the company or its shareholders or creditors or in public interest, it may by order direct that such transfer, removal or disposal shall not take place during such period not exceeding three years as may be specified in the order or may take place subject to such conditions and restrictions as the Tribunal may deem fit.

(*2*) In case of any removal, transfer or disposal of funds, assets, or properties of the company in contravention of the order of the Tribunal under sub-section (*1*), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-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 three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

222. *Imposition of restrictions upon securities.*—(*1*) Where it appears to the Tribunal, in connection with any investigation under section 216 or on a complaint made by any person in this behalf, that there is good reason to find out the relevant facts about any securities issued or to be issued by a company and the Tribunal is of the opinion that such facts cannot be found out unless certain restrictions, as it may deem fit, are imposed, the Tribunal may, by order, direct that the securities shall be subject to such restrictions as it may deem fit for such period not exceeding three years as may be specified in the order.

(*2*) Where securities in any company are issued or transferred or acted upon in contravention of an order of the Tribunal under sub-section (*1*), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-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 six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

223. *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.

(*2*) Every report made under sub-section *(1)* shall be in writing or printed as the Central Government may direct.

(*3*) A copy of the report made under sub-section (*1*) may be obtained by making an application in this regard to the Central Government.

(*4*) The report of any inspector appointed under this Chapter shall be authenticated either—

(a) by the seal of the company whose affairs have been investigated; or

(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.

(5) Nothing in this section shall apply to the report referred to in section 212.

224. *Actions to be taken in pursuance of inspector's report.—(1)* If, from an inspector's report, made under section 223, it appears to the Central Government that any person has; in relation to the company or in relation to any other body corporate or other person whose affairs have been investigated under this Chapter been guilty of any offence for which he is criminally liable, the Central Government may prosecute such person for the offence and it shall be the duty of all officers and other employees of the company or body corporate to give the Central Government the necessary assistance in connection with the prosecution.

(*2*) If any company or other body corporate is liable to be wound up under this Act and it appears to the Central Government from any such report made under section 223 that it is expedient so to do by reason of any such circumstances as are referred to in section 213, the Central Government may, unless the company or body corporate is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf—

(a) a petition for the winding up of the company or body corporate on the ground that it is just and equitable that it should be wound up;

(b) an application under section 241; or

(c) both.

(*3*) If from any such report as aforesaid, it appears to the Central Government that proceedings ought, in the public interest, to be brought by the company or any body corporate whose affairs have been investigated under this Chapter—

(a) for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation, or the management of the affairs, of such company or body corporate; or

(b) for the recovery of any property of such company or body corporate which has been misapplied or wrongfully retained,

the Central Government may itself bring proceedings for winding up in the name of such company or body corporate.

(*4*) The Central Government, shall be indemnified by such company or body corporate against any costs or expenses incurred by it in, or in connection with, any proceedings brought by virtue of sub-section (3).

(*5*) Where the report made by an inspector states that fraud has taken place in a company and due to such fraud any director, key managerial personnel, other officer of the company or any other person or entity, has taken undue advantage or benefit, whether in the form of any asset, property or cash or in any other manner, the Central Government may file an application before the Tribunal for appropriate orders with regard to disgorgement of such asset, property, or cash, as the case may be, and also for holding such director, key managerial personnel, officer or other person liable personally without any limitation of liability.

225. *Expenses of investigation.*—(*1*) The expenses of, and incidental to, an investigation by an inspector appointed by the Central Government under this Chapter other than expenses of inspection under section 214 shall be defrayed in the first instance by the Central Government, but shall be reimbursed by the following persons to the extent mentioned below, namely:—

(a) any person who is convicted on a prosecution instituted, or who is ordered to pay damages or restore any property in proceedings brought, under section 224, to the extent that he may in the same proceedings be ordered to pay the said expenses as may be specified by the court convicting such person, or ordering him to pay such damages or restore such property, as the case may be;

(b) any company or body corporate in whose name proceedings are brought as aforesaid, to the extent of the amount or value of any sums or property recovered by it as a result of such proceedings;

(c) unless, as a result of the investigation, a prosecution is instituted under section 224,—

(*i*) any company, body corporate, managing director or manager dealt with by the report of the inspector; and

(*ii*) the applicants for the investigation, where the inspector was appointed under section 213,

to such extent as the Central Government may direct.

(*2*) Any amount for which a company or body corporate is liable under clause *(b)* of sub-section *(1)* shall be a first charge on the sums or property mentioned in that clause.

226. *Voluntary winding up of company, etc., not to stop investigation proceedings.*—An investigation under this Chapter may be initiated notwithstanding, and no such investigation shall be stopped or suspended by reason only of, the fact that—

(a) an application has been made under section 241;

(b) the company has passed a special resolution for voluntary winding up;

or

(c) any other proceeding for the winding up of the company is pending before the Tribunal:

Provided that where a winding up order is passed by the Tribunal in a proceeding referred to in clause *(c)*, the inspector shall inform the Tribunal about the pendency of the investigation proceedings before him and the Tribunal shall pass such order as it may deem fit:

Provided further that nothing in the winding up order shall absolve any director or other employee of the company from participating in the proceedings before the inspector or any liability as a result of the finding by the inspector.

227. *Legal advisers and bankers not to disclose certain information.*—Nothing in this Chapter shall require the disclosure to the Tribunal or to the Central Government or to the Registrar or to an inspector appointed by the Central Government—

(a) by a legal adviser, of any privileged communication made to him in that capacity, except as respects the name and address of his client; or

(b) by the bankers of any company, body corporate, or other person, of any information as to the affairs of any of their customers, other than such company, body corporate, or person.

228. *Investigation etc., of foreign companies.*—The provisions of this Chapter shall apply *mutatis mutandis* to inspection, inquiry or investigation in relation to foreign companies.

229. *Penalty for furnishing false statement, mutilation, destruction of documents.*—Where a person who is required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, or an officer or other employee of a company or other body corporate which is also under investigation,—

(a) destroys, mutilates or falsifies, or conceals or tampers or unauthorisedly removes, or is a party to the destruction, mutilation or falsification or concealment or tampering or unauthorised removal of, documents relating to the property, assets or affairs of the company or the body corporate;

(b) makes, or is a party to the making of, a false entry in any document concerning the company or body corporate; or

(c) provides an explanation which is false or which he knows to be false,

he shall be punishable for fraud in the manner as provided in section 447.

CHAPTER XV

COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS

230. Power to compromise or make arrangements with creditors and members.—*(1)* Where a compromise or arrangement is proposed—

(a) between a company and its creditors or any class of them; or

(b) between a company and its members or any class of them,

the Tribunal may, on the application of the company or of any creditor or member of the company, or in the case of a company which is being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal directs.

Explanation.—For the purposes of this sub-section, arrangement includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods.

(*2*) The company or any other person, by whom an application is made under sub-section *(1)*, shall disclose to the Tribunal by affidavit—

(a) all material facts relating to the company, such as the latest financial position of the company, the latest auditor's report on the accounts of the company and the pendency of any investigation or proceedings against the company;

(b) reduction of share capital of the company, if any, included in the compromise or arrangement;

(c) any scheme of corporate debt restructuring consented to by not less than seventy-five per cent. of the secured creditors in value, including—

(i) a creditor's responsibility statement in the prescribed form;

(ii) safeguards for the protection of other secured and unsecured creditors;

(iii) report by the auditor that the fund requirements of the company after the corporate debt restructuring as approved shall conform to the liquidity test based upon the estimates provided to them by the Board;

(iv) where the company proposes to adopt the corporate debt restructuring guidelines specified by the Reserve Bank of India, a statement to that effect; and

(v) a valuation report in respect of the shares and the property and all assets, tangible and intangible, movable and immovable, of the company by a registered valuer.

(*3*) Where a meeting is proposed to be called in pursuance of an order of the Tribunal under sub-section *(1)*, a notice of such meeting shall be sent to all the creditors or class of creditors and to all the members or class of members and the debenture-holders of the company, individually at the address registered with the company which shall be accompanied by a statement disclosing the details of the compromise or arrangement, a copy of the valuation report, if any, and explaining their effect on creditors, key managerial personnel, promoters and non-promoter members, and the debenture-holders and the effect of the compromise or arrangement on any material interests of the directors of the company or the debenture trustees, and such other matters as may be prescribed:

Provided that such notice and other documents shall also be placed on the website of the company, if any, and in case of a listed company, these documents shall be sent to the Securities and Exchange Board and stock exchange where the securities of the companies are listed, for placing on their website and shall also be published in newspapers in such manner as may be prescribed:

Provided further that where the notice for the meeting is also issued by way of an advertisement, it shall indicate the time within which copies of the compromise or arrangement shall be made available to the concerned persons free of charge from the registered office of the company.

(*4*) A notice under sub-section (*3*) shall provide that the persons to whom the notice is sent may vote in the meeting either themselves or through proxies or by postal ballot to the adoption of the compromise or arrangement within one month from the date of receipt of such notice:

Provided that any objection to the compromise or arrangement shall be made only by persons holding not less than ten per cent. of the shareholding or having outstanding debt amounting to not less than five per cent. of the total outstanding debt as per the latest audited financial statement.

(5) A notice under sub-section (3) along with all the documents in such form as may be prescribed shall also be sent to the Central Government, the income-tax authorities, the Reserve Bank of India, the Securities and Exchange Board, the Registrar, the respective stock exchanges, the Official Liquidator, the Competition Commission of India established under sub-section (1), of section 7 of the Competition Act, 2002 (12 of 2003), if necessary, and such other sectoral regulators or authorities which are likely to be affected by the compromise or arrangement and shall require that 35 representations, if any, to be made by them shall be made within a period of thirty days from the date of receipt of such notice, failing which, it shall be presumed that they have no representations to make on the proposals.

(6) Where, at a meeting held in pursuance of sub-section (1), majority of persons representing three-fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to any compromise or arrangement and if such compromise or arrangement is sanctioned by the Tribunal by an order, the same shall be binding on the company, all the creditors, or class of creditors or members or class of members, as the case may be, or, in case of a company being wound up, on the liquidator and the contributories of the company.

(7) An order made by the Tribunal under sub-section (6) shall provide for all or any of the following matters, namely:—

(a) where the compromise or arrangement provides for conversion of preference shares into equity shares, such preference shareholders shall be given an option to either obtain arrears of dividend in cash or accept equity shares equal to the value of the dividend payable;

(b) the protection of any class of creditors;

(c) if the compromise or arrangement results in the variation of the shareholders' rights, it shall be given effect to under the provisions of section 48;

(d) if the compromise or arrangement is agreed to by the creditors under sub-section (*6*), any proceedings pending before the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) shall abate;

(e) such other matters including exit offer to dissenting shareholders, if any, as are in the opinion of the Tribunal necessary to effectively implement the terms of the compromise or arrangement:

Provided that no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133.

(*8*) The order of the Tribunal shall be filed with the Registrar by the company within a period of thirty days of the receipt of the order.

(*9*) The Tribunal may dispense with calling of a meeting of creditor or class of creditors where such creditors or class of creditors, having at least ninety per cent. value, agree and confirm, by way of affidavit, to the scheme of compromise or arrangement.

(*10*) No compromise or arrangement in respect of any buy-back of securities under this section shall be sanctioned by the Tribunal unless such buy-back is in accordance with the provisions of section 68.

(*11*) Any compromise or arrangement may include takeover offer made in such manner as may be prescribed:

Provided that in case of listed companies, takeover offer shall be as per the regulations framed by the Securities and Exchange Board.

(*12*) An aggrieved party may make an application to the Tribunal in the event of any grievances with respect to the takeover offer of companies other than listed companies in such manner as may be prescribed and the Tribunal may, on application, pass such order as it may deem fit.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of section 66 shall not apply to the reduction of share capital effected in pursuance of the order of the Tribunal under this section.

231. *Power of tribunal to enforce compromise or arrangement.*—(*1*) Where the Tribunal makes an order under section 230 sanctioning a compromise or an arrangement in respect of a company, it—

(a) shall have power to supervise the implementation of the compromise or arrangement; and

(b) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper implementation of the compromise or arrangement.

(*2*) If the Tribunal is satisfied that the compromise or arrangement sanctioned under section 230 cannot be implemented satisfactorily with or without modifications, and the company is unable to pay its debts as per the scheme, it may make an order for winding up the company and such an order shall be deemed to be an order made under section 273.

(*3*) The provisions of this section shall, so far as may be, also apply to a company in respect of which an order has been made before the commencement of this Act sanctioning a compromise or an arrangement.

232. *Merger and amalgamation of companies.*—*(1)* Where an application is made to the Tribunal under section 230 for the sanctioning of a compromise or an arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Tribunal—

(a) that the compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of the company or companies involving merger or the amalgamation of any two or more companies; and

(b) that under the scheme, the whole or any part of the undertaking, property or liabilities of any company (hereinafter referred to as the transferor company) is required to be transferred to another company (hereinafter referred to as the transferee company), or is proposed to be divided among and transferred to two or more companies,

the Tribunal may on such application, order a meeting of the creditors or class of creditors or the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal may direct and the provisions of sub-sections (*3*) to (*6*) of section 230 shall apply *mutatis mutandis*.

(*2*) Where an order has been made by the Tribunal under sub-section *(1)*, merging companies or the companies in respect of which a division is proposed, shall also be required to circulate the following for the meeting so ordered by the Tribunal, namely:—

(a) the draft of the proposed terms of the scheme drawn up and adopted by the directors of the merging company;

(b) confirmation that a copy of the draft scheme has been filed with the Registrar;

(c) a report adopted by the directors of the merging companies explaining effect of compromise on each class of shareholders, key managerial personnel, promotors and non-promoter shareholders laying out in particular the share exchange ratio, specifying any special valuation difficulties;

(d) the report of the expert with regard to valuation, if any;

(e) a supplementary accounting statement if the last annual accounts of any of the merging company relate to a financial year ending more than six months before the first meeting of the company summoned for the purposes of approving the scheme.

(*3*) The Tribunal, after satisfying itself that the procedure specified in sub-sections *(1)* and (*2*) has been complied with, may, by order, sanction the compromise or arrangement or by a subsequent order, make provision for the following matters, namely:—

(a) the transfer to the transferee company of the whole or any part of the undertaking, property or liabilities of the transferor company from a date to be determined by the parties unless the Tribunal, for reasons to be recorded by it in writing, decides otherwise;

(b) the allotment or appropriation by the transferee company of any shares, debentures, policies or other like instruments in the company which, under the compromise or arrangement, are to be allotted or appropriated by that company to or for any person:

Provided that a transferee company shall not, as a result of the compromise or arrangement, hold any shares in its own name or in the name of any trust whether on its behalf or on behalf of any of its subsidiary or associate companies and any such shares shall be cancelled or extinguished;

(c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company on the date of transfer;

(d) dissolution, without winding-up, of any transferor company;

(e) the provision to be made for any persons who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement;

(f) where share capital is held by any non-resident shareholder under the foreign direct investment norms or guidelines specified by the Central Government or in accordance with any law for the time being in force, the allotment of shares of the transferee company to such shareholder shall be in the manner specified in the order;

(g) the transfer of the employees of the transferor company to the transferee company;

(h) where the transferor company is a listed company and the transferee company is an unlisted company,—

(A) the transferee company shall remain an unlisted company until it becomes a listed company;

(B) if shareholders of the transferor company decide to opt out of the transferee company, provision shall be made for payment of the value of shares held by them and other benefits in accordance with a pre-determined price formula or after a valuation is made, and the arrangements under this provision may be made by the Tribunal:

Provided that the amount of payment or valuation under this clause for any share shall not be less than what has been specified by the Securities and Exchange Board under any regulations framed by it;

(i) where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorised capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation; and

(j) such incidental, consequential and supplemental matters as are deemed necessary to secure that the merger or amalgamation is fully and effectively carried out:

Provided that no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133.

(4) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to the transferee company and the liabilities shall be transferred to and become the liabilities of the transferee company and any property may, if the order so directs, be freed from any charge which shall by virtue of the compromise or arrangement, cease to have effect.

(5) Every company in relation to which the order is made shall cause a certified copy of the order to be filed with the Registrar for registration within thirty days of the receipt of certified copy of the order.

(6) The scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date.

(7) Every company in relation to which the order is made shall, until the completion of the scheme, file a statement in such form and within such time as may be prescribed with the Registrar every year duly certified by a chartered accountant or a cost accountant or a company secretary in practice indicating whether the scheme is being complied with in accordance with the orders of the Tribunal or not.

(*8*) If a transferor company or a transferee company contravenes the provisions of this section, the transferor company or the transferee company, as the case may be, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of such transferor or transferee 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 one lakh rupees but which may extend to three lakh rupees, or with both.

Explanation.—For the purposes of this section,—

(*i*) in a scheme involving a merger, where under the scheme the undertaking, property and liabilities of one or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to another existing company, it is a merger by absorption, or where the undertaking, property and liabilities of two or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to a new company, whether or not a public company, it is a merger by formation of a new company;

(ii) references to merging companies are in relation to a merger by absorption, to the transferor and transferee companies, and, in relation to a merger by formation of a new company, to the transferor companies;

(iii) a scheme involves a division, where under the scheme the undertaking, property and liabilities of the company in respect of which the compromise or arrangement is proposed are to be divided among and transferred to two or more companies each of which is either an existing company or a new company; and

(iv) property includes assets, rights and interests of every description and liabilities include debts and obligations of every description.

233. *Merger or amalgamation of certain companies.*—(*1*) Notwithstanding the provisions of section 230 and section 232, a scheme of merger or amalgamation may be entered into between two or more small companies or between a holding company and its wholly-owned subsidiary company or such other class or classes of companies as may be prescribed, subject to the following, namely:—

(a) a notice of the proposed scheme inviting objections or suggestions, if any, from the Registrar and Official Liquidators where registered office of the respective companies are situated or persons affected by the scheme within thirty days is issued by the transferor company or companies and the transferee company;

(b) the objections and suggestions received are considered by the companies in their respective general meetings and the scheme is approved by the respective members or class of members at a general meeting holding at least ninety per cent. of the total number of shares;

(c) each of the companies involved in the merger files a declaration of solvency, in the prescribed form, with the Registrar of the place where the registered office of the company is situated; and

(d) the scheme is approved by majority representing nine-tenths in value of the creditors or class of creditors of respective companies indicated in a meeting convened by the company by giving a notice of twenty-one days along with the scheme to its creditors for the purpose or otherwise approved in writing.

(*2*) The transferee company shall file a copy of the scheme so approved in the manner as may be prescribed, with the Central Government, Registrar and the Official Liquidator where the registered office of the company is situated.

(*3*) On the receipt of the scheme, if the Registrar or the Official Liquidator has no objections or suggestions to the scheme, the Central Government shall register the same and issue a confirmation thereof to the companies.

(*4*) If the Registrar or Official Liquidator has any objections or suggestions, he may communicate the same in writing to the Central Government within a period of thirty days:

Provided that if no such communication is made, it shall be presumed that he has no objection to the scheme.

(5) If the Central Government after receiving the objections or suggestions or for any reason is of the opinion that such a scheme is not in public-interest or in the interest of the creditors, it may file an application before the Tribunal within a period of sixty days of the receipt of the scheme under sub-section (2) stating its objections and requesting that the Tribunal may consider the scheme under section 232.

(6) On receipt of an application from the Central Government or from any person, if the Tribunal, for reasons to be recorded in writing, is of the opinion that the scheme should be considered as per the procedure laid down in section 232, the Tribunal may direct accordingly or it may confirm the scheme by passing such order as it deems fit:

Provided that if the Central Government does not have any objection to the scheme or it does not file any application under this section before the Tribunal, it shall be deemed that it has no objection to the scheme.

(7) A copy of the order under sub-section (6) confirming the scheme shall be communicated to the Registrar having jurisdiction over the transferee company and the persons concerned and the Registrar shall register the scheme and issue a confirmation thereof to the companies and such confirmation shall be communicated to the Registrars where transferor company or companies were situated.

(8) The registration of the scheme under sub-section (3) or sub-section (7) shall be deemed to have the effect of dissolution of the transferor company without process of winding-up.

(9) The registration of the scheme shall have the following effects, namely:—

(a) transfer of property or liabilities of the transferor company to the transferee company so that the property becomes the property of the transferee company and the liabilities become the liabilities of the transferee company;

(b) the charges, if any, on the property of the transferor company shall be applicable and enforceable as if the charges were on the property of the transferee company;

(c) legal proceedings by or against the transferor company pending before any court of law shall be continued by or against the transferee company; and

(d) where the scheme provides for purchase of shares held by the dissenting shareholders or settlement of debt due to dissenting creditors, such amount, to the extent it is unpaid, shall become the liability of the transferee company.

(10) A transferee company shall not on merger or amalgamation, hold any shares in its own name or in the name of any trust either on its behalf or on behalf of any of its subsidiary or associate company and all such shares shall be cancelled or extinguished on the merger or amalgamation.

(11) The transferee company shall file an application with the Registrar along with the scheme registered, indicating the revised authorised capital and pay the prescribed fees due on revised capital:

Provided that the fee, if any, paid by the transferor company on its authorised capital prior to its merger or amalgamation with the transferee company shall be set-of against the fees payable by the transferee company on its authorised capital enhanced by the merger or amalgamation.

(12) The provisions of this section shall *mutatis mutandis* apply to a company or companies specified in sub-section *(1)* in respect of a scheme of compromise or arrangement referred to in section 230 or division or transfer of a company referred to clause *(b)* of sub-section *(1)* of section 232.

(13) The Central Government may provide for the merger or amalgamation of companies in such manner as may be prescribed.

(14) A company covered under this section may use the provisions of section 232 for the approval of any scheme for merger or amalgamation.

234. *Merger or amalgamation of company with foreign company.*— *(1)* The provisions of this Chapter unless otherwise provided under any other law for the time being in force, shall apply *mutatis mutandis* to schemes of mergers and amalgamations between companies registered under this Act and companies incorporated in the jurisdictions of such countries as may be notified from time to time by the Central Government:

Provided that the Central Government may make rules, in consultation with the Reserve Bank of India, in connection with mergers and amalgamations provided under this section.

(*2*) Subject to the provisions of any other law for the time being in force, a foreign company, may with the prior approval of the Reserve Bank of India, merge into a company registered under this Act or *vice versa* and the terms and conditions of the scheme of merger may provide, among other things, for the payment of consideration to the shareholders of the merging company in cash, or in Depository Receipts, or partly in cash and partly in Depository Receipts, as the case may be, as per the scheme to be drawn up for the purpose.

Explanation.—For the purposes of sub-section (2), the expression "foreign company" means any company or body corporate incorporated outside India whether having a place of business in India or not.

235. *Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.*—(*1*) Where a scheme or contract involving the transfer of shares or any class of shares in a company (the transferor company) to another company (the transferee company) has, within four months after making of an offer in that behalf by the transferee company, been approved by the holders of not less than nine-tenths in value of the shares whose transfer is involved, other than shares already held at the date of the offer by, or by a nominee of the transferee company or its subsidiary companies, the transferee company may, at any time within two months after the expiry of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares.

(*2*) Where a notice under sub-section (*1*) is given, the transferee company shall, unless on an application made by the dissenting shareholder to the Tribunal, within one month from the date on which the notice was given and the Tribunal thinks fit to order otherwise, be entitled to and bound to acquire those shares on the terms on which under the scheme or contract, the shares of the approving shareholders are to be transferred to the transferee company.

(*3*) Where a notice has been given by the transferee company under sub-section (*1*) and the Tribunal has not on an application made by the dissenting shareholder, made an order to the contrary, the transferee company shall, on the expiry of one month from the date on which the notice has been

Explanation.—For the purposes of this section, "dissenting shareholder" includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

236. *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.

(*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.

(*3*) Without prejudice to the provisions of sub-sections (*1*) and (*2*), the minority shareholders of the company may offer to the majority shareholders 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*).

(*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 transferor company for at least one year for payment to the minority shareholders and such amount shall be disbursed to the entitled shareholders within sixty days:

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.

given, or, if an application to the Tribunal by the dissenting shareholder is then pending, after that application has been disposed of, send a copy of the notice to the transferor company together with an instrument of transfer, to be executed on behalf of the shareholder by any person appointed by the transferor company and on its own behalf by the transferee company, and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which, by virtue of this section, that company is entitled to acquire, and the transferor company shall-

(a) thereupon register the transferee company as the holder of those shares; and

(b) within one month of the date of such registration, inform the dissenting shareholders of the fact of such registration and of the receipt of the amount or other consideration representing the price payable to them by the transferee company.

(*4*) Any sum received by the transferor company under this section shall be paid into a separate bank account, and any such sum and any other consideration so received shall be held by that company in trust for the several persons entitled to the shares in respect of which the said sum or other consideration were respectively received and shall be disbursed to the entitled shareholders within sixty days.

(*5*) In relation to an offer made by a transferee company to shareholders of a transferor company before the commencement of this Act, this section shall have effect with the following modifications, namely:—

(a) in sub-section *(1)*, for the words "the shares whose transfer is involved other than shares already held at the date of the offer by, or by a nominee of, the transferee company or its subsidiaries,", the words "the shares affected" shall be substituted; and

(b) in sub-section (3), the words "together with an instrument of transfer, to be executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferor company" shall be omitted.

(5) In the event of a purchase under this section, the transferor company shall act as a transfer agent for receiving and paying the price to the minority shareholders and for taking delivery of the shares and delivering such shares to the majority, as the case may be.

(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 transferor company 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 despatch of such payment.

(7) In the event of a majority shareholder or shareholders requiring a full purchase and making payment of price by deposit with the company for any shareholder or shareholders who have died or ceased to exist, or whose heirs, successors, administrators or assignees have not been brought on record by transmission, the right of such shareholders to make an offer for sale of minority equity shareholding shall continue and be available for a period of three years from the date of majority acquisition or majority shareholding.

(8) Where the shares of minority shareholders have been acquired in pursuance of this section and as on or prior to the date of transfer following such acquisition, the shareholders holding seventy-five per cent. or more minority equity shareholding negotiate or reach an understanding on a higher price for any transfer, proposed or agreed upon, of the shares held by them without disclosing the fact or likelihood of transfer taking place on the basis of such negotiation, understanding or agreement, the majority shareholders shall share the additional compensation so received by them with such minority shareholders on a *pro rata* basis.

Explanation.—For the purposes of this section, the expressions "acquirer" and "person acting in concert" shall have the meanings respectively assigned to them in clause *(b)* and clause *(e)* of sub-regulation *(1)* of regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

(*9*) When a shareholder or the majority equity shareholder fails to acquire full purchase of the shares of the minority equity shareholders, then, the provisions of this section shall continue to apply to the residual minority equity shareholders, even though,—

(a) the shares of the company of the residual minority equity shareholder had been delisted; and

(b) the period of one year or the period specified in the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992 (15 of 1992) had elapsed.

237. *Power of Central Government to provide for amalgamation of companies in public interest.*—(*1*) Where the Central Government is satisfied that it is essential in the public interest that to or more companies should amalgamate, the Central Government may, by order notified in the Official Gazette, provide for the amalgamation of those companies into a single company with such constitution, with such property, powers, rights, interests, authorities and privileges, and with such liabilities, duties and obligations, as may be specified in the order.

(*2*) The order under sub-section *(1)* may also provide for the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company and such consequential, incidental and supplemental provisions as may, in the opinion of the Central Government, be necessary to give effect to the amalgamation.

(*3*) Every member or creditor, including a debenture holder, of each of the transferor companies before the amalgamation shall have, as nearly as may be, the same interest in or rights against the transferee company as he had in the company of which he was originally a member or creditor, and in case the interest or rights of such member or creditor in or against the transferee company are less than his interest in or rights against the original company, he shall be entitled to compensation to that extent, which shall be assessed by such authority as may be prescribed and every such assessment shall be published in the Official Gazette, and the compensation so assessed shall be paid to the member or creditor concerned by the transferee company.

(*4*) Any person aggrieved by any assessment of compensation made by the prescribed authority under sub-section *(3)* may, within a period of thirty days from the date of publication of such assessment in the Official Gazette, prefer an appeal to the Tribunal and thereupon the assessment of the compensation shall be made by the Tribunal.

(*5*) No order shall be made under this section unless—

(a) a copy of the proposed order has been sent in draft to each of the companies concerned;

(b) the time for preferring an appeal under sub-section *(4)* has expired, or where any such appeal has been preferred, the appeal has been finally disposed off; and

(c) the Central Government has considered, and made such modifications, if any, in the draft order as it may deem fit in the light of suggestions and objections which may be received by it from any such company within such period as the Central Government may fix in that behalf, not being less than two months from the date on which the copy aforesaid is received by that company, or from any class of shareholders therein, or from any creditors or any class of creditors thereof.

(6) The copies of every order made under this section shall, as soon as may be after it has been made, be laid before each House of Parliament.

238. *Registration of offer of schemes involving transfer of shares.*— (*1*) In relation to every offer of a scheme or contract involving the transfer of shares or any class of shares in the transferor company to the transferee company under section 235,—

(a) every circular containing such offer and recommendation to the members of the transferor company by its directors to accept such offer shall be accompanied by such information and in such manner as may be prescribed;

(b) every such offer shall contain a statement by or on behalf of the transferee company, disclosing the steps it has taken to ensure that necessary cash will be available; and

(c) every such circular shall be presented to the Registrar for registration and no such circular shall be issued until it is so registered:

Provided that the Registrar may refuse, for reasons to be recorded in writing, to register any such circular which does not contain the information required to be given under clause *(a)* or which sets out such information in a manner likely to give a false impression, and communicate such refusal to the parties within thirty days of the application.

(*2*) An appeal shall lie to the Tribunal against an order of the Registrar refusing to register any circular under sub-section *(1)*.

(*3*) The director who issues a circular which has not been presented for registration and registered under clause *(c)* of sub-section *(1)*, shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

239. *Preservation of books and papers of amalgamated companies.*—The books and papers of a company which has been amalgamated with, or whose shares have been acquired by, another company under this Chapter shall not be disposed of without the prior permission of the Central Government and before granting such permission, that Government may appoint a person to examine the books and papers or any of them for the purpose of ascertaining whether they contain any evidence of the commission of an offence in connection with the promotion or formation, or the management of the affairs, of the transferor company or its amalgamation or the acquisition of its shares.

240. *Liability of officers in respect of offences committed prior to merger, amalgamation, etc.*—Notwithstanding anything in any other law for the time being in force, the liability in respect of offences committed under this Act by the officers in default, of the transferor company prior to its merger, amalgamation or acquisition shall continue after such merger, amalgamation or acquisition.

CHAPTER XVI

PREVENTION OF OPPRESSION AND MISMANAGEMENT

241. *Application to Tribunal for relief in cases of oppression, etc.*—(*1*) Any member of a company who complains that—

(a) the affairs of the company have been or are being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members or in a manner prejudicial to the interests of the company; or

(b) the material change, not being a change brought about by, or in the interests of, any creditors, including debenture holders or any class of shareholders of the company, has taken place in the management or control of the company, whether by an alteration in the Board of Directors, or manager, or in the ownership of the company's shares, or if it has no share capital, in its membership, or in any other manner whatsoever, and that by reason of such change, it is likely that the affairs of the company will be conducted in a manner prejudicial to its interests or its members or any class of members,

may apply to the Tribunal, provided such member has a right to apply under section 244, for an order under this Chapter.

(2) The Central Government, if it is of the opinion that the affairs of the company are being conducted in a manner prejudicial to public interest, it may itself apply to the Tribunal for an order under this Chapter.

242. *Power of Tribunal.*—(*1*) If, on any application made under section 241, the Tribunal is of the opinion—

(a) that the company's affairs have been or are being conducted in a manner prejudicial or oppressive to any member or members or prejudicial to public interest or in a manner prejudicial to the interests of the company; and

(b) that to wind up the company would unfairly prejudice such member or members, but that otherwise the facts would justify the making of a winding-up order on the ground that it was just and equitable that the company should be wound up,

the Tribunal may, with a view to bringing to an end the matters complained of, make such order as it thinks fit.

(*2*) Without prejudice to the generality of the powers under sub-section *(1)*, an order under that sub-section may provide for—

(a) the regulation of conduct of affairs of the company in future;

(b) the purchase of shares or interests of any members of the company by other members thereof or by the company;

(c) in the case of a purchase of its shares by the company as aforesaid, the consequent reduction of its share capital;

(d) restrictions on the transfer or allotment of the shares of the company;

(e) the termination, setting aside or modification, of any agreement, howsoever arrived at, between the company and the managing director, any other director or manager, upon such terms and conditions as may, in the opinion of the Tribunal, be just and equitable in the circumstances of the case;

(f) the termination, setting aside or modification of any agreement between the company and any person other than those referred to in clause *(e)*:

Provided that no such agreement shall be terminated, set aside or modified except after due notice and after obtaining the consent of the party concerned;

(g) the setting aside of any transfer, delivery of goods, payment, execution or other act relating to property made or done by or against the company within three months before the date of the application under this section, which would, if made or done by or against an individual, be deemed in his insolvency to be a fraudulent preference;

(h) removal of the managing director, manager or any of the directors of the company;

(i) recovery of undue gains made by any managing director, manager or director during the period of his appointment as such and the manner of utilisation of the recovery including transfer to Investor Education and Protection Fund or repayment to identifiable victims;

(j) the manner in which the managing director or manager of the company may be appointed subsequent to an order removing the existing managing director or manager of the company made under clause *(h)*;

(k) appointment of such number of persons as directors, who may be required by the Tribunal to report to the Tribunal on such matters as the Tribunal may direct;

(*l*) imposition of costs as may be deemed fit by the Tribunal;

(*m*) any other matter for which, in the opinion of the Tribunal, it is just and equitable that provision should be made.

(*3*) A certified copy of the order of the Tribunal under sub-section (*1*) shall be filed by the company with the Registrar within thirty days of the order of the Tribunal.

(*4*) The Tribunal may, on the application of any party to the proceeding, make any interim order which it thinks fit for regulating the conduct of the company's affairs upon such terms and conditions as appear to it to be just and equitable.

(*5*) Where an order of the Tribunal under sub-section (*1*) makes any alteration in the memorandum or articles of a company, then, notwithstanding any other provision of this Act, the company shall not have power, except to the extent, if any, permitted in the order, to make, without the leave of the Tribunal, any alteration whatsoever which is inconsistent with the order, either in the memorandum or in the articles.

(*6*) Subject to the provisions of sub-section (*1*), the alterations made by the order in the memorandum or articles of a company shall, in all respects, have the same effect as if they had been duly made by the company in accordance with the provisions of this Act and the said provisions shall apply accordingly to the memorandum or articles so altered.

(*7*) A certified copy of every order altering, or giving leave to alter, a company's memorandum or articles, shall within thirty days after the making thereof, be filed by the company with the Registrar who shall register the same.

(*8*) If a company contravenes the provisions of sub-section (*5*), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-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 six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

243. *Consequence of termination or modification of certain agreements.*—(*1*) Where an order made under section 242 terminates, sets aside or modifies an agreement such as is referred to in sub-section (*2*) of that section,—

(a) such order shall not give rise to any claims whatever against the company by any person for damages or for compensation for loss of office or in any other respect either in pursuance of the agreement or otherwise;

(b) no managing director or other director or manager whose agreement is so terminated or set aside shall, for a period of five years from the date of the order terminating or setting aside the agreement, without the leave of the Tribunal, be appointed, or act, as the managing director or other director or manager of the company:

Provided that the Tribunal shall not grant leave under this clause unless notice of the intention to apply for leave has been served on the Central Government and that Government has been given a reasonable opportunity of being heard in the matter.

(*2*) Any person who knowingly acts as a managing director or other director or manager of a company in contravention of clause *(b)* of sub-section (*1*), and every other director of the company who is knowingly a party to such contravention, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five lakh rupees, or with both.

244. *Right to apply under section 241.*—(*1*) The following members of a company shall have the right to apply under section 241, namely:—

(a) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one-tenth of the issued share capital of the company, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;

(b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members:

Provided that the Tribunal may, on an application made to it in this behalf, waive all or any of the requirements specified in clause *(a)* or clause *(b)* so as to enable the members to apply under section 241.

Explanation.—For the purposes of this sub-section, where any share or shares are held by two or more persons jointly, they shall be counted only as one member.

(*2*) Where any members of a company are entitled to make an application under sub-section (*1*), anyone or more of them having obtained the consent in writing of the rest, may make the application on behalf and for the benefit of all of them.

245. *Class action.*—(*1*) Such number of member or members, depositor or depositors or any class of them, as the case may be, as are indicated in sub-section (*2*) may, if they are of the opinion that the management or conduct of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors, file an application before the Tribunal on behalf of the members or depositors for seeking all or any of the following orders, namely:—

(a) to restrain the company from committing an act which is *ultra vires* the articles or memorandum of the company;

(b) to restrain the company from committing breach of any provision of the company's memorandum or articles;

(c) to declare a resolution altering the memorandum or articles of the company as void if the resolution was passed by suppression of material facts or obtained by mis-statement to the members or depositors;

(d) to restrain the company and its directors from acting on such resolution;

(e) to restrain the company from doing an act which is contrary to the provisions of this Act or any other law for the time being in force;

(f) to restrain the company from taking action contrary to any resolution passed by the members ;

(g) to claim damages or compensation or demand any other suitable action from or against—

(i) the company or its directors for any fraudulent, unlawful or wrongful act or omission or conduct or any likely act or omission or conduct on its or their part;

(ii) the auditor including audit firm of the company for any improper or misleading statement of particulars made in his audit report or for any fraudulent, unlawful or wrongful act or conduct; or

(iii) any expert or advisor or consultant or any other person for any incorrect or misleading statement made to the company or for any fraudulent, unlawful or wrongful act or conduct or any likely act or conduct on his part;

(h) to seek any other remedy as the Tribunal may deem fit.

(2) Where the members or depositors seek any damages or compensation or demand any other suitable action from or against an audit firm, the liability shall be of the firm as well as of each partner who was involved in making any improper or misleading statement of particulars in the audit report or who acted in a fraudulent, unlawful or wrongful manner.

(3) (i) The requisite number of members provided in sub-section *(1)* shall be as under:—

(a) in the case of a company having a share capital, not less than one hundred members of the company or not less than such percentage of the total number of its members as may be prescribed, whichever is less, or any member or members holding not less than such percentage of the issued share capital of the company as may be prescribed, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;

(b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members.

(ii) The requisite number of depositors provided in sub-section *(1)* shall not be less than one hundred depositors or not less than such percentage of the total number of depositors as may be prescribed, whichever is less, or any depositor or depositors to whom the company owes such percentage of total deposits of the company as may be prescribed.

(*4*) In considering an application under sub-section *(1)*, the Tribunal shall take into account, in particular—

(a) whether the member or depositor is acting in good faith in making the application for seeking an order;

(b) any evidence before it as to the involvement of any person other than directors or officers of the company on any of the matters provided in clauses *(a)* to *(f)* of sub-section *(1)*;

(c) whether the cause of action is one which the member or depositor could pursue in his own right rather than through an order under this section;

(d) any evidence before it as to the views of the members or depositors of the company who have no personal interest, direct or indirect, in the matter being proceeded under this section;

(e) where the cause of action is an act or omission that is yet to occur, whether the act or omission could be, and in the circumstances would be likely to be—

(i) authorised by the company before it occurs; or

(ii) ratified by the company after it occurs;

(f) where the cause of action is an act or omission that has already occurred, whether the act or omission could be, and in the circumstances would be likely to be, ratified by the company.

(*5*) If an application filed under sub-section *(1)* is admitted, then the Tribunal shall have regard to the following, namely:—

(a) public notice shall be served on admission of the application to all the members or depositors of the class in such manner as may be prescribed;

(b) all similar applications prevalent in any jurisdiction should be consolidated into a single application and the class members or depositors should be allowed to choose the lead applicant and in the event the members or depositors of the class are unable to come to a consensus, the Tribunal shall have the power to appoint a lead applicant, who shall be in charge of the proceedings from the applicant's side;

(c) two class action applications for the same cause of action shall not be allowed;

(d) the cost or expenses connected with the application for class action shall be defrayed by the company or any other person responsible for any oppressive act.

(*6*) Any order passed by the Tribunal shall be binding on the company and all its members, depositors and auditor including audit firm or expert or consultant or advisor or any other person associated with the company.

(*7*) Any company which fails to comply with an order passed by the Tribunal under this section shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-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 three years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(*8*) Where any application filed before the Tribunal is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, reject the application and make an order that the applicant shall pay to the opposite party such cost, not exceeding one lakh rupees, as may be specified in the order.

(*9*) Nothing contained in this section shall apply to a banking company.

(10) Subject to the compliance of this section, an application may be filed or any other action may be taken under this section by any person, group of persons or any association of persons representing the persons affected by any act or omission, specified in sub-section *(1)*.

246. *Application of certain provisions to proceedings under section 241 or section 245.*—The provisions of sections 337 to 341 (both inclusive) shall apply *mutatis mutandis*, in relation to an application made to the Tribunal under section 241 or section 245.

CHAPTER XVII

REGISTERED VALUERS

247. *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 prescribed and appointed by the audit committee or in its absence by the Board of Directors of that company.

(*2*) The valuer appointed under sub-section (*1*) shall,—

(a) make an impartial, true and fair valuation of any assets which may be required to be valued;

(b) exercise due diligence while performing the functions as valuer;

(c) make the valuation in accordance with such rules as may be prescribed; and

(d) not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets.

(*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:

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 than one lakh rupees but which may extend to five lakh rupees.

(*4*) Where a valuer has been convicted under sub-section (*3*), he shall be liable to—

(*i*) refund the remuneration received by him to the company; and

(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.

CHAPTER XVIII

REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES

248. *Power of Registrar to remove name of company from register of companies.*—(*1*) Where the Registrar has reasonable cause to believe that—

(a) a company has failed to commence its business within one year of its incorporation;

(b) the subscribers to the memorandum have not paid the subscription which they had undertaken to pay within a period of one hundred and eighty days from the date of incorporation of a company and a declaration under sub-section (*1*) of Section 11 to this effect has not been filed within one hundred and eighty days of its incorporation; or

(c) a company is not carrying on any business or operation for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company under Section 455,

he shall send a notice to the company and all the directors of the company, of his intention to remove the name of the company from the register of companies and requesting them to send their representations along with copies of the relevant documents, if any, within a period of thirty days from the date of the notice.

(*2*) Without prejudice to the provisions of sub-section *(1)*, a company may, after extinguishing all its liabilities, by a special resolution or consent of seventy-five per cent. members in terms of paid-up share capital, file an application in the prescribed manner to the Registrar for removing the name of the company from the register of companies on all or any of the grounds specified in sub-section (*1*) and the Registrar shall, on receipt of such application, cause a public notice to be issued in the prescribed manner :

Provided that in the case of a company regulated under a special Act, approval of the regulatory body constituted or established under that Act shall also be obtained and enclosed with the application.

(3) Nothing in sub-section (*2*) shall apply to a company registered under Section 8.

(4) A notice issued under sub-section (*1*) or sub-section (*2*) shall be published in the prescribed manner and also in the Official Gazette for the information of the general public.

(5) At the expiry of the time mentioned in the notice, the Registrar may, unless cause to the contrary is shown by the company, strike off its name from the register of companies, and shall publish notice thereof in the Official Gazette, and on the publication in the Official Gazette of this notice, the company shall stand dissolved.

(6) The Registrar, before passing an order under sub-section (*5*), shall satisfy himself that sufficient provision has been made for the realisation of all amount due to the company and for the payment or discharge of its liabilities and obligations by the company within a reasonable time and, if necessary, obtain necessary undertakings from the managing director, director or other persons in charge of the management of the company :

Provided that notwithstanding the undertakings referred to in this sub-section, the assets of the company shall be made available for the payment or discharge of all its liabilities and obligations even after the date of the order removing the name of the company from the register of companies.

(*7*) The liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved under sub-section (*5*), shall continue and may be enforced as if the company had not been dissolved.

(*8*) Nothing in this section shall affect the power of the Tribunal to wind up a company the name of which has been struck off from the register of companies.

249. *Restrictions on making application under section 248 in certain situations.*—(*1*) An application under sub-section (*2*) of section 248 on behalf of a company shall not be made if, at any time in the previous three months, the company—

(a) has changed its name or shifted its registered office from one State to another;

(b) has made a disposal for value of property or rights held by it, immediately before cesser of trade or otherwise carrying on of business, for the purpose of disposal for gain in the normal course of trading or otherwise carrying on of business;

(c) has engaged in any other activity except the one which is necessary or expedient for the purpose of making an application under that section, or deciding whether to do so or concluding the affairs of the company, or complying with any statutory requirement;

(d) has made an application to the Tribunal for the sanctioning of a compromise or arrangement and the matter has not been finally concluded; or

(e) is being wound up under Chapter XX, whether voluntarily or by the Tribunal.

(*2*) If a company files an application under sub-section (*2*) of section 248 in violation of sub-section (*1*), it shall be punishable with fine which may extend to one lakh rupees.

(*3*) An application filed under sub-section (*2*) of section 248 shall be withdrawn by the company or rejected by the Registrar as soon as conditions under sub-section *(1)* are brought to his notice.

250. *Effect of company notified as dissolved.*—Where a company stands dissolved under section 248, it shall on and from the date mentioned in the notice under sub-section (*5*) of that section cease to operate as a company and the Certificate of Incorporation issued to it shall be deemed to have been cancelled from such date except for the purpose of realising the amount due to the company and for the payment or discharge of the liabilities or obligations of the company.

251. *Fraudulent application for removal of name.*—(*1*) Where it is found that an application by a company under sub-section (*2*) of section 248 has been made with the object of evading the liabilities of the company or with the intention to deceive the creditors or to defraud any other persons, the persons in charge of the management of the company shall, notwithstanding that the company has been notified as dissolved—

(a) be jointly and severally liable to any person or persons who had incurred loss or damage as a result of the company being notified as dissolved; and

(b) be punishable for fraud in the manner as provided in section 447.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), the Registrar may also recommend prosecution of the persons responsible for the filing of an application under sub-section (*2*) of section 248.

252. *Appeal to Tribunal.*—(*1*) Any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal within a period of three years from the date of the order of the Registrar and if the Tribunal is of the opinion that the removal of the name of the company from the register of companies is not justified in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the register of companies:

Provided that before passing any order under this section, the Tribunal shall give a reasonable opportunity of making representations and of being heard to the Registrar, the company and all the persons concerned :

Provided further that if the Registrar is satisfied, that the name of the company has been struck off from the register of companies either inadvertently or on the basis of incorrect information furnished by the company or its directors, which requires restoration in the register of companies, he may within a period of three years from the date of passing of the order dissolving the company under section 248, file an application before the Tribunal seeking restoration of name of such company.

(*2*) A copy of the order passed by the Tribunal shall be filed by the company with the Registrar within thirty days from the date of the order and on receipt of the order, the Registrar shall cause the name of the company to be restored in the register of companies and shall issue a fresh certificate of incorporation.

(*3*) If a company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section (*5*) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off from the register of companies.

CHAPTER XIX

REVIVAL AND REHABILITATION OF SICK COMPANIES

253. *Determination of sickness.*—(*1*) Where on a demand by the secured creditors of a company representing fifty per cent. or more of its outstanding amount of debt, the company has failed to pay the debt within a period of thirty days of the service of the notice of demand or to secure or compound it to the reasonable satisfaction of the creditors, any secured creditor may file an application to the Tribunal in the prescribed manner along with the relevant evidence for such default, non-repayment or failure to offer security or compound it, for a determination that the company be declared as a sick company.

(*2*) The applicant under sub-section *(1)* may, along with an application under that sub-section or at any stage of the proceedings thereafter, make an application for the stay of any proceeding for the winding up of the company or for execution, distress or the like against any property and assets of the company or for the appointment of a receiver in respect thereof and that no suit for the recovery of any money or for the enforcement of any security against the company shall lie or be proceeded with.

(*3*) The Tribunal may pass an order in respect of an application under sub-section (*2*) which shall be operative for a period of one hundred and twenty days.

(*4*) The company referred to in sub-section *(1)* may also file an application to the Tribunal on one or more of the grounds specified in sub-sections *(1)* and (*2*) above.

(*5*) Without prejudice to the provisions of sub-sections *(1)* to (*4*), the Central Government or the Reserve Bank of India or a State Government or a public financial institution or a State level institution or a scheduled bank may, if it has sufficient reasons to believe that any company has become, for the purposes of this Act, a sick company, make a reference in respect of such company to the Tribunal for determination of the measures which may be adopted with respect to such company:

Provided that a reference shall not be made under this sub-section in respect of any company by—

(a) the Government of any State unless all or any of the undertakings belonging to such company are situated in such State;

(b) a public financial institution or a State level institution or a scheduled bank unless it has, by reason of any financial assistance or obligation rendered by it, or undertaken by it, with respect to such company, an interest in such company.

(*6*) Where an application under sub-section *(1)* or sub-section (*4*) has been filed,—

(a) the company shall not dispose of or otherwise enter into any obligation with regard to, its properties or assets except as required in the normal course of business;

(b) the Board of Directors shall not take any steps likely to prejudice the interests of the creditors.

(*7*) The Tribunal shall, within a period of sixty days of the receipt of an application under sub-section *(1)* or sub-section (*4*), determine whether the company is a sick company or not:

Provided that no such determination shall be made in respect of an application under sub-section *(1)* unless the company has been given notice of the application and a reasonable opportunity to reply to the notice within thirty days of the receipt thereof.

(*8*) If the Tribunal is satisfied that a company has become a sick company, the Tribunal shall, after considering all the relevant facts and circumstances of the case, decide, as soon as may be, by an order in writing, whether it is practicable for the company to make the repayment of its debts referred to in sub-section *(1)* within a reasonable time.

(*9*) If the Tribunal deems fit under sub-section (*8*) that it is practicable for a sick company to pay its debts referred to in that sub-section within a reasonable time, the Tribunal shall, by order in writing and subject to such restrictions or conditions as may be specified in the order, give such time to the company as it may deem fit to make repayment of the debt.

254. *Application for revival and rehabilitation.*—(*1*) On the determination of a company as a sick company by the Tribunal under section 253, any secured creditor of that company or the company may make an application to the Tribunal for the determination of the measures that may be adopted with respect to the revival and rehabilitation of such company:

Provided that in case any reference had been made before the Tribunal and a scheme for revival and rehabilitation submitted, such reference shall abate if the secured creditors representing three-fourths in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (*4*) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002):

Provided further that no reference shall be made under this section if the secured creditors representing three-fourths in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (*4*) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002):

Provided also that where the financial assets of the sick company had been acquired by any securitisation company or reconstruction company under sub-section (*1*) of section 5 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), no such application shall be made without the consent of securitisation company or reconstruction company which has acquired such assets.

(*2*) An application under sub-section *(1)* shall be accompanied by—

(a) audited financial statements of the company relating to the immediately preceding financial year;

(b) such particulars and documents, duly authenticated in such manner, along with such fees as may be prescribed; and

(c) a draft scheme of revival and rehabilitation of the company in such manner as may be prescribed:

Provided that where the sick company has no draft scheme of revival and rehabilitation to offer, it shall file a declaration to that effect along with the application.

(*3*) An application under sub-section *(1)* shall be made to the Tribunal within a period of sixty days from the date of determination of the company as a sick company by the Tribunal under section 253.

255. *Exclusion of certain time in computing period of limitation.*—Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963) or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a company for which an application has been made to the Tribunal under sub-section *(1)* of section 253, for a determination to be declared as a sick company or at any stage thereafter, the period during which the stay order as provided under sub-section (*3*) of section 253, was applicable shall be excluded.

256. *Appointment of interim administrator.*—(*1*) On the receipt of an application under section 254, the Tribunal shall, not later than seven days from such receipt,—

(a) fix a date for hearing not later than ninety days from date of its receipt;

(b) appoint an interim administrator to convene a meeting of creditors of the company in accordance with the provisions of section 257 to be held not later than forty-five days from receipt of the order of the Tribunal appointing him to consider whether on the basis of the particulars and documents furnished with the application made under section 254, the draft scheme, if any, filed along with such application or otherwise and any other material available, it is possible to revive and rehabilitate the

sick company and such other matters, which the interim administrator may consider necessary for the purpose and to submit his report to the Tribunal within sixty days from the date of the order:

Provided that where no draft scheme is filed by the company and a declaration has been made to that effect by the Board of Directors, the Tribunal may direct the interim administrator to take over the management of the company; and

(*c*) issue such other directions to the interim administrator as the Tribunal may consider necessary to protect and preserve the assets of the sick company and for its proper management.

(*2*) Where an interim administrator has been directed to take over the management of the company, the directors and the management of the company shall extend all possible assistance and cooperation to the interim administrator to manage the affairs of the company.

257. *Committee of creditors.*—(*1*) The interim administrator shall appoint a committee of creditors with such number of members as he may determine, but not exceeding seven, and as far as possible a representative each of every class of creditors should be represented in that committee.

(*2*) The holding of the meeting of the committee of creditors and the procedure to be followed at such meetings, including the appointment of its chairperson, shall be decided by the interim administrator.

(*3*) The interim administrator may direct any promoter, director or any key managerial personnel to attend any meeting of the committee of creditors and to furnish such information as may be considered necessary by the interim administrator.

258. *Order of Tribunal.*—On the date of hearing fixed by the Tribunal and on consideration of the report of the interim administrator filed under sub-section (*1*) of section 256, if the Tribunal is satisfied that the creditors representing three-fourths in value of the amount outstanding against the sick company present and voting have resolved that—

(a) it is not possible to revive and rehabilitate such company, the Tribunal shall record such opinion and order that the proceedings for the winding up of the company be initiated; or

(b) by adopting certain measures the sick company may be revived and rehabilitated, the Tribunal shall appoint a company administrator for the company and cause such administrator to prepare a scheme of revival and rehabilitation of the sick company:

Provided that the Tribunal may, if it thinks fit, appoint an interim administrator as the company administrator.

259. *Appointment of administrator.—(1)* The interim administrator or the company administrator, as the case may be, shall be appointed by the Tribunal from a data bank maintained by the Central Government or any institute or agency authorised by the Central Government in a manner as may be prescribed consisting of the names of company secretaries, chartered accountants, cost accountants and such other professionals as may, by notification, be specified by the Central Government.

(*2*) The terms and conditions of the appointment of interim and company administrators shall be such as may be ordered by the Tribunal.

(*3*) The Tribunal may direct the company administrator to take over the assets or management of the company and for the purpose of assisting him in the management of the company, the company administrator may, with the approval of the Tribunal, engage the services of suitable expert or experts.

260. *Powers and duties of company administrator.—(1)* The company administrator shall perform such functions as the Tribunal may direct.

(*2*) Without prejudice to the provisions of sub-section (*1*), the company administrator may cause to be prepared with respect to the company—

(a) a complete inventory of—

(i) all assets and liabilities of whatever nature;

(ii) all books of account, registers, maps, plans, records, documents of title and all other documents of whatever nature;

(*b*) a list of shareholders and a list of creditors showing separately in the list of creditors, the secured creditors and unsecured creditors;

(*c*) a valuation report in respect of the shares and assets in order to arrive at the reserve price for the sale of any industrial undertaking of the company or for the fixation of the lease rent or share exchange ratio;

(*d*) an estimate of the reserve price, lease rent or share exchange ratio;

(*e*) proforma accounts of the company, where no up-to-date audited accounts are available; and

(*f*) a list of workmen of the company and their dues referred to in sub-section (*3*) of section 325.

261. *Scheme of revival and rehabilitation.—(1)* The company administrator shall prepare or cause to be prepared a scheme of revival and rehabilitation of the sick company after considering the draft scheme filed along with the application under section 254.

(*2*) A scheme prepared in relation to any sick company under sub-section (*1*) may provide for anyone or more of the following measures, namely:—

(*a*) the financial reconstruction of the sick company;

(*b*) the proper management of the sick company by any change in, or by taking over, the management of such company;

(*c*) the amalgamation of—

(*i*) the sick company with any other company; or

(*ii*) any other company with the sick company;

(*d*) takeover of the sick company by a solvent company;

(*e*) the sale or lease of a part or whole of any asset or business of the sick company;

(*f*) the rationalisation of managerial personnel, supervisory staff and workmen in accordance with law;

(*g*) such other preventive, ameliorative and remedial measures as may be appropriate;

(*h*) repayment or rescheduling or restructuring of the debts or obligations of the sick company to any of its creditors or class of creditors;

(*i*) such incidental, consequential or supplemental measures as may be necessary or expedient in connection with or for the purposes of the measures specified in clauses (*a*) to (*h*).

262. *Sanction of scheme.—(1)* The scheme prepared by the company administrator under section 261 shall be placed before the creditors of the sick company in a meeting convened for their approval by the company administrator within the period of sixty days from his appointment, which may be extended by the Tribunal up to a period not exceeding one hundred twenty days.

(*2*) The company administrator shall convene separate meetings of secured and unsecured creditors of the sick company and if the scheme is approved by the unsecured creditors representing one-fourth in value of the amount owed by the company to such creditors and the secured creditors, representing three-fourths in value of the amount outstanding against financial assistance disbursed by such creditors to the sick company, the company administrator shall submit the scheme before the Tribunal for sanctioning the scheme:

Provided that where the scheme relates to amalgamation of the sick company with any other company, such scheme shall, in addition to the approval of the creditors of the sick company under this sub-section, be laid before the general meeting of both the companies for approval by their respective shareholders and no such scheme shall be proceeded with unless it has been approved, with or without modification, by a special resolution passed by the shareholders of that company.

(*3*) (*i*) The scheme prepared by the company administrator shall be examined by the Tribunal and a copy of the scheme with modification, if any, made by the Tribunal shall be sent, in draft, to the sick company and the company administrator and in the case of amalgamation, also to any other company concerned, and the Tribunal may publish or cause to be published the draft scheme in brief in such daily newspapers as the Tribunal may consider necessary, for suggestions and objections, if any, within such period as the Tribunal may specify.

(*ii*) The complete draft scheme shall be kept at the place where registered office of the company is situated or at such places as mentioned in the advertisement.

(*iii*) The Tribunal may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the sick company and the company administrator and also from the transferee company and any other company concerned in the amalgamation and from any shareholder or any creditors or employees of such companies.

(*4*) On the receipt of the scheme under sub-section (*3*), the Tribunal shall within sixty days therefrom, after satisfying that the scheme had been validly approved in accordance with this section, pass an order sanctioning such scheme.

(*5*) Where a sanctioned scheme provides for the transfer of any property or liability of the sick company to any other company or person or where such scheme provides for the transfer of any property or liability of any other company or person in favour of the sick company, then, by virtue of, and to the extent provided in, the scheme, on and from the date of coming into operation of the sanctioned scheme or any provision thereof, the property shall be transferred to, and vest in, and the liability shall become the liability of, such other company or person or, as the case may be, the sick company.

(*6*) The Tribunal may review any sanctioned scheme and make such modifications, as it may deem fit, or may by order in writing direct company administrator, to prepare a fresh scheme providing for such measures as the company administrator may consider necessary.

(*7*) The sanction accorded by the Tribunal under sub-section (*4*) shall be conclusive evidence that all the requirements of the scheme relating to the reconstruction or amalgamation or any other measure specified therein have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Tribunal to be a true copy thereof shall in all legal proceedings be admitted as evidence.

(*8*) A copy of the sanctioned scheme referred to in sub-section (*4*) shall be filed with the Registrar by the sick company within a period of thirty days from the date of receipt of a copy thereof.

263. *Scheme to be binding.*—On and from the date of the coming into operation of the sanctioned scheme or any provision thereof, the scheme or such provision shall be binding on the sick company and the transferee company or, as the case may be, the other company and also on the employees, shareholders, creditors and guarantors of the said companies.

264. *Implementation of scheme.—(1)* The Tribunal shall, for the purpose of effective implementation of the scheme, have power to enforce, modify or terminate any contract or agreement or any obligation pursuant to such agreement or contract entered into by the company with any other person.

(*2*) The Tribunal may, if it deems necessary or expedient so to do, by order in writing, authorise the company administrator appointed under section 259 to implement a sanctioned scheme till its successful implementation on such terms and conditions as may be specified in the order and may for that purpose require him to file periodic reports on the implementation of the sanctioned scheme.

(*3*) Where the whole or substantial assets of the undertaking of the sick company are sold under a sanctioned scheme, the sale proceeds shall be applied towards implementation of the scheme in such manner as the Tribunal may direct:

Provided that debtors and creditors shall have the power to scrutinise and make an appeal for review of the value before final order of fixing value.

(*4*) Where it is difficult to implement the scheme for any reason or the scheme fails due to non-implementation of obligations under the scheme by the parties concerned, the company administrator authorised to implement the scheme and where there is no such administrator, the company, the secured creditors, or the transferee company in a case of amalgamation, may make an application before the Tribunal for modification of the scheme or to declare the scheme as failed and that the company may be wound up.

(*5*) The Tribunal shall, within thirty days of presentation of an application under sub-section (4), pass an order for modification of the scheme or, as the case may be, declaring the scheme as failed and pass an order for the winding up of the company if three-fourths in value of the secured creditors consent to the modification of the scheme or winding up of the company.

(*6*) Where an application under sub-section (*4*) has been made before the Tribunal and such application is pending before it, such application shall abate, if the secured creditors representing not less than three-fourths in value of the amount outstanding against financial assistance disbursed to the sick company have taken any measures to recover their secured debt under sub-section (*4*) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002).

265. *Winding up of company on report of company administrator.—(1)* If the scheme is not approved by the creditors in the manner specified in sub-section (*2*) of section 262, the company administrator shall submit a report to the Tribunal within fifteen days and the Tribunal shall order for the winding up of the sick company.

(*2*) On the passing of an order under sub-section (*1*), the Tribunal shall conduct the proceedings for winding up of the sick company in accordance with the provisions of Chapter XX.

266. *Power of Tribunal to assess damages against delinquent directors etc.*—*(1)* If, in the course of the scrutiny or implementation of any scheme or proposal including the draft scheme or proposal, it appears to the Tribunal that any person who has taken part in the promotion, formation or management of the sick company or its undertaking, including any director, manager, officer or employee of the sick company who are or have been in employment of such company,—

(*a*) has misapplied or retained, or become liable or accountable for, any money or property of the sick company; or

(*b*) has been guilty of any misfeasance, malfeasance, non-feasance or breach of trust in relation to the sick company,

it may, by order, direct him to repay or restore the money or property, with or without interest, as it thinks just, or to contribute such sum to the assets of the sick company or the other person, entitled thereto by way of compensation in respect of the misapplication, retainer, misfeasance, malfeasance, non-feasance or breach of trust as the Tribunal thinks just and proper:

Provided that such direction by the Tribunal shall be without prejudice to any other legal action that may be taken against the person including any punishment for fraud in the manner as provided in section 447.

(*2*) If the Tribunal is satisfied on the basis of the information and evidence in its possession with respect to any person who is or was a director or an officer or other employee of the sick company, that such person by himself or along with others had diverted the funds or other property of such company for any purpose other than the purposes of the company or had managed the affairs of the company in a manner highly detrimental to the interests of the company, the Tribunal shall, by order, direct the public financial institutions, scheduled banks and State level institutions not to provide, for a maximum period of ten years from the date of the order, any financial assistance to such person or any firm of which such person is a partner or any company or other body corporate of which such person is a director, by whatever name called, or to disqualify the said director, promoter, manager from being appointed as a director in any company registered under this Act for a maximum period of six years.

(*3*) No order shall be made by the Tribunal under this section against any person unless such person has been given a reasonable opportunity of being heard.

267. *Punishment for certain offences.*—Whoever violates the provisions of this Chapter or any scheme, or any order, of the Tribunal or the Appellate Tribunal or makes a false statement or gives false evidence before the Tribunal or the Appellate Tribunal or attempts to tamper with the records of reference or appeal filed under this Act, he shall be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to ten lakh rupees.

268. *Bar of jurisdiction.*—No appeal shall lie in any court or other authority and no civil court shall have any jurisdiction in respect of any matter in respect of which the Tribunal or the Appellate Tribunal is empowered by or under this Chapter and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Chapter.

269. *Rehabilitation and Insolvency Fund.*—(*1*) There shall be formed a Fund to be called the Rehabilitation and Insolvency Fund for the purposes of rehabilitation, revival and liquidation of the sick companies.

(*2*) There shall be credited to the Fund—

(*a*) the grants made by the Central Government for the purposes of the Fund;

(*b*) the amount deposited by the companies as contribution to the Fund;

(*c*) the amoupt given to the Fund from any other source: and

(*d*) the income from investment of the amount in the Fund.

(*3*) A company which has contributed any amount to the Fund shall, in the event of proceedings initiated in respect of such company under this Chapter or Chapter XX, may make an application to the Tribunal for withdrawal of funds not exceeding the amount contributed by it, for making payments to workmen, protecting the assets of the company or meeting the incidental costs during proceedings.

(*4*) The Fund shall be managed by an administrator to be appointed by the Central Government in such manner as may be prescribed.

CHAPTER XX

WINDING UP

270. *Modes of winding up.*—(*1*) The winding up of a company may be either—

(*a*) by the Tribunal; or

(*b*) voluntary.

(*2*) Notwithstanding anything contained in any other Act, the provisions of this Act with respect to winding up shall apply to the winding up of a company in any of the modes specified under sub-section (*1*).

PART I.—*Winding up by the Tribunal*

271. *Circumstances in which company may be wound up by Tribunal.*—(*1*) A company may, on a petition under section 272, be wound up by the Tribunal,—

(*a*) if the company is unable to pay its debts;

(*b*) if the company has, by special resolution, resolved that the company be wound up by the Tribunal;

(*c*) if the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;

(*d*) if the Tribunal has ordered the winding up of the company under Chapter XIX;

(*e*) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the company have been conducted in a fraudulent manner or the company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the company be wound up;

(*f*) if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or

(*g*) if the Tribunal is of the opinion that it is just and equitable that the company should be wound up.

(*2*) A company shall be deemed to be unable to pay its debts,—

(*a*) if a creditor, by assignment or otherwise, to whom the company is indebted for an amount exceeding one lakh rupees then due, has served on the company, by causing it to be delivered at its registered office, by registered post or otherwise, a demand requiring the company to pay the amount so due and the company has failed to pay the sum within twenty-one days after the receipt of such demand or to provide adequate security or re-structure or compound the debt to the reasonable satisfaction of the creditor;

(*b*) if any execution or other process issued on a decree or order of any court or tribunal in favour of a creditor of the company is returned unsatisfied in whole or in part; or

(*c*) if it is proved to the satisfaction of the Tribunal that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Tribunal shall take into account the contingent and prospective liabilities of the company.

272. *Petition for winding up.*—(*1*) Subject to the provisions of this section, a petition to the Tribunal for the winding up of a company shall be presented by—

(*a*) the company;

(*b*) any creditor or creditors, including any contingent or prospective creditor or creditors;

(*c*) any contributory or contributories;

(*d*) all or any of the persons specified in clauses (*a*), (*b*) and (*c*) together;

(*e*) the Registrar;

(*f*) any person authorised by the Central Government in that behalf; or

(*g*) in a case falling under clause (c) of sub-section (*1*) of section 271, by the Central Government or a State Government.

(*2*) A secured creditor, the holder of any debentures, whether or not any trustee or trustees have been appointed in respect of such and other like debentures, and the trustee for the holders of debentures shall be deemed to be creditors within the meaning of clause (*b*) of sub-section (*1*).

(*3*) A contributory shall be entitled to present a petition for the winding up of a company, notwithstanding that he may be the holder of fully paid-up shares, or that the company may have no assets at all or may have no surplus assets left for distribution among the shareholders after the satisfaction of its liabilities, and shares in respect of which he is a contributory or some of them were either originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months immediately before the commencement of the winding up or have devolved on him through the death of a former holder.

(*4*) The Registrar shall be entitled to present a petition for winding up under sub-section (*1*) on any of the grounds specified in sub-section (*1*) of section 271, except on the grounds specified in clause (*b*), clause (*d*) or clause (*g*) of that sub-section:

Provided that the Registrar shall not present a petition on the ground that the company is unable to pay its debts unless it appears to him either from the financial condition of the company as disclosed in its balance sheet or from the report of an inspector appointed under section 210 that the company is unable to pay its debts:

Provided further that the Registrar shall obtain the previous sanction of the Central Government to the presentation of a petition:

Provided also that the Central Government shall not accord its sanction unless the company has been given a reasonable opportunity of making representations.

(*5*) A petition presented by the company for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs in such form and in such manner as may be prescribed.

(*6*) Before a petition for winding up of a company presented by a contingent or prospective creditor is admitted, the leave of the Tribunal shall be obtained for the admission of the petition and such leave shall not be granted, unless in the opinion of the Tribunal there is a *prima facie* case for the winding up of the company and until such security for costs has been given as the Tribunal thinks reasonable.

(*7*) A copy of the petition made under this section shall also be filed with the Registrar and the Registrar shall, without prejudice to any other provisions, submit his views to the Tribunal within sixty days of receipt of such petition.

273. *Powers of Tribunal.—(1)* The Tribunal may, on receipt of a petition for winding up under section 272 pass any of the following orders, namely:—

(*a*) dismiss it, with or without costs;

(*b*) make any interim order as it thinks fit;

(*c*) appoint a provisional liquidator of the company till the making of a winding up order;

(*d*) make an order for the winding up of the company with or without costs; or

(*e*) any other order as it thinks fit:

Provided that an order under this sub-section shall be made within ninety days from the date of presentation of the petition:

Provided further that before appointing a provisional liquidator under clause (*c*), the Tribunal shall give notice to the company and afford a reasonable opportunity to it to make its representations, if any, unless for special reasons to be recorded in writing, the Tribunal thinks fit to dispense with such notice:

Provided also that the Tribunal shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged for an amount equal to or in excess of those assets, or that the company has no assets.

(2) Where a petition is presented on the ground that it is just and equitable that the company should be wound up, the Tribunal may refuse to make an order of winding up, if it is of the opinion that some other remedy is available to the petitioners and that they are acting unreasonably in seeking to have the company wound up instead of pursuing the other remedy.

274. *Directions for filing statement of affairs.—(1)* Where a petition for winding up is filed before the Tribunal by any person other than the company, the Tribunal shall, if satisfied that a *prima facie* case for winding up of the company is made out, by an order direct the company to file its objections along with a statement of its affairs within thirty days of the order in such form and in such manner as may be prescribed:

Provided that the Tribunal may allow a further period of thirty days in a situation of contingency or special circumstances:

Provided further that the Tribunal may direct the petitioner to deposit such security for costs as it may consider reasonable as a precondition to issue directions to the company.

(*2*) A company, which fails to file the statement of affairs as referred to in sub-section (*1*), shall forfeit the right to oppose the petition and such directors and officers of the company as found responsible for such non-compliance, shall be liable for punishment under sub-section (*4*).

(*3*) The directors and other officers of the company, in respect of which an order for winding up is passed by the Tribunal under clause (*d*) of sub-section (*1*) of section 273, shall, within a period of thirty days of such order, submit, at the cost of the company, the books of account of the company completed and audited up to the date of the order, to such liquidator and in the manner specified by the Tribunal.

(*4*) If any director or officer of the company contravenes the provisions of this section, the director or the 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 twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

(*5*) The complaint may be filed in this behalf before the Special Court by Registrar, provisional liquidator, Company Liquidator or any person authorised by the Tribunal.

275. *Company Liquidators and their appointments.—(1)* For the purposes of winding up of a company by the Tribunal, the Tribunal at the time of the passing of the order of winding up, shall appoint an Official Liquidator or a liquidator from the panel maintained under sub-section (*2*) as the Company Liquidator.

(*2*) The provisional liquidator or the Company Liquidator, as the case may be, shall be appointed from a panel maintained by the Central Government consisting of the names of chartered accountants, advocates, company secretaries, cost accountants or firms or bodies corporate having such chartered accountants, advocates, company secretaries, cost accountants and such other professionals as may be notified by the Central Government or from a firm or a body corporate of persons having a combination of such professionals as may be prescribed and having at least ten years experience in company matters.

(*3*) Where a provisional liquidator is appointed by the Tribunal, the Tribunal may limit and restrict his powers by the order appointing him or it or by a subsequent order, but otherwise he shall have the same powers as a liquidator.

(*4*) The Central Government may remove the name of any person or firm or body corporate from the panel maintained under sub-section (*2*) on the grounds of misconduct, fraud, misfeasance, breach of duties or professional incompetence:

Provided that the Central Government before removing him or it from the panel shall give him or it a reasonable opportunity of being heard.

(*5*) The terms and conditions of appointment of a provisional liquidator or Company Liquidator and the fee payable to him or it shall be specified by the Tribunal on the basis of task required to be performed, experience, qualification of such liquidator and size of the company.

(*6*) On appointment as provisional liquidator or Company Liquidator, as the case may be, such liquidator shall file a declaration within seven days from the date of appointment in the prescribed form disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the Tribunal and such obligation shall continue throughout the term of his appointment.

(*7*) While passing a winding up order, the Tribunal may appoint a provisional liquidator, if any, appointed under clause (*c*) of sub-section (*1*) of section 273, as the Company Liquidator for the conduct of the proceedings for the winding up of the company.

276. *Removal and replacement of liquidator.—(1)* The Tribunal may, on a reasonable cause being shown and for reasons to be recorded in writing, remove the provisional liquidator or the Company Liquidator, as the case may be, as liquidator of the company on any of the following grounds, namely:—

(*a*) misconduct;

(*b*) fraud or misfeasance;

(*c*) professional incompetence or failure to exercise due care and diligence in performance of the powers and functions;

(*d*) inability to act as provisional liquidator or as the case may be, Company Liquidator;

(*e*) conflict of interest or lack of independence during the term of his appointment that would justify removal.

(*2*) In the event of death, resignation or removal of the provisional liquidator or as the case may be, Company Liquidator, the Tribunal may transfer the work assigned to him or it to another Company Liquidator for reasons to be recorded in writing.

(*3*) Where the Tribunal is of the opinion that any liquidator is responsible for causing any loss or damage to the company due to fraud or misfeasance or failure to exercise due care and diligence in the performance of his or its powers and functions, the Tribunal may recover or cause to be recovered such loss or damage from the liquidator and pass such other orders as it may think fit.

(*4*) The Tribunal shall, before passing any order under this section, provide a reasonable opportunity of being heard to the provisional liquidator or, as the case may be, Company Liquidator.

277. *Intimation to Company Liquidator, provisional liquidator and Registrar.*—(*1*) Where the Tribunal makes an order for appointment of provisional liquidator or for the winding up of a company, it shall, within a period not exceeding seven days from the date of passing of the order, cause intimation thereof to be sent to the Company Liquidator or provisional liquidator, as the case may be, and the Registrar.

(*2*) On receipt of the copy of order of appointment of provisional liquidator or winding up order, the Registrar shall make an endorsement to that effect in his records relating to the company and notify in the Official Gazette that such an order has been made and in the case of a listed company, the Registrar shall intimate about such appointment or order, as the case may be, to the stock exchange or exchanges where the securities of the company are listed.

(*3*) The winding up order shall be deemed to be a notice of discharge to the officers, employees and workmen of the company, except when the businass of the company is continued.

(*4*) Within three weeks from the date of passing of winding up order, the Company Liquidator shall make an application to the Tribunal for constitution of a winding up committee to assist and monitor the progress of liquidation proceedings by the Company Liquidator in carrying out the function as provided in sub-section (*5*) and such winding up committee shall comprise of the following persons, namely:—

(*i*) Official Liquidator attached to the Tribunal;

(*ii*) nominee of secured creditors; and

(*iii*) a professional nominated by the Tribunal.

(*5*) The Company Liquidator shall be the convener of the meetings of the winding up committee which shall assist and monitor the liquidation proceedings in following areas of liquidation functions, namely:—

(*i*) taking over assets;

(*ii*) examination of the statement of affairs;

(*iii*) recovery of property, cash or any other assets of the company including benefits derived therefrom;

(*iv*) review of audit reports and accounts of the company;

(*v*) sale of assets;

(*vi*) finalisation of list of creditors and contributories;

(*vii*) compromise, abandonment and settlement of claims;

(*viii*) payment of dividends, if any; and

(*ix*) any other function, as the Tribunal may direct from time to time.

(*6*) The Company Liquidator shall place before the Tribunal a report along with minutes of the meetings of the committee on monthly basis duly signed by the members present in the meeting for consideration till the final report for dissolution of the company is submitted before the Tribunal.

(*7*) The Company Liquidator shall prepare the draft final report for consideration and approval of the winding up committee.

(*8*) The final report so approved by the winding up committee shall be submitted by the Company Liquidator before the Tribunal for passing of a dissolution order in respect of the company.

278. *Effect of winding up order.*—The order for the winding up of a company shall operate in favour of all the creditors and all contributories of the company as if it had been made out on the joint petition of creditors and contributories.

279. *Stay of suits etc. on winding up order.*—(*1*) When a winding up order has been passed or a provisional liquidator has been appointed, no suit or other legal proceeding shall be commenced, or if pending at the date of the winding up order, shall be proceeded with, by or against the company, except with the leave of the Tribunal and subject to such terms as the Tribunal may impose:

Provided that any application to the Tribunal seeking leave under this section shall be disposed of by the Tribunal within sixty days.

(*2*) Nothing in sub-section (*1*) shall apply to any proceeding pending in appeal before the Supreme Court or a High Court.

280. *Jurisdiction of Tribunal.*—The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of,—

(*a*) any suit or proceeding by or against the company;

(*b*) any claim made by or against the company, including claims by or against any of its branches in India;

(*c*) any application made under section 233;

(*d*) any scheme submitted under section 262;

(*e*) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the company,

whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for the winding up of the company is made.

281. *Submission of report by Company Liquidator.*—(*1*) Where the Tribunal has made a winding up order or appointed a Company Liquidator, such liquidator shall, within sixty days from the order, submit to the Tribunal, a report containing the following particulars, namely:—

(*a*) the nature and details of the assets of the company including their location and value, stating separately the cash balance in hand and in the bank, if any, and the negotiable securities, if any, held by the company:

Provided that the valuation of the assets shall be obtained from registered valuers for this purpose;

(*b*) amount of capital issued, subscribed and paid-up;

(*c*) the existing and contingent liabilities of the company including names, addresses and occupations of its creditors, stating separately the amount of secured and unsecured debts, and in the case of secured debts, particulars of the securities given, whether by the company or an officer thereof, their value and the dates on which they were given;

(*d*) the debts due to the company and the names, addresses and occupations of the persons from whom they are due and the amount likely to be realised an account thereof ;

(*e*) guarantees, if any, extended by the company;

(*f*) list of contributories and dues, if any, payable by them and details of any unpaid call;

(*g*) details of trade marks and intellectual properties, if any, owned by the company;

(*h*) details of subsisting contracts, joint ventures and collaborations, if any;

(*i*) details of holding and subsidiary companies, if any;

(*j*) details of legal cases filed by or against the company; and

(*k*) any other information which the Tribunal may direct or the Company Liquidator may consider necessary to include.

(*2*) The Company Liquidator shall include in his report the manner in which the company was promoted or formed and whether in his opinion any fraud has been committed by any person in its promotion or formation or by any officer of the company in relation to the company since the formation thereof and any other matters which, in his opinion, it is desirable to bring to the notice of the Tribunal.

(*3*) The Company Liquidator shall also make a report on the viability of the business of the company or the steps which, in his opinion, are necessary for maximising the value of the assets of the company.

(*4*) The Company Liquidator may also, if he thinks fit, make any further report or reports.

(*5*) Any person describing himself in writing to be a creditor or a contributory of the company shall be entitled by himself or by his agent at all reasonable times to inspect the report submitted in accordance with this section and take copies thereof or extracts therefrom on payment of the prescribed fees.

282. *Directions of Tribunal on report of Company Liquidator.—(1)* The Tribunal shall, on consideration of the report of the Company Liquidator, fix a time limit within which the entire proceedings shall be completed and the company be dissolved:

Provided that the Tribunal may, if it is of the opinion, at any stage of the proceedings, or on examination of the reports submitted to it by the Company Liquidator and after hearing the Company Liquidator, creditors or contributories or any other interested person, that it will not be advantageous or economical to continue the proceedings, revise the time limit within which the entire proceedings shall be completed and the company be dissolved.

(*2*) The Tribunal may, on examination of the reports submitted to it by the Company Liquidator and after hearing the Company Liquidator, creditors or contributories or any other interested person, order sale of the company as a going concern or its assets or part thereof:

Provided that the Tribunal may, where it considers fit, appoint a sale committee comprising such creditors, promoters and officers of the company as the Tribunal may decide to assist the Company Liquidator in sale under this sub-section.

(*3*) Where a report is received from the Company Liquidator or the Central Government or any person that a fraud has been committed in respect of the company, the Tribunal shall, without prejudice to the process of winding up, order for investigation under section 210, and on consideration of the report of such investigation it may pass order and give directions under sections 339 to 342 or direct the Company Liquidator to file a criminal complaint against persons who were involved in the commission of fraud.

(*4*) The Tribunal may order for taking such steps and measures, as may be necessary, to protect, preserve or enhance the value of the assets of the company.

(*5*) The Tribunal may pass such other order or give such other directions as it considers fit.

283. *Custody of company's properties.—(1)* Where a winding up order has been made or where a provisional liquidator has been appointed, the Company Liquidator or the provisional liquidator, as the case may be, shall, on the order of the Tribunal, forth with take into his or its custody or control all the property, effects and actionable claims to which the company is or appears to be entitled to and take such steps and measures, as may be necessary, to protect and preserve the properties of the company.

(*2*) Notwithstanding anything contained in sub-section (*1*), all the property and effects of the company shall be deemed to be in the custody of the Tribunal from the date of the order for the winding up of the company.

(*3*) On an application by the Company Liquidator or otherwise, the Tribunal may, at any time after the making of a winding up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent, officer or other employee of the company, to pay, deliver, surrender or transfer forthwith, or within such time as the Tribunal directs, to the Company Liquidator, any money, property or books and papers in his custody or under his control to which the company is or appears to be entitled.

284. *Promoters, directors, etc. to co-operate with Company Liquidator:—(1)* The promoters, directors, officers and employees, who are or have been in employment of the company or acting or associated with the company shall extend full co-operation to the Company Liquidator in discharge of his functions and duties.

(*2*) Where any person, without reasonable cause, fails to discharge his obligations under sub-section (1), he shall be punishable with imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees, or with both.

285. *Settlement of list of contributories and application of assets.—(1)* As soon as may be after the passing of a winding up order by the Tribunal, the Tribunal shall settle a list of contributories, cause rectification of register of members in all cases where rectification is required in pursuance of this Act and shall cause the assets of the company to be applied for the discharge of its liability:

Provided that where it appears to the Tribunal that it would not be necessary to make calls on or adjust the rights of contributories, the Tribunal may dispense with the settlement of a list of contributories.

(*2*) In settling the list of contributories, the Tribunal shall distinguish between those who are contributories in their own right and those who are contributories as being representatives of, or liable for the debts of, others.

(*3*) While settling the list of contributories, the Tribunal shall include every person, who is or has been a member, who shall be liable to contribute to the assets of the company an amount sufficient for payment of the debts and liabilities and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, subject to the following conditions, namely:—

(*a*) a person who has been a member shall not be liable to contribute if he has ceased to be a member for the preceding one year or more before the commencement of the winding up;

(*b*) a person who has been a member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;

(*c*) no person who has been a member shall be liable to contribute unless it appears to the Tribunal that the present members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(*d*) in the case of a company limited by shares, no contribution shall be required from any person, who is or has been a member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as such member;

(*e*) in the case of a company limited by guarantee, no contribution shall be required from any person, who is or has been a member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up but if the company has a share capital, such member shall be liable to contribute to the extent of any sum unpaid on any shares held by him as if the company were a company limited by shares.

286. *Obligations of directors and managers.*—In the case of a limited company, any person who is or has been a director or manager, whose liability is unlimited under the provisions of this Act, shall, in addition to his liability, if any, to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of winding up, a member of an unlimited company:

Provided that—

(*a*) a person who has been a director or manager shall not be liable to make such further contribution, if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(*b*) a person who has been a director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;

(c) subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the Tribunal deems it necessary to require the contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

287. *Advisory committee.—(1)* The Tribunal may, while passing an order of winding up of a company, direct that there shall be, an advisory committee to advise the Company Liquidator and to report to the Tribunal on such matters as the Tribunal may direct.

(2) The advisory committee appointed by the Tribunal shall consist of not more than twelve members, being creditors and contributories of the company or such other persons in such proportion as the Tribunal may, keeping in view the circumstances of the company under liquidation, direct.

(3) The Company Liquidator shall convene a meeting of creditors and contributories, as ascertained from the books and documents, of the company within thirty days from the date of order of winding up for enabling the Tribunal to determine the persons who may be members of the advisory committee.

(4) The advisory committee shall have the right to inspect the books of account and other documents, assets and properties of the company under liquidation at a reasonable time.

(5) The provisions relating to the convening of the meetings the procedure to be followed thereat and other matters relating to conduct of business by the advisory committee shall be such as may be prescribed.

(6) The meeting of advisory committee shall be chaired by the Company Liquidator.

288. *Submission of periodical reports to Tribunal.—(1)* The Company Liquidator shall make periodical reports to the Tribunal and in any case make a report at the end of each quarter with respect to the progress of the winding up of the company in such form and manner as may be prescribed.

(2) The Tribunal may, on an application by the Company Liquidator, review the orders made by it and make such modifications as it thinks fit.

289. *Power of Tribunal on application for stay of winding up.—(1)* The Tribunal may, at any time after making a winding up order, on an application of promoter, shareholders or creditors or any other interested person, if satisfied, make an order that it is just and fair that an opportunity to revive and rehabilitate the company be provided staying the proceedings for such time but not exceeding one hundred and eighty days and on such terms and conditions as it thinks fit:

Provided that an order under this sub-section shall be made by the Tribunal only when the application is accompanied with a scheme for rehabilitation.

(*2*) The Tribunal may, while passing the order under sub-section (*1*), require the applicant to furnish such security as to costs as it considers fit.

(*3*) Where an order under sub-section (*1*) is passed by the Tribunal, the provisions of Chapter XIX shall be followed in respect of the consideration and sanction of the scheme of revival of the company.

(*4*) Without prejudice to the provisions of sub-section (*1*), the Tribunal may at any time after making a winding up order, on an application of the Company Liquidator, make an order staying the winding up proceedings or any part thereof, for such time and on such terms and conditions as it thinks fit.

(*5*) The Tribunal may, before making an order, under this section, require the Company Liquidator to furnish to it a report with respect to any facts or matters which are in his opinion relevant to the application.

(*6*) A copy of every order made under this section shall forthwith be forwarded by the Company Liquidator to the Registrar who shall make an endorsement of the order in his books and records relating to the company.

290. *Powers and duties of Company Liquidator.—(1)* Subject to directions by the Tribunal, if any, in this regard, the Company Liquidator, in a winding up of a company by the Tribunal, shall have the power—

(*a*) to carry on the business of the company so far as may be necessary for the beneficial winding up of the company;

(*b*) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts and other documents, and for that purpose, to use, when necessary, the company's seal;

(*c*) to sell the immovable and movable property and actionable claims of the company by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels;

(*d*) to sell the whole of the undertaking of the company as a going concern;

(*e*) to raise any money required on the security of the assets of the company;

(*f*) to institute or defend any suit, prosecution or other legal proceeding, civil or criminal, in the name and on behalf of the company;

(*g*) to invite and settle claim of creditors, employees or any other claimant and distribute sale proceeds in accordance with priorities established under this Act;

(*h*) to inspect the records and returns of the company on the files of the Registrar or any other authority;

(*i*) to prove rank and claim in the insolvency of any contributory for any balance against his estate, and to receive dividends in the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rateably with the other separate creditors;

(*j*) to draw, accept, make and endorse any negotiable instruments including cheque, bill of exchange, hundi or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if such instruments had been drawn, accepted, made or endorsed by or on behalf of the company in the course of its business;

(*k*) to take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases, the money due shall, for the purpose of enabling the Company Liquidator to take out the letters of administration or recover the money, be deemed to be due to the Company Liquidator himself;

(*l*) to obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities and for protection of the assets of the company, appoint an agent to do any business which the Company Liquidator is unable to do himself;

(*m*) to take all such actions, steps, or to sign, execute and verify any paper, deed, document, application, petition, affidavit, bond or instrument as may be necessary,—

(*i*) for winding up of the company;

(*ii*) for distribution of assets;

(*iii*) in discharge of his duties and obligations and functions as Company Liquidator; and

(*n*) to apply to the Tribunal for such orders or directions as may be necessary for the winding up of the company.

(*2*) The exercise of powers by the Company Liquidator under sub section (*1*) shall be subject to the overall control of the Tribunal.

(*3*) Notwithstanding the provisions of sub-section (*1*), the Company Liquidator shall perform such other duties as the Tribunal may specify in this behalf.

291. *Provision for professional assistance to Company Liquidator.—(1)* The Company Liquidator may, with the sanction of the Tribunal, appoint one or more chartered accountants or company secretaries or cost accountants or legal practitioners or such other professionals on such terms and conditions, as may be necessary, to assist him in the performance of his duties and functions under this Act.

(2) Any person appointed under this section shall disclose forthwith to the Tribunal in the prescribed form any conflict of interest or lack of independence in respect of his appointment.

292. *Exercise and control of Company Liquidator's powers.*—(1) Subject to the provisions of this Act, the Company Liquidator shall, in the administration of the assets of the company and the distribution thereof among its creditors, have regard to any directions which may be given by the resolution of the creditors or contributories at any general meeting or by the advisory committee.

(2) Any directions given by the creditors or contributories at any general meeting shall, in case of conflict, be deemed to override any directions given by the advisory committee.

(3) The Company Liquidator—

(*a*) may summon meetings of the creditors or contributories whenever he thinks fit, for the purpose of ascertaining their wishes; and

(*b*) shall summon such meetings at such times, as the creditors or contributories, as the case may be, may, by resolution, direct, or whenever requested in writing to do so by not less than one-tenth in value of the creditors or contributories, as the case may be.

(4) Any person aggrieved by any act or decision of the Company Liquidator may apply to the Tribunal, and the Tribunal may confirm, reverse or modify the act or decision complained of and make such further order as it thinks just and proper in the circumstances.

293. *Books to be kept by Company Liquidator.*—(1) The Company Liquidator shall keep proper books in such manner, as may be prescribed, in which he shall cause entries or minutes to be made of proceedings at meetings and of such other matters as may be prescribed.

(2) Any creditor or contributory may, subject to the control of the Tribunal, inspect any such books, personally or through his agent.

294. *Audit of Company Liquidator's accounts.*—(1) The Company Liquidator shall maintain proper and regular books of account including accounts of receipts and payments made by him in such form and manner as may be prescribed.

(*2*) The Company Liquidator shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, present to the Tribunal an account of the receipts and payments as such liquidator in the prescribed form in duplicate, which shall be verified by a declaration in such form and manner as may be prescribed.

(*3*) The Tribunal shall cause the accounts to be audited in such manner as it thinks fit, and for the purpose of the audit, the Company Liquidator shall furnish to the Tribunal with such vouchers and information as the Tribunal may require, and the Tribunal may, at any time, require the production of, and inspect, any books of account kept by the Company Liquidator.

(*4*) When the accounts of the company have been audited, one copy thereof shall be filed by the Company Liquidator with the Tribunal, and the other copy shall be delivered to the Registrar which shall be open to inspection by any creditor, contributory or person interested.

(*5*) Where an account referred to in sub-section (*4*) relates to a Government company, the Company Liquidator shall forward a copy thereof—

(*a*) to the Central Government, if that Government is a member of the Government company; or

(*b*) to any State Government, if that Government is a member of the Government company; or

(*c*) to the Central Government and any State Government, if both the Governments are members of the Government company.

(*6*) The Company Liquidator shall cause the accounts when audited, or a summary thereof, to be printed, and shall send a printed copy of the accounts or summary thereof by post to every creditor and every contributory:

Provided that the Tribunal may dispense with the compliance of the provisions of this sub-section in any case it deems fit.

295. *Payment of debits by contributory and extent of set-off.*—(*1*) The Tribunal may, at any time after passing of a winding up order, pass an order requiring any contributory for the time being on the list of contributories to pay, in the manner directed by the order, any money due to the company, from him or from the estate of the person whom he represents, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(2) The Tribunal, in making an order, under sub-section (1), may,—

(*a*) in the case of an unlimited company, allow to the contributory, by way of set-off, any money due to him or to the estate which he represents, from the company, on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and

(*b*) in the case of a limited company, allow to any director or manager whose liability is unlimited, or to his estate, such set-off.

(3) In the case of any company, whether limited or unlimited, when all the creditors have been paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

296. *Power of Tribunal to make calls.*—The Tribunal may, at any time after the passing of a winding up order, and either before or after it has ascertained the sufficiency of the assets of the company,—

(*a*) make calls on all or any of the contributories for the time being on the list of the contributories, to the extent of their liability, for payment of any money which the Tribunal considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves; and

(*b*) make an order for payment of any calls so made.

297. *Adjustment of rights of contributories.*—The Tribunal shall adjust the rights of the contributories among themselves and distribute any surplus among the persons entitled thereto.

298. *Power to order costs.*—The Tribunal may, in the event of the assets of a company being insufficient to satisfy its liabilities, make an order for the payment out of the assets, of the costs, charges and expenses incurred in the winding up, in such order of priority *inter se* as the Tribunal thinks just and proper.

299. *Power to summon persons suspected of having property of company etc.*—(*1*) The Tribunal may, at any time after the appointment of a provisional liquidator or the passing of a winding up order, summon before it any officer of the company or person known or suspected to have in his possession any property or books or papers, of the company, or known or suspected to be indebted to the company, or any person whom the Tribunal thinks to be capable of giving information concerning the promotion, formation, trade, dealings, property, books or papers, or affairs of the company.

(*2*) The Tribunal may examine any officer or person so summoned on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories or on affidavit and may, in the first case, reduce his answers to writing and require him to sign them.

(*3*) The Tribunal may require any officer or person so summoned to produce any books and papers relating to the company in his custody or power, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to such lien, and the Tribunal shall have power to determine all questions relating to that lien.

(*4*) The Tribunal may direct the liquidator to file before it a report in respect of debt or property of the company in possession of other persons.

(*5*) If the Tribunal finds that—

(*a*) a person is indebted to the company, the Tribunal may order him to pay to the provisional liquidator or, as the case may be, the liquidator at such time and in such manner as the Tribunal may consider just, the amount in which he is indebted, or any part thereof, either in full discharge of the whole amount or not as the Tribunal thinks fit, with or without costs of the examination;

(*b*) a person is in possession of any property belonging to the company, the Tribunal may order him to deliver to the provisional liquidator or, as the case may be, the liquidator, that property or any part thereof, at such time, in such manner and on such terms as the Tribunal may consider just.

(*6*) If any officer or person so summoned fails to appear before the Tribunal at the time appointed without a reasonable cause, the Tribunal may impose an appropriate cost.

(7) Every order made under sub-section (5) shall be executed in the same manner as decrees for the payment of money or for the delivery of property under the Code of Civil Procedure, 1908 (5 of 1908).

(8) Any person making any payment or delivery in pursuance of an order made under sub-section (5) shall by such payment or delivery be, unless otherwise directed by such order, discharged from all liability whatsoever in respect of such debt or property.

300. *Power to order examination of promoters, directors, etc.*— (1) Where an order has been made for the winding up of a company by the Tribunal, and the Company Liquidator has made a report to the Tribunal under this Act, stating that in his opinion a fraud has been committed by any person in the promotion, formation, business or conduct of affairs of the company since its formation, the Tribunal may, after considering the report, direct that such person or officer shall attend before the Tribunal on a day appointed by it for that purpose, and be examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as an officer thereof.

(2) The Company Liquidator shall take part in the examination, and for that purpose he or it may, if specially authorised by the Tribunal in that behalf, employ such legal assistance as may be sanctioned by the Tribunal.

(3) The person shall be examined on oath and shall answer all such questions as the Tribunal may put, or allow to be put, to him.

(4) A person ordered to be examined under this section—

(a) shall, before his examination, be furnished at his own cost with a copy of the report of the Company Liquidator; and

(b) may at his own cost employ chartered accountants or company secretaries or cost accountants or legal practitioners entitled to appear before the Tribunal under section 432, who shall be at liberty to put to him such questions as the Tribunal may consider just for the purpose of enabling him to explain or qualify any answers given by him.

(5) If any such person applies to the Tribunal to be exculpated from any charges made or suggested against him, it shall be the duty of the Company Liquidator to appear on the hearing of such application and call the attention of the Tribunal to any matters which appear to the Company Liquidator to be relevant.

(*6*) If the Tribunal, after considering any evidence given or hearing witnesses called by the Company Liquidator, allows the application made under sub-section (*5*), the Tribunal may order payment to the applicant of such costs as it may think fit.

(*7*) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, a copy be supplied to him and may thereafter be used in evidence against him, and shall be open to inspection by any creditor or contributory at all reasonable times.

(*8*) The Tribunal may, if it thinks fit, adjourn the examination from time to time.

(*9*) An examination under this section may, if the Tribunal so directs, be held before any person or authority authorised by the Tribunal.

(*10*) The powers of the Tribunal under this section as to the conduct of the examination, but not as to costs, may be exercised by the person or authority before whom the examination is held in pursuance of sub-section (*9*).

301. *Arrest of person trying to leave India or abscond.*—At any time either before or after passing a winding up order, if the Tribunal is satisfied that a contributory or a person having property, accounts or papers of the company in his possession is about to leave India or otherwise to abscond, or is about to remove or conceal any of his property, for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, the Tribunal may cause—

(*a*) the contributory to be detained until such time as the Tribunal may order: and

(*b*) his books and papers and movable property to be seized and safely kept until such time as the Tribunal may order.

302. *Dissolution of company by Tribunal.*—(*1*) When the affairs of a company have been completely wound up, the Company Liquidator shall make an application to the Tribunal for dissolution of such company.

(*2*) The Tribunal shall on an application filed by the Company Liquidator under sub-section (*1*) or when the Tribunal is of the opinion that it is just and reasonable in the circumstances of the case that an order for the dissolution of the company should be made, make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(*3*) A copy of the order shall, within thirty days from the date thereof, be forwarded by the Company Liquidator to the Registrar who shall record in the register relating to the company a minute of the dissolution of the company.

(*4*) If the Company Liquidator makes a default in forwarding a copy of the order within the period specified in sub-section (*3*), the Company Liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the default continues.

303. *Appeals from orders made before commencement of Act.*—Nothing in this Chapter shall affect the operation or enforcement of any order made by any Court in any proceedings for the winding up of a company immediately before the commencement of this Act and an appeal against such order shall be filed before such authority competent to hear such appeals before such commencement.

PART II—*Voluntary winding up*

304. *Circumstances in which company may be wound up voluntarily.*—A company may be wound up voluntarily,—

(*a*) if the company in general meeting passes a resolution requiring the company to be wound up voluntarily as a result of the expiry of the period for its duration, if any, fixed by its articles or on the occurrence of any event in respect of which the articles provide that the company should be dissolved; or

(*b*) if the company passes a special resolution that the company be wound up voluntarily.

305. *Declaration of solvency in case of proposal to wind up voluntarily.*—(*1*) Where it is proposed to wind up a company voluntarily, its director or directors, or in case the company has more than two directors, the majority of its directors, shall, at a meeting of the Board, make a declaration verified by an affidavit to the effect that they have made a full inquiry into the affairs of the company and they have formed an opinion that the company has no debt or whether it will be able to pay its debts in full from the proceeds of assets sold in voluntary winding up.

(2) A declaration made under sub-section (1) shall have no effect for the purposes of this Act, unless—

(*a*) it is made within five weeks immediately preceding the date of the passing of the resolution for winding up the company and it is delivered to the Registrar for registration before that date;

(*b*) it contains a declaration that the company is not being wound up to defraud any person or persons;

(*c*) it is accompanied by a copy of the report of the auditors of the company prepared in accordance with the provisions of this Act, on the profit and loss account of the company for the period commencing from the date up to which the last such account was prepared and ending with the latest practicable date immediately before the making of the declaration and the balance sheet of the company made out as on that date which would also contain a statement of the assets and liabilities of the company on that date; and

(*d*) where there are any assets of the company, it is accompanied by a report of the valuation of the assets of the company prepared by a registered valuer.

(3) Where the company is wound up in pursuance of a resolution passed within a period of five weeks after the making of the declaration, but its debts are not paid or provided for in full, it shall be presumed, until the contrary is shown, that the director or directors did not have reasonable grounds for his or their opinion under sub-section (1).

(4) Any director of a company making a declaration under this section without having reasonable grounds for the opinion that the company will be able to pay its debts in full from the proceeds of assets sold in voluntary winding up shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years or with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees, or with both.

306. *Meeting of creditors.*—(1) The company shall along with the calling of meeting of the company at which the resolution for the voluntary winding up is to be proposed, cause a meeting of its creditors either on the same day or on the next day and shall cause a notice of such meeting to be sent by registered post to the creditors with the notice of the meeting of the company under section 304.

(*2*) The Board of Directors of the company shall—

(*a*) cause to be presented a full statement of the position of the affairs of the company together with a list of creditors of the company, if any, copy of declaration under section 305 and the estimated amount of the claims before such meeting; and

(*b*) appoint one of the directors to preside at the meeting.

(*3*) Where two-thirds in value of creditors of the company are of the opinion that—

(*a*) it is in the interest of all parties that the company be wound up voluntarily, the company shall be wound up voluntarily; or

(b) the company may not be able to pay for its debts in full from the proceeds of assets sold in voluntary winding up and pass a resolution that it shall be in the interest of all parties if the company is wound up by the Tribunal in accordance with the provisions of Part I of this Chapter, the company shall within fourteen days thereafter file an application before the Tribunal.

(*4*) The notice of any resolution passed at a meeting of creditors in pursuance of this section shall be given by the company to the Registrar within ten days of the passing thereof.

(*5*) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees and the director 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 two lakh rupees, or with both.

307. *Publication of resolution to wind up voluntarily.*—(*1*) Where a company has passed a resolution for voluntary winding up and a resolution under sub-section (*3*) of section 306 is passed, it shall within fourteen days of the passing of the resolution give notice of the resolution by advertisement in the Official Gazette and also in a newspaper which is in circulation in the district where the registered office or the principal office of the company is situate.

(*2*) If a company contravenes the provisions of sub-section (*1*), the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees for every day during which such default continues.

308. *Commencement of voluntary winding up.*—A voluntary winding up shall be deemed to commence on the date of passing of the resolution for voluntary winding up under section 304.

309. *Effect of voluntary winding up.*— In the case of a voluntary winding up, the company shall from the commencement of the winding up cease to carry on its business except as far as required for the beneficial winding up of its business:

Provided that the corporate state and corporate powers of the company shall continue until it is dissolved.

310. *Appointment of Company Liquidator.*—(*1*) The company in its general meeting, where a resolution of voluntary winding up is passed shall appoint a Company Liquidator from the panel prepared by the Central Government for the purpose of winding up its affairs and distributing the assets of the company and recommend the fee to be paid to the Company Liquidator.

(*2*) Where the creditors have passed a resolution for winding up the company under sub-section (*3*) of section 306, the appointment of the Company Liquidator under this section shall be effective only after it is approved by the majority of creditors in value of the company:

Provided that where such creditors do not approve the appointment of such Company Liquidator, creditors shall appoint another Company Liquidator.

(*3*) The creditors while approving the appointment of Company Liquidator appointed by the company or appointing the Company Liquidator of their own choice, as the case may be, pass suitable resolution with regard to the fee of the Company Liquidator.

(*4*) On appointment as Company Liquidator, such liquidator shall file a declaration in the prescribed form within seven days of the date of appointment disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the company and the creditors and such obligation shall continue throughout the term of his or its appointment.

311. *Power to remove and fill vacancy of Company Liquidator.*—(*1*) A Company Liquidator appointed under section 310 may be removed by the company where his appointment has been made by the company and, by the creditors, where the appointment is approved or made by such creditors.

(*2*) Where a Company Liquidator is sought to be removed under this section, he shall be given a notice in writing stating the grounds of removal from his office by the company or the creditors, as the case may be.

(*3*) Where three-fourth members of the company or three-fourth of creditors in value, as the case may be, after consideration of the reply, if any, filed by the Company Liquidator, in their meeting decide to remove the Company Liquidator, he shall vacate his office.

(*4*) If a vacancy occurs by death, resignation, removal or otherwise in the office of any Company Liquidator appointed under section 310, the company or the creditors, as the case may be, fill the vacancy in the manner specified in that section.

312. *Notice of appointment of Company Liquidator to be given to Registrar.*—(*1*) The company shall give notice to the Registrar of the appointment of a Company Liquidator along with the name and particulars of the Company Liquidator, of every vacancy occurring in the office of Company Liquidator, and of the name of the Company Liquidator appointed to fill every such vacancy within ten days of such appointment or the occurrence of such vacancy.

(*2*) If a company contravenes the provisions of sub-section (*1*), the company and every officer of the company who is in default shall be punishable with fine which may extend to five hundred rupees for every day during which such default continues.

313. *Cesser of Board's powers on appointment of Company Liquidator.*—On the appointment of a Company Liquidator, all the powers of the Board of Directors and of the managing or whole-time directors and manager, if any, shall cease, except for the purpose of giving notice of such appointment of the Company Liquidator to the Registrar.

314. *Powers and duties of Company Liquidator in voluntary winding up.*—(*1*) The Company Liquidator shall perform such functions and discharge such duties as may be determined from time to time by the company or the creditors, as the case may be.

(*2*) The Company Liquidator shall settle the list of contributories, which shall be *prima facie* evidence of the liability of the persons named therein to be contributories.

(*3*) The Company Liquidator shall call general meetings of the company for the purpose of obtaining the sanction of the company by ordinary or special resolution, as the case may require, or for any other purpose he may consider necessary.

(*4*) The Company Liquidator shall maintain regular and proper books of account in such form and in such manner as may be prescribed and the members and creditors and any officer authorised by the Central Government may inspect such books of account.

(*5*) The Company Liquidator shall prepare quarterly statement of accounts in such form and manner as may be prescribed and file such statement of accounts duly audited within thirty days from the close of each quarter with the Registrar, failing which the Company Liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the failure continues.

(*6*) The Company Liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(*7*) The Company Liquidator shall observe due care and diligence in the discharge of his duties.

(*8*) If the Company Liquidator fails to comply with the provisions of this section except sub-section (*5*) he shall be punishable with fine which may extend to ten lakh rupees.

315. *Appointment of committees.*—Where there are no creditors of a company, such company in its general meeting and, where a meeting of creditors is held under section 306, such creditors, as the case may be, may appoint such committees as considered appropriate to supervise the voluntary liquidation and assist the Company Liquidator in discharging his or its functions.

316. *Company Liquidator to submit report on progress of winding up.*—(*1*) The Company Liquidator shall report quarterly on the progress of winding up of the compay in such form and in such manner as may be prescribed to the members and creditors and shall also call a meeting of the members and the creditors as and when necessary but at least one meeting each of creditors and members in every quarter and apprise them of the progress of the winding up of the company in such form and in such manner as may be prescribed.

(*2*) If the Company Liquidator fails to comply with the provisions of sub-section (*1*), he shall be punishable, in respect of each such failure, with fine which may extend to ten lakh rupees.

317. *Report of Company Liquidator to Tribunal for examination of persons.*—(*1*) Where the Company Liquidator is of the opinion that a fraud has been committed by any person in respect of the company, he shall immediately make a report to the Tribunal and the Tribunal shall, without prejudice to the process of winding up, order for investigation under section 210 and on consideration of the report of such investigation, the Tribunal may pass such order and give such directions under this Chapter as it may consider necessary including the direction that such person shall attend before the Tribunal on a day appointed by it for that purpose and be examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as officer thereof or otherwise.

(*2*) The provisions of section 300 shall *mutatis mutandis* apply in relation to any examination directed under sub-section (*1*).

318. *Final meeting and dissolution of company.*—(*1*) As soon as the affairs of a company are fully wound up, the Company Liquidator shall prepare a report of the winding up showing that the property and assets of the company have been disposed of and its debt fully discharged or discharged to the satisfaction of the creditors and thereafter call a general meeting of the company for the purpose of laying the final winding up accounts before it and giving any explanation therefor.

(*2*) The meeting referred to in sub-section (*1*) shall be called by the Company Liquidator in such form and manner as may be prescribed.

(*3*) If the majority of the members of the company after considering the report of the Company Liquidator are satisfied that the company shall be wound up, they may pass a resolution for its dissolution.

(*4*) Within two weeks after the meeting, the Company Liquidator shall—

(*a*) send to the Registrar—

(*i*) a copy of the final winding up accounts of the company and shall make a return in respect of each meeting and of the date thereof; and

(*ii*) copies of the resolutions passed in the meetings; and

(*b*) file an application along with his report under sub-section (*1*) in such manner as may be prescribed along with the books and papers of the company relating to the winding up, before the Tribunal for passing an order of dissolution of the company.

(5) If the Tribunal is satisfied, after considering the report of the Company Liquidator that the process of winding up has been just and fair, the Tribunal shall pass an order dissolving the company within sixty days of the receipt of the application under sub-section (4).

(6) The Company Liquidator shall file a copy of the order under sub-section (5) with the Registrar within thirty days.

(7) The Registrar, on receiving the copy of the order passed by the Tribunal under sub-section (5), shall forthwith publish a notice in the Official Gazette that the company is dissolved.

(8) If the Company Liquidator fails to comply with the provisions of this section, he shall be punishable with fine which may extend to one lakh rupees.

319. *Power of Company Liquidator to accept shares, etc., as consideration for sale of property of company.*—(1) Where a company (the transferor company) is proposed to be, or is in the course of being, wound up voluntarily and the whole or any part of its business or property is proposed to be transferred or sold to another company (the transferee company), the Company Liquidator of the transferor company may, with the sanction of a special resolution of the company conferring on him either a general authority or an authority in respect of any particular arrangement,—

(a) receive, by way of compensation wholly or in part for the transfer or sale of shares, policies, or other like interest in the transferee company, for distribution among the members of the transferor company; or

(b) enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interest or in addition thereto, participate in the profits of, or receive any other benefit from, the transferee company:

Provided that no such arrangement shall be entered into without the consent of the secured creditors.

(2) Any transfer, sale or other arrangement in pursuance of this section shall be binding on the members of the transferor company.

(*3*) Any member of the transferor company who did not vote in favour of the special resolution and expresses his dissent therefrom in writing addressed to the Company Liquidator, and left at the registered office of the company within seven days after the passing of the resolution, may require the liquidator either—

(*a*) to abstain from carrying the resolution into effect; or

(*b*) to purchase his interest at a price to be determined by agreement or the registered valuer.

(*4*) If the Company Liquidator elects to purchase the member's interest, the purchase money, raised by him in such manner as may be determined by a special resolution, shall be paid before the company is dissolved.

320. *Distribution of property of company.*—Subject to the provisions of this Act as to overriding preferential payments under section 326, the assets of a company shall, on its winding up, be applied in satisfaction of its liabilities *pari passu* and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

321. *Arrangement when binding on company and creditors.*—(*1*) Any arrangement other than the arrangement referred to in section 319 entered into between the company which is about to be, or is in the course of being wound up and its creditors shall be binding on the company and on the creditors if it is sanctioned by a special resolution of the company and acceded to by the creditors who hold three-fourths in value of the total amount due to all the creditors of the company,

(*2*) Any creditor or contributory may, within three weeks from the completion of the arrangement, apply to the Tribunal and the Tribunal may thereupon amend, vary, confirm or set aside the arrangement.

322. *Power to apply to Tribunal to have questions determined, etc.*—(*1*) The Company Liquidator or any contributory or creditor may apply to the Tribunal,

(*a*) to determine any question arising in the course of the winding up of a company; or

(*b*) to exercise as respects the enforcing of calls, the staying of proceedings or any other matter, all or any of the powers which the Tribunal might exercise if the company were being wound up by the Tribunal.

(*2*) The Company Liquidator or any creditor or contributory may apply to the Tribunal for an order setting aside any attachment, distress or execution put into force against the estate or effects of the company after the commencement of the winding up.

(*3*) The Tribunal, if satisfied on an application under sub-section (1) or sub-section (*2*) that the determination of the question or the required exercise of power or the order applied for will be just and fair, may allow the application on such terms and conditions as it thinks fit or may make such other order on the application as it thinks fit.

(*4*) A copy of an order staying the proceedings in the winding up, made under this section, shall forthwith be forwarded by the company, or otherwise as may be prescribed, to the Registrar, who shall make a minute of the order in his books relating to the company.

323. *Costs of voluntary winding up.*—All costs, charges and expenses properly incurred in the winding up, including the fee of the company Liquidator, shall, subject to the rights of secured creditors, if any, be payable out of the assets of the company in priority to all other claims.

PART III.—*Provisions applicable to every mode of winding up*

324. *Debts of all descriptions to be admitted to proof.*—In every winding up (subject, in the case of insolvent companies, to the application in accordance with the provisions of this Act or of the law of insolvency), all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency, or may sound only in damages, or for some other reason may not bear a certain value.

325. *Application of insolvency rules in winding up of insolvent companies.*—(*1*) In the winding up of an insolvent company, the same rules shall prevail and be observed with regard to—

(a) debts provable;

(b) the valuation of annuities and future and contingent liabilities; and

(c) the respective rights of secured and unsecured creditors,

as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent:

Provided that the security of every secured creditor shall be deemed to be subject to a *pari passu* charge in favour of the workmen to the extent of the workmen's portion therein, and, where a secured creditor, instead of relinquishing his security and proving his debts, opts to realise his security,—

(*i*) the liquidator shall be entitled to represent the workmen and enforce such charge;

(*ii*) any amount realised by the liquidator by way of enforcement of such charge shall be applied rateably for the discharge of workmen's dues; and

(*iii*) so much of the debts due to such secured creditor as could not be realised by him or the amount of the workmen's portion in his security, whichever is less, shall rank *pari passu* with the workmen's dues for the purposes of section 326.

(*2*) All persons under sub-section (*1*) shall be entitled to prove and receive dividends out of the assets of the company under winding up, and make such claims against the company as they respectively are entitled to make by virtue of this section:

Provided that if a secured creditor, instead of relinquishing his security and proving his debts, proceeds to realise his security, he shall be liable to pay his portion of the expenses incurred by the liquidator, including a provisional liquidator, if any, for the preservation of the security before its realisation by the secured creditor.

Explanation.—For the purposes of this sub-section, the portion of expenses incurred by the liquidator for the preservation of a security which the secured creditor shall be liable to pay shall be the whole of the expenses less an amount which bears to such expenses the same proportion as the workmen's portion in relation to the security bears to the value of the security.

(*3*) For the purposes of this section, section 326 and section 327,—

'(*a*) "workmen", in relation to a company, means the employees of the company, being workmen within the meaning of clause (*s*) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947);

(*b*) "workmen's dues", in relation to a company, means the aggregate of the following sums due from the company to its workmen, namely:—

(*i*) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947 (14 of 1947);

(*ii*) all accrued holiday remuneration becoming payable to any workman or, in the case of his death, to any other person in his right on the termination of his employment before or by the effect of the winding up order or resolution;

(*iii*) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen's Compensation Act, 1923 (8 of 1923), rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company;

(*iv*) all sums due to any workman from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the workmen, maintained by the company;

(c) "workmen's portion", in relation to the security of any secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen's dues bears to the aggregate of the amount of workmen's dues and the amount of the debts due to the secured creditors.

Illustration

The value of the security of a secured creditor of a company is Rs. 1,00,000. The total amount of the workmen's dues is Rs. 1,00,000. The amount of the debts due from the company to its secured creditors is Rs. 3,00,000. The aggregate of the amount of workmen's dues and the amount of debts due to secured creditors is Rs. 4,00,000. The workmen's portion of the security is, therefore, one-fourth of the value of the security, that is Rs. 25,000.

326. *Overriding preferential payments.*—(*1*) Notwithstanding anything contained in this Act or any other law for the time being in force, in the winding up of a company,—

(*a*) workmen's dues; and

(*b*) debts due to secured creditors to the extent such debts rank under clause (*iii*) of the proviso to sub-section (*1*) of section 325 *pari passu* with such dues,

shall be paid in priority to all other debts:

Provided that in case of the winding up of a company, the sums towards wages or salary referred to in sub-clause (*i*) of clause (*b*) of sub-section (*3*) of section 325, which are payable for a period of two years preceding the winding up order or such other period as may be prescribed, shall be paid in priority to all other debts (including debts due to secured creditors), within a period of thirty days of sale of assets and shall be subject to such charge over the security of secured creditors as may be prescribed.

(*2*) The debts payable under the proviso to sub-section (*1*) shall be paid in full before any payment is made to secured creditors and thereafter debts payable under that sub-section shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.

327. *Preferential payments.*—(*1*) In a winding up, subject to the provisions of section 326, there shall be paid in priority to all other debts,—

(*a*) all revenues, taxes, cesses and rates due from the company to the Central Govemment or a State Government or to a local authority at the relevant date, and having become due and payable within the twelve months immediately before that date;

(*b*) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any employee in respect of services rendered to the company and due for a period not exceeding four months within the twelve months immediately before the relevant date, subject to the condition that the amount payable under this clause to any workman shall not exceed such amount as may be notified;

(*c*) all accrued holiday remuneration becoming payable to any employee, or in the case of his death, to any other person claiming under him, on the termination of his employment before, or by the winding up order, or, as the case may be, the dissolution of the company;

(*d*) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company, all amount due in respect of contributions payable during the period of twelve months immediately before the relevant date by the company as the employer of persons under the Employees' State Insurance Act, 1948 (34 of 1948), or any other law for the time being in force;

(*e*) unless the company has, at the commencement of winding up, under such a contract with any insurer as is mentioned in section 14 of the Workmen's Compensation Act, 1923 (8 of 1923), rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any employee of the company:

Provided that where any compensation under the said Act is a weekly payment, the amount payable under this clause shall be taken to be the amount of the lump sum for which such weekly payment could, if redeemable, be redeemed if the employer has made an application under that Act;

(*f*) all sums due to any employee from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the employees, maintained by the company; and

(*g*) the expenses of any investigation held in pursuance of sections 213 and 216, in so far as they are payable by the company.

(*2*) Where any payment has been made to any employee of a company on account of wages or salary or accrued holiday remuneration, himself or, in the case of his death, to any other person claiming through him, out of money advanced by some person for that purpose, the person by whom the money was advanced shall, in a winding up, have a right of priority in respect of the money so advanced and paid-up to the amount by which the sum in respect of which the employee or other person in his right would have been entitled to priority in the winding up has been reduced by reason of the payment having been made.

(*3*) The debts enumerated in this section shall—

(*a*) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(*b*) so far as the assets of the company available for payment to general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(*4*) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the debts under this section shall be discharged forthwith so far as the assets are sufficient to meet them, and in the case of the debts to which priority is given under clause (*d*) of sub-section (*1*), formal proof thereof shall not be required except in so far as may be otherwise prescribed.

(*5*) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months immediately before the date of a winding up order, the debts to which priority is given under this section shall be a first charge on the goods or effects so distrained on or the proceeds of the sale thereof:

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(*6*) Any remuneration in respect of a period of holiday or of absence from work on medical grounds through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period.

Explanation.—For the purposes of this section,—

(*a*) the expression "accrued holiday remuneration" includes, in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment including any order made or direction given thereunder, are payable on account of the remuneration which would, in the ordinary course, have become payable to him in respect of a period of holiday, had his employment with the company continued until he became entitled to be allowed the holiday;

(*b*) the expression "employee" does not include a workman; and

(*c*) the expression "relevant date" means—

(*i*) in the case of a company being wound up by the Tribunal, the date of appointment or first appointment of a provisional liquidator, or if no such appointment was made, the date of the winding up order, unless, in either case, the company had commenced to be wound up voluntarily before that date; and

(*ii*) in any other case, the date of the passing of the resolution for the voluntary winding up of the company.

328. *Fraudulent preference.*—(*1*) Where a company has given preference to a person who is one of the creditors of the company or a surety or guarantor for any of the debts or other liabilities of the company, and the company does anything or suffers anything done which has the effect of putting that person into a position which, in the event of the company going into liquidation, will be better than the position he would have been in if that thing had not been done prior to six months of making winding up application, the Tribunal, if satisfied that. such transaction is a fraudulent preference may order as it may think fit for restoring the position to what it would have been if the company had not given that preference.

(*2*) If the Tribunal is satisfied that there is a preference transfer of property, movable or immovable, or any delivery of goods, payment, execution made, taken or done by or against a company within six months before making winding up application, the Tribunal may order as it may think fit and may declare such transaction invalid and restore the position.

329. *Transfers not in good faith to be void.*—Any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrance in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the Tribunal or the passing of a resolution for voluntary winding up of the company, shall be void against the Company Liquidator.

330. *Certain transfers to be void.*—Any transfer or assignment by a company of all its properties or assets to trustees for the benefit of all its creditors shall be void.

331. *Liabilities and rights of certain persons fraudulently preferred.*—(*1*) Where a company is being wound up and anything made, taken or done after the commencement of this Act is invalid under section 328 as a fraudulent preference of a person interested in property mortgaged or charged to secure the company's debt, then, without prejudice to any rights or liabilities arising apart from this provision, the person preferred shall be subject to the same liabilities, and shall have the same rights, as if he had undertaken to be personally liable as a surety for the debt, to the extent of the mortgage or charge on the property or the value of his interest, whichever is less.

(*2*) The value of the interest of the person preferred under sub-section (*1*) shall be determined as at the date of the transaction constituting the fraudulent preference, as if the interest were free of all encumbrances other than those to which the mortgage or charge for the debt of the company was then subject.

(*3*) On an application made to the Tribunal with respect to any payment on the ground that the payment was a fraudulent preference of a surety or guarantor, the Tribunal shall have jurisdiction to determine any questions with respect to the payment arising between the person to whom the payment was made and the surety or guarantor and to grant relief in respect thereof, notwithstanding that it is not necessary so to do for the purposes of the winding up, and for that purpose, may give leave to bring in the surety or guarantor as a third party as in the case of a suit for the recovery of the sum paid.

(*4*) The provisions of sub-section (*3*) shall apply *mutatis mutandis* in relation to transactions other than payment of money.

332. *Effect of floating charge.*—Where a company is being wound up, a floating charge on the undertaking or property of the company created within the twelve months immediately preceding the commencement of the winding up, shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except for the amount of any cash paid to the company at the time of, or subsequent to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent. per annum or such other rate as may be notified by the Central Government in this behalf.

333. *Disclaimer of onerous property.*—(*1*) Where any part of the property of a company which is being wound up consists of—

(*a*) land of any tenure, burdened with onerous covenants;

(*b*) shares or stocks in companies;

(*c*) any other property which is not saleable or is not readily saleable by reason of the possessor thereof being bound either to the performance of any onerous act or to the payment of any sum of money; or

(*d*) unprofitable contracts,

the Company Liquidator may, notwithstanding that he has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relation thereto or done anything in pursuance of the contract, with the leave of the Tribunal and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the Tribunal, disclaim the property:

Provided that where the Company Liquidator had not become aware of the existence of any such property within one month from the commencement of the winding up, the power of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the Tribunal.

(*2*) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the company in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights interest or liabilities of any other person.

(*3*) The Tribunal, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the Tribunal considers just and proper.

(*4*) The Company Liquidator shall not be entitled to disclaim any property in any case where an application in writing has been made to him by any person interested in the property requiring him to decide whether he will or will not disclaim and the Company Liquidator has not, within a period of twenty-eight days after the receipt of the application or such extended period as may be allowed by the Tribunal, give notice to the applicant that he intends to apply to the Tribunal for leave to disclaim, and in case the property is under a contract, if the Company Liquidator after such an application as aforesaid does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(*5*) The Tribunal may, on the application of any person who is, as against the Company Liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the Tribunal considers just and proper, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(*6*) The Tribunal may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged under this Act in respect of any disclaimed property, and after hearing any such persons as it thinks fit, make an order for the vesting of the property in, or the delivery of the property to, any person entitled thereto or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Tribunal considers just and proper, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person named therein in that behalf without any conveyance or assignment for the purpose:

Provided that where the property disclaimed is of a leasehold nature, the Tribunal shall not make a vesting order in favour of any person claiming under the company, whether as under-lessee or as mortgagee or holder of a charge by way of demise, except upon the terms of making that person—

(*a*) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up; or

(*b*) if the Tribunal thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,

and in either event as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in, and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the Tribunal shall have power to vest the estate and interest of the company in the property in any person liable, either personally or in a representative character, and either alone or jointly with the company, to perform the covenants of the lessee in the lease, free and discharged from all estates, encumbrances and interests created therein by the company.

(*7*) Any person affected by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the compensation or damages payable in respect of such effect, and may accordingly prove the amount as a debt in the winding up.

334. *Trasfers, etc., after commencement of winding up to be void.*—(*1*) In the case of a voluntary winding up, any transfer of shares in the company, not being a transfer made to or with the sanction of the Company Liquidator, and any alteration in the status of the members of the company, made after the commencement of the winding up, shall be void.

(*2*) In the case of a winding up by the Tribunal, any disposition of the property, including actionable claims, of the company, and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up, shall, unless the Tribunal otherwise orders, be void.

335. *Certain attachments, executions, etc., in winding up by Tribunal to be void.*—(*1*) Where any company is being wound up by the Tribunal,—

(a) any attachment, distress or execution put in force, without leave of the Tribunal against the estate or effects of the company, after the commencement of the winding up; or

(b) any sale held, without leave of the Tribunal of any of the properties or effects of the company, after such commencement,

shall be void.

(2) Nothing in this section shall apply to any proceedings for the recovery of any tax or impost or any dues payable to the Government.

336. *Offences by officers of companies in liquidation.*—(1) If any person, who is or has been an officer of a company which, at the time of the commission of the alleged offence, is being wound up, whether by the Tribunal or voluntarily, or which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up,—

(*a*) does not, to the best of his knowledge and belief, fully and truly disclose to the Company Liquidator all the property, movable and immovable, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary course of the business of the company;

(*b*) does not deliver up to the Company Liquidator, or as he directs, all such part of the movable and immovable property of the company as is in his custody or under his control and which he is required by law to deliver up;

(*c*) does not deliver up to the Company Liquidator, or as he directs, all such books and papers of the company as are in his custody or under his control and which he is required by law to deliver up;

(*d*) within the twelve months immediately before the commencement of the winding up or at any time thereafter,—

(*i*) conceals any part of the property of the company to the value of one thousand rupees or more, or conceals any debt due to or from the company;

(*ii*) fraudulently removes any part of the property of the company to the value of one thousand rupees or more;

(*iii*) conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to, the property or affairs of the company;

(*iv*) makes, or is privy to the making of, any false entry in any book or paper affecting or relating to, the property or affairs of the company;

(*v*) fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making of any omission in, any book or paper affecting or relating to the property or affairs of the company;

(*vi*) by any false representation or other fraud, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for;

(*vii*) under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for; or

(*viii*) pawns, pledges or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing of the property is in the ordinary course of business of the company;

(*e*) makes any material omission in any statement relating to the affairs of the company;

(*f*) knowing or believing that a false debt has been proved by any person under the winding up, fails for a period of one month to inform the Company Liquidator thereof;

(*g*) after the commencement of the winding up, prevents the production of any book or paper affecting or relating to the property or affairs of the company;

(*h*) after the commencement of the winding up or at any meeting of the creditors of the company within the twelve months next before the commencement of the winding up, attempts to account for any part of the property of the company by fictitious losses or expenses; or

(*i*) is guilty of any false representation or fraud for the purpose of obtaining the consent of the creditors of the company or any of them; to an agreement with reference to the affairs of the company or to the winding up,

he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees:

Provided that it shall be a good defence if the accused proves that he had no intent to defraud or to conceal the true state of affairs of the company or to defeat the law.

(*2*) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under sub-clause (*viii*) of clause (*d*) of sub-section (*1*), every person who takes in pawn or pledge or otherwise receives the property, knowing it to be pawned, pledged, or disposed of in such circumstances as aforesaid, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than three lakh rupees but which may extend to five lakh rupees.

Explanation.—For the purposes of this section, the expression "officer" includes any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

337. *Penalty for frauds by officers*.—If any person, being at the time of the commission of the alleged offence an officer of a company which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up,—

(*a*) has, by false pretences or by means of any other fraud, induced any person to give credit to the company;

(*b*) with intent to defraud creditors of the company or any other person, has

made or caused to be made any gift or transfer of, or charge on, or has caused or connived at the levying of any execution against, the property of the company ; or

(c) with intent to defraud creditors of the company, has concealed or removed any part of the property of the company since the date of any unsatisfied judgment or order for payment of money obtained against the company or within two months before that date,

he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.

338. *Liability where proper accounts not kept.—(1)* Where a company is being wound up, if it is shown that proper books of account were not kept by the company throughout the period of two years immediately preceding the commencement of the winding up, or the period between the incorporation of the company and the commencement of the winding up, whichever is shorter, every officer of the company who is in default shall, unless he shows that he acted honestly and that in the circumstances in which the business of the company was carried on, the default was excusable, be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.

(2) For the purposes of sub-section (1), it shall be deemed that proper books of account have not been kept in the case of any company,—

(a) if such books of account as are necessary to exhibit and explain the transactions and financial position of the business of the company, including books containing entries made from day-to-day in sufficient detail of all cash received and all cash paid, have not been kept; and

(b) where the business of the company has involved dealings in goods, statements of the annual stock takings and, except in the case of goods sold by way of ordinary retail trade, of all goods sold and purchased, showing the goods and the buyers and the sellers there of in sufficient detail to enable those goods and those buyers and sellers to be identified, have not been kept.

339. *Liability for fraudulent conduct of business.—(1)* If in the course of the winding up of a company, it appears that any business of the company has been carried on with intent to defraud creditors of the company or any other persons or for any fraudulent purpose, the Tribunal, on the application of the Official Liquidator, or the Company Liquidator or any creditor or contributory of the company, may, if it thinks it proper so to do, declare that any person, who is or has been a director, manager, or officer of the company or any persons who were knowingly parties to the carrying on of the business in the manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the Tribunal may direct :

Provided that on the hearing of an application under this sub-section, the Official Liquidator or the Company Liquidator, as the case may be, may himself give evidence or call witnesses.

(2) Where the Tribunal makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration and, in particular,—

(a) make provision for making the liability of any such person under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf ;

(b) make such further order as may be necessary for the purpose of enforcing any charge imposed under this sub-section.

(3) Where any business of a company is carried on with such intent or for such purpose as is mentioned in sub-section (1), every person who was knowingly a party to the carrying on of the business in the manner aforesaid, shall be liable for action under Section 447.

(4) This section shall apply, notwithstanding that the person concerned may be punishable under any other law for the time being in force in respect of the matters on the ground of which the declaration is to be made.

Explanation.—For the purposes of this section,—

(a) the expression "assignee" includes any person to whom or in whose favour, by the directions of the person liable, the debt, obligation, mortgage or charge was created, issued or transferred or the interest was created, but does not include an assignee for valuable consideration, not including consideration by way of marriage, given in good faith and without notice of any of the matters on the ground of which the declaration is made ;

(b) the expression "officer" includes any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

340. *Power of Tribunal to assess damages aganist deliquent directors, etc.*—(1) If in the course of winding up of a company, it appears that any person who has taken part in the promotion or formation of the company, or any person, who is or has been a director, manager, Company Liquidator or officer of the company—

(a) has misapplied, or retained, or become liable or accountable for, any money or property of the company; or

(b) has been guilty of any misfeasance or breach of trust in relation to the company,

the Tribunal may, on the application of the Official Liquidator, or the Company Liquidator, or of any creditor or contributory, made within the period specified in that behalf in sub-section (2), inquire into the conduct of the person, director, manager, Company Liquidator or officer aforesaid, and order him to repay or restore the money or property or any part thereof respectively, with interest at such rate as the Tribunal considers just and proper, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust, as the Tribunal considers just and proper.

(2) An application under sub-section (1) shall be made within five years from the date of the winding up order, or of the first appointment of the Company Liquidator in the winding up, or of the misapplication, retainer, misfeasance or breach of trust, as the case may be, whichever is longer.

(3) This section shall apply, notwithstanding that the matter is one for which the person concerned may be criminally liable.

341. *Liability under Sections 339 and 340 to extend to partners or directors in forms or companies.*—Where a declaration under Section 339 or an order under Section 340 is made in respect of form or body corporate, the Tribunal shall also have power to make a declaration under Section 339, or pass an order under Section 340, as the case may be, in respect of any person who was at the relevant time a partner in that firm or a director of that body corporate.

342. *Prosecution of delinquent officers and members of company.*—(1) If it appears to the Tribunal in the course of a winding up by the Tribunal, that any person who is or has been an officer, or any member, of the company has been guilty of any offence in relation to the company, the Tribunal may, either on the application of any person interested in the winding up or *suo motu,* direct the liquidator to prosecute the offender or to refer the matter to the Registrar.

(2) If it appears to the Company Liquidator in the course of a voluntary winding up that any person, who is or has been an Officer, or any member, of the company has been guilty of any offence in relation to the company under this Act, he shall forthwith report the matter to the Registrar and shall furnish to him such information and give to him such access to and facilities for inspecting and taking copies of any books and papers, being information or books and papers in the possession or under the control of the Company Liquidator and relating to the matter in question, as the Registrar may require.

(3) Where any report is made under sub-section (2) to the Registrar,—

(a) if he thinks fit, he may apply to the Central Government for an order to make further inquiry into the affairs of the company by any person designated by him and for conferring on such person all the powers of investigation as are provided under this Act ;

(b) if he considers that the case is one in which a prosecution ought to be instituted, he shall report the matter to the Central Government, and that Government may, after taking such legal advice as it thinks fit, direct the Registrar to institute prosecution :

Provided that no report shall be made by the Registrar under this clause without first giving the accused person a reasonable opportunity of making a statement in writing to the Registrar and of being heard thereon.

(4) If it appears to the Tribunal in the course of a voluntary winding up that any person, who is or has been an officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the Company Liquidator to the Registrar under sub-section (2), the Tribunal may, on the application of any person interested in the winding up or *suo motu,* direct the Company Liquidator to make such a report, and on a report being made, the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of sub-section (2).

(5) When any prosecution is instituted under this section, it shall be the duty of the liquidator and of every person, who is or has been an officer and agent of the company to give all assistance in connection with the prosecution which he is reasonably able to give.

Explanation.—For the purposes of this sub-section, the expression "agent", in relation to a company, shall include any banker or legal adviser of the company and any person employed by the company as auditor.

(6) If a person fails or neglects to give assistance required by sub-section (5), he shall be liable to pay fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

343. *Company Liquidator to exercise certain powers subject to sanction.—* *(1)* The Company Liquidator may—

(a) with the sanction of the Tribunal, when the company is being wound up by the Tribunal; and

(b) with the sanction of a special resolution of the company and prior approval of the Tribunal, in the case of a voluntary winding up,—

(i) pay any class of creditors in full ;

(ii) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the company, or whereby the company may be rendered liable; or

(iii) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the company and a contributory or alleged

contributory or other debtor for person apprehending liability to the company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) Notwithstanding anything contained in sub-section (1), in the case of a winding up by the Tribunal, the Central Government may make rules to provide that the Company Liquidator may, under such circumstances, if any, and subject to such conditions, restrictions and limitations, if any, as may be prescribed, exercise any of the powers referred to in sub-clause (ii) or sub-clause (iii) of clause *(b)* of sub-section (1) without the sanction of the Tribunal.

(3) Any creditor or contributory may apply in the manner prescribed to the Tribunal with respect to any exercise or proposed exercise of powers by the Company Liquidator under this section, and the Tribunal shall after giving a reasonable opportunity to such applicant and the Company Liquidator, pass such orders as it may think fit.

344. *Statement that company is in liquidation.—(1)* Where a company is being wound up, whether by the Tribunal or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company or a Company Liquidator of the company, or a receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.

(2) If a company contravenes the provisions of sub-section (1), the company, and every officer of the company, the Company Liquidator and any receiver or manager, who wilfully authorises or permits the non-compliance, shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees.

345. *Books and papers of company to be evidence*—where a company is being wound up, all books and papers of the company and of the Company Liquidator shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be recorded therein.

346. *Inspection of books and papers by creditors and contributories*—(1) At any time after the making of an order for the winding up of a company by the Tribunal, any creditor or contributory of the company may inspect the books and papers of the company only in accordance with, and subject to such rules as may be prescribed.

(2) Nothing contained in sub-section *(1)* shall exclude or restrict any rights conferred by any law for the time being in force—

(a) on the Central Government or a State Government ;

(b) on any authority or officer thereof ; or

(c) on any person acting under the authority of any such Government or of any such authority or officer.

347. *Disposal of books and papers of company.—(1)* When the affairs of a company have been completely wound up and it is about to be dissolved, its books and papers and those of the Company Liquidator may be disposed of as follows :—

(a) in the case of winding up by the Tribunal, in such manner as the Tribunal directs ; and

(b) in the case of voluntary winding up, in such manner as the company by special resolution with the prior approval of the creditors direct.

(2) After the expiry of five years from the dissolution of the company, no responsibility shall devolve on the company, the Company Liquidator, or any person to whom the custody of the books and papers has been entrusted, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) The Central Government may, by rules,—

(a) prevent for such period as it thinks proper the destruction of the books and papers of a company which has been wound up and of its Company Liquidator; and

(b) enable any creditor or contributory of the company to make representations to the Central Government in respect of the matters specified in clause *(a)* and to appeal to the Tribunal from any order which may be made by the Central Government in the matter.

(4) If any person acts in contravention of any rule framed or an order made under sub-section (3), he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees, or with both.

348. *Information as to pending liquidations.*—(1) If the winding up of a company is not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, duly audited, by a person qualified to act as auditor of the company, with respect to the proceedings in, and position of, the liquidation,—

(a) in the case of a winding up by the Tribunal, with the Tribunal ; and

(b) in the case of a voluntary winding up, with the Registrar :

Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply.

(2) When the statement is filed with the Tribunal under clause *(a)* of sub-section *(1)*, a copy shall simultaneously be filed with the Registrar and shall be kept by him along with the other records of the company.

(3) Where a statement referred to in sub-section *(1)* relates to a Government company in liquidation, the Company Liquidator shall forward a copy thereof—

(a) to the Central Government, if that Government is a member of the Government company;

(b) to any State Government, if that Government is a member of the Government company; or

(c) to the Central Government and any State Government, if both the Governments are members of the Government company.

(4) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement referred to in sub-section *(1)*, and to receive a copy thereof or an extract therefrom.

(5) Any person fraudulently stating himself to be a creditor or contributory under sub-section (*4*) shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code (45 of 1860) and shall, on the application of the Company Liquidator, be punishable accordingly.

(6) If a Company Liquidator contravenes the provisions of this section, the Company Liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the failure continues.

(7) If a Company Liquidator makes wilful default in causing the statement referred to in sub-section *(1)* audited by a person who is not qualified to act as an auditor of the company, the Company Liquidator shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both.

349. *Official Liquidator to make payments into public account of India.*— Every Official Liquidator shall, in such manner and at such times as may be prescribed, pay the monies received by him as Official Liquidator of any company, into the public account of India in the Reserve Bank of India.

350. *Company Liquidator to deposit monies into scheduled bank.—(1)* Every Company Liquidator of a company shall, in such manner and at such times as may be prescribed, deposit the monies received by him in his capacity as such in a scheduled bank to the credit of a special bank account opened by him in that behalf :

Provided that if the Tribunal considers that it is advantageous for the creditors or contributories or the company, it may permit the account to be opened in such other bank specified by it.

(*2*) If any Company Liquidator at any time retains for more than ten days a sum exceeding five thousand rupees or such other amount as the Tribunal may, on the application of the Company Liquidator, authorise him to retain, then, unless he explains the retention to the satisfaction of the Tribunal, he shall—

(a) pay interest on the amount so retained in excess, at the rate of twelve percent. per annum and also pay such penalty as may be determined by the Tribunal ;

(b) be liable to pay any expenses occasioned by reason of his default; and

(c) also be liable to have all or such part of his remuneration, as the Tribunal may consider just and proper, disallowed, or may also be removed from his office.

351. *Liquidator not to deposit monies into private banking account.*— Neither the Official Liquidator nor the Company Liquidator of a company shall deposit any monies received by him in his capacity as such into any private banking account.

352. *Company Liquidation Dividend and Undistributed Assets Account.*— *(1)* Where any company is being wound up and the liquidator has in his hands or under his control any money representing—

(a) dividends payable to any creditor but which had remained unpaid for six months after the date on which they were declared; or

(b) assets refundable to any contributory which have remained undistributed for six months after the date on which they become refundable,

The liquidator shall forthwith deposit the said money into a separate special account to be known as the Company Liquidation Dividend and undistributed Assets Account maintained in a scheduled bank.

(2) The liquidator shall, on the dissolution of the company, pay into the Company Liquidation Dividend and Undistributed Assets Account any money representing unpaid dividends or undistributed assets in his hands at the date of dissolution.

(3) The liquidator shall, when making any payment referred to in sub-sections *(1)* and *(2)*, furnish to the Registrar, a statement in the prescribed form, setting forth, in respect of all sums included in such payment, the nature of the sums, the names and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto, and such other particulars as may be prescribed.

(4) The liquidator shall be entitled to a receipt from the scheduled bank for any money paid to it under sub-sections *(1)* and *(2)*, and such receipt shall be an effectual discharge of the Company Liquidator in respect thereof.

(5) Where a company is being wound up voluntarily, the Company Liquidator shall, when filing a statement in pursuance of sub-section *(1)* of section 348, indicate the sum of money which is payable under sub-sections *(1)* and *(2)* of

this section during the six months preceding the date on which the said statement is prepared, and shall, within fourteen days of the date of filing the said statement, pay that sum into the Company Liquidation Dividend and Undistributed Assets Account.

(6) Any person claiming to be entitled to any money paid into the Company Liquidation Dividend and Undistributed Assets Account, whether paid in pursuance of this section or under the provisions of any previous company law may apply to the Registrar for payment thereof, and the Registrar, if satisfied that the person claiming is entitled, may make the payment to that person of the sum due:

Provided that the Registrar shall settle the claim of such person within a period of sixty days from the date of receipt of such claim, failing which the Registrar shall make a report to the Regional Director giving reasons of such failure.

(7) Any money paid into the Company Liquidation Dividend and undistributed Assets Account in pursuance of this section, which remains unclaimed thereafter for a period of fifteen years, shall be transferred to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred under sub-section (*6*) and shall be dealt with as if such transfer had not been made and the order, if any, for payment on the claim will be treated as an order for refund of revenue.

(8) Any liquidator retaining any money which should have been paid by him into the Company Liquidation Dividend and Undistributed Assets Account under this section shall—

(a) pay interest on the amount so retained at the rate of twelve per cent. per annum and also pay such penalty as may be determined by the Registrar:

Provided that the Central Government may in any proper case remit either in part or in whole the amount of interest which the liquidator is required to pay under this clause;

(b) be liable to pay any expenses occasioned by reason of his default; and

(c) where the winding up is by the Tribunal, also be liable to have all or such part of his remuneration, as the Tribunal may consider just and proper, to be disallowed, and to be removed from his office by the Tribunal.

353. *Liquidator to make returns, etc.—(1)* If any Company Liquidator who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so, the Tribunal may, on an application made to it by any contributory or creditor of the company or by the Registrar, make an order directing the Company Liquidator to make good the default within such time as may be specified in the order.

(2) Any order under sub-section (*1*) may provide that all costs of, and incidental to, the application shall be borne by the Company Liquidator.

(3) Nothing in this section shall prejudice the operation of any enactment imposing penalties on a Company Liquidator in respect of any such default as aforesaid.

354. *Meetings to ascertain wishes of creditors or contributories*—(1) In all matters relating to the winding up of a company, the Tribunal may—

(a) have regard to the wishes of creditors or contributories of the company, as proved to it by any sufficient evidence;

(b) if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Tribunal may direct; and

(c) appoint a person to act as chairman of any such meeting and to report the result thereof to the Tribunal.

(2) While ascertaining the wishes of creditors under sub-section *(1)*, regard shall be had to the value of each debt of the creditor.

(3) While ascertaining the wishes of contributories under sub-section (*1*), regard shall be had to the number of votes which may be cast by each contributory.

355. *Court tribunal or person, etc., before whom affidavit may be sworn—(1)* Any affidavit required to be sworn under the provisions, or for the purposes, of this Chapter may be sworn—

(a) in India before any court, tribunal, judge or person lawfully authorised to take and receive affidavits; and

(b) in any other country before any court, judge or person lawfully authorised to take and receive affidavits in that country or before an Indian diplomatic or consular officer.

(*2*) All tribunals, judges, justices, commissioners and persons acting judicially in India shall take judicial notice of the seal, stamp or signature, as the case may be, of any such court, tribunal, judge, person, diplomatic or consular officer, attached, appended or subscribed to any such affidavit or to any other document to be used for the purposes of this Chapter.

356. Powers of Tribunal to declare dissolution of company void.—(1) Where a company has been dissolved, whether in pursuance of this Chapter or of section 232 or otherwise, the Tribunal may at any time within two years of the date of the dissolution, on application by the Company Liquidator of the company or by any other person who appears to the Tribunal to be interested, make an order, upon such terms as the Tribunal thinks fit, declaring the dissolution to be void, and thereupon such proceedings may be taken as if the company had not been dissolved.

(2) It shall be the duty of the Company Liquidator or the person on whose application the order was made, within thirty days after the making of the order or such further time as the Tribunal may allow, to file a certified copy of the order with the Registrar who shall register the same, and if the Company Liquidator or the person fails so to do, the Company Liquidator or the person shall be punishable with fine which may extend to ten thousand rupees for every day during which the default continues.

357. *Commencement of winding up by Tribunal.—(1)* Where, before the presentation of a petition for the winding up of a company by the Tribunal, a resolution has been passed by the company for voluntary winding up, the winding up of the company shall be deemed to have commenced at the time of the passing of the resolution, and unless the Tribunal, on proof of fraud or mistake, thinks fit to direct otherwise, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(*2*) In any other case, the winding up of a company by the Tribunal shall be deemed to commence at the time of the presentation of the petition for the winding up.

358. *Exclusion of certain time in computing period of Limitation.*—Notwithstanding anything in the Limitation Act, 1963 (36 of 1963), or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a company which is being wound up by the Tribunal, the period from the date of commencement of the winding up of the company to a period of one year immediately following the date of the winding up order shall be excluded.

PART IV.—*Official Liquidators*

359. *Appointment of Official Liquidator.*—*(1)* For the purposes of this Act, so far as it relates to the winding up of companies by the Tribunal, the Central Government may appoint as many Official Liquidators, Joint, Deputy or Assistant Official Liquidators as it may consider necessary to discharge the functions of the Official Liquidator.

(2) The liquidators appointed under sub-section *(1)* shall be whole-time officers of the Central Government.

(3) The salary and other allowances of the Official Liquidator, Joint Official Liquidator, Deputy Official Liquidator and Assistant Official Liquidator shall be paid by the Central Government.

360. *Powers and functions of Official Liquidator.*—*(1)* The Official Liquidator shall exercise such powers and perform such duties as the Central Government may prescribe.

(*2*) Without prejudice to the provisions of sub-section (1), the Official Liquidator may—

(a) exercise all or any of the powers as may be exercised by a Company Liquidator under the provisions of this Act; and

(b) conduct inquiries or investigations, if directed by the Tribunal or the Central Government, in respect of matters arising out of winding up proceedings.

361. *Summary procedure for liquidation.—(1)* Where the company to be wound up under this Chapter,—

(i) has assets of book value not exceeding one crore rupees; and

(ii) belongs to such class or classes of companies as may be prescribed, the Central Government may order it to be wound up by summary procedure provided under this Part.

(2) Where an order under sub-section *(1)* is made, the Central Government shall appoint the Official Liquidator as the liquidator of the company.

(3) The Official Liquidator shall forthwith take into his custody or control all assets, effects and actionable claims to which the company is or appears to be entitled.

(4) The Official Liquidator shall, within thirty days of his appointment, submit a report to the Central Government in such manner and form, as may be prescribed, including a report whether in his opinion, any fraud has been committed in promotion, formation or management of the affairs of the company or not.

(5) On receipt of the report under sub-section (*4*), if the Central Government is satisfied that any fraud has been committed by the promoters, directors or any other officer of the company, it may direct further investigation into the affairs of the company and that a report shall be submitted within such time as may be specified.

(6) After considering the investigation report under sub-section *(5)*, the Central Government may order that winding up may be proceeded under Part I of this Chapter or under the provision of this Part.

362. *Sale of assets and recovery of debts due to company.—(1)* The Official Liquidator shall expeditiously dispose of all the assets whether movable or immovable within sixty days of his appointment.

(2) The Official Liquidator shall serve a notice within thirty days of his appointment calling upon the debtors of the company or the contributories, as the case may be, to deposit within thirty days with him the amount payable to the company.

(3) Where any debtor does not deposit the amount under sub-section *(2)*, the Central Government may, on an application made to it by the Official Liquidator, pass such orders as it thinks fit.

(4) The amount recovered under this section by the Official Liquidator shall be deposited in accordance with the provisions of section 349.

363. *Settlement of claims of creditors by Official Liquidator.—(1)* The Official Liquidator within thirty days of his appointment shall call upon the creditors of the company to prove their claims in such manner as may be prescribed, within thirty days of the receipt of such call.

(2) The Official Liquidator shall prepare a list of claims of creditors in such manner as may be prescribed and each creditor shall be communicated of the claims accepted or rejected along with reasons to be recorded in writing.

364. *Appeal by creditor.—(1)* Any creditor aggrieved by the decision of the Official Liquidator under section 363 may file an appeal before the Central Government within thirty days of such decision.

(2) The Central Government may after calling the report from the Official Liquidator either dismiss the appeal or modify the decision of the Official Liquidator.

(3) The Official Liquidator shall make payment to the creditors whose claims have been accepted.

(4) The Central Government may at any stage during settlement of claims, if considers necessary, refer the matter to the Tribunal for necessary orders.

365. *Order of dissolution of company.—(1)* The Official Liquidator shall if he is satisfied that the company is finally wound up submit a final report to—

(i) the Central Government, in case no reference was made to the Tribunal under sub-section *(4)* of section 364; and

(ii) in any other case, the Central Government and the Tribunal.

(2) The Central Government, or as the case may be, the Tribunal on receipt of such report shall order that the company be dissolved.

(3) Where an order is made under sub-section *(2)*, the Registrar shall strike off the name of the company from the register of companies and publish a notification to this effect.

CHAPTER XXI

PART 1.—*Companies Authorised to Register under this Act*

366. *Companies capable of being registered.—(1)* For the purposes of this Part, the word "company" includes any partnership firm, limited liability partnership, co-operative 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.

(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 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—

(i) a company registered under the Indian Companies Act, I882 (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;

(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;

(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 the principle of having for its members the holders of those shares or that stock, and no other persons;

(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;

(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 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;

(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 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.

(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.

367. *Certificate of Registration of existing companies.*—On compliance with the requirements of this Chapter with respect to registration, and on payment of such fees, if any, as are payable under section 403, the Registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited and thereupon the company shall be so incorporated.

368. *Vesting of property on Registration.*—All property, movable and immovable (including actionable claims), belonging to or vested in a company at the date of its registration in pursuance of this Part, shall, on such registration, pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

369. *Saving of existing liabilities.*—The registration of a company in pursuance of this Part shall not affect its rights or liabilities in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, the company before registration.

370. *Continuation of pending legal proceedings.*—All suits and other legal proceedings taken by or against the company, or any public officer or member thereof, which are pending at the time of the registration of a company in pursuance of this Part, may be continued in the same manner as if the registration had not taken place :

Provided that execution shall not issue against the property or persons of any individual member of the company on any decree or order obtained in any such suit or proceeding; but, in the event of the property of the company being insufficient to satisfy the decree or order, an order may be obtained for winding up the company.

371. *Effect of Registration under this Part.*—(*1*) When a company is registered in pursuance of this Part, sub-sections (*2*) to (*7*) shall apply.

(2) All provisions contained in any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles.

(3) All the provisions of this Act shall apply to the company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows :—

(a) Table F in Schedule I shall not apply unless and except in so far as it is adopted by special resolution ;

(b) the provisions of this Act relating to the numbering of shares shall not apply to any company whose shares are not numbered ;

(c) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs, charges and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid ;

(d) in the event of the company being wound up, every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid; and in the event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives of deceased contributories, or with respect to the assignees of insolvent contributories, as the case may be, shall apply.

(4) The provisions of this Act with respect to—

(a) the registration of an unlimited company as a limited company;

(b) the powers of an unlimited company on registration as a limited company, to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called-up except in the event of winding up;

(c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called-up except in the event of winding up, shall apply, notwithstanding anything in any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company.

(5) Nothing in this section shall authorise the company to alter any such provisions contained in any instrument constituting or regulating the company as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act.

(6) None of the provisions of this Act (a part from those of section 242) shall derogate from any power of altering its constitution or regulations which may be vested in the company, by virtue of any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company.

(7) In this section, the expression "instrument" includes deed of settlement, deed of partnership, or limited liability partnership.

372. *Power of Court to stay or restrain proceedings.*—The provisions of this Act with respect to staying and restraining suits and other legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order, shall, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and other legal proceedings against any contributory of the company.

373. *Suits stayed on winding up order.*—Where an order has been made for winding up, or a provisional liquidator has been appointed for, a company registered in pursuance of this Part, no suit or other legal proceeding shall be proceeded with or commenced against the company or any contributory of the company in respect of any debt of the company, except by leave of the Tribunal and except on such terms as the Tribunal may impose.

374. *Obligations of companies registering under this Part.*—Every company which is seeking registration under this Part shall,—

(a) ensure that secured creditors of the company, prior to its registration under this Part, have either consented to or have given their no objection to company's registration under this Part;

(b) publish in a newspaper, advertisement one in English and one in vernacular language in such form as may be prescribed giving notice about registration under this Part, seeking objections and address them suitably;

(c) file an affidavit, duly notarised, from all the members or partners to provide that in the event of registration under this Part, necessary documents or papers shall be submitted to the registering or other authority with which the company was earlier registered, for its dissolution as partnership firm, limited liability partnership, co-operative society, society or any other business entity, as the case may be.

(d) comply with such other conditions as may be prescribed.

PART II.—*Winding up of unregistered companies*

375. *Winding up of unregistered companies.—(1)* Subject to the provisions of this Part, any unregistered company may be wound up under this Act, in such manner as may be prescribed, and all the provisions of this Act, with respect to winding up shall apply to an unregistered company, with the exceptions and additions mentioned in sub-sections *(2)* to *(4)*.

(2) No unregistered company shall be wound up under this Act voluntarily.

(3) An unregistered company may be wound up under the following circumstances, namely :—

(a) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;

(b) if the company is unable to pay its debts;

(c) if the Tribunal is of opinion that it is just and equitable that the company should be wound up.

(4) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding one lakh rupees then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary, or some director, manager or principal officer of the company, or by otherwise serving in such manner as the Tribunal may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has, for three weeks after the service of the demand, neglected to pay the sum or to secure or compound for it to the satisfaction of the creditor;

(b) if any suit or other legal proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character as a member, and notice in writing of the institution of the suit or other legal proceeding having been served on the company by leaving the same at its

principal place of business or by delivering it to the secretary, or some director, manager or principal officer of the company or by otherwise serving the same in such manner as the Tribunal may approve or direct, the company has not, within ten days after service of the notice,—

(i) paid, secured or compounded for the debt or demand ;

(ii) procured the suit or other legal proceeding to be stayed ; or

(iii) indemnified the defendant to his satisfaction against the suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same ;

(c) if execution or other process issued on a decree or order of any Court or Tribunal in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied in whole or in part ;

(d) if it is otherwise proved to the satisfaction of the Tribunal that the company is unable to pay its debts.

Explanation.—For the purposes of this Part, the expression "unregistered company"—

(a) shall not include—

(i) a railway company incorporated under any Act of Parliament or other Indian law or any Act of Parliament of the United Kingdom ;

(ii) a company registered under this Act; or

(iii) a company registered under any previous companies law and not being a company the registered office whereof was in Burma, Aden, Pakistan immediately before the separation of that country from India ; and

(b) save as aforesaid, shall include any partnership firm, limited liability partnership or society or co-operative society, association or company consisting of more than seven members at the time when the petition for winding up the partnership firm, limited liability partnership or society or co-operative society, association or company, as the case may be, is presented before the Tribunal.

376. *Power to wind up foreign companies, although dissolved.*—Where a body corporate incorporated outside India which has been carrying on business in India, ceases to carry on business in India, it may be wound up as an unregistered company under this Part, notwithstanding that the body corporate has been dissolved or otherwise ceased to exist as such under or by virtue of the laws of the country under which it was incorporated.

377. *Provisions of Chapter cumulative.*—*(1)* The provisions of this Part, with respect to unregistered companies shall be in addition to and not in derogation of, any provisions herein before in this Act contained with respect to the winding up of companies by the Tribunal.

(2) The Tribunal or Official Liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by the Tribunal or Official Liquidator in winding up of companies formed and registered under this Act :

Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

378. *Saving and construction of enactments conferring power to wind up partnership firm, Association or company, etc., incertain cases.*—Nothing in this Part, shall affect the operation of any enactment which provides for any partnership firm, limited liability partnership or society or co-operative society, association or company being wound up, or being wound up as a company or as an unregistered company, under the Companies Act, 1956 (1 of 1956), or any Act repealed by that Act:

Provided that references in any such enactment to any provision contained in the Companies Act, 1956 (1 of 1956) or in any Act repealed by that Act shall be read as references to the corresponding provision, if any, contained in this Act.

CHAPTER XXII

COMPANIES INCORPORATED OUTSIDE INDIA

379. *Application of Act to foreign companies.*—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 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.

380. *Documents, etc., to be delivered to Registrar by forgein companies.*—(*1*) Every foreign company shall, within thirty days of the establishment of its place of business in India, deliver to the Registrar for registration—

(a) a certified copy of the charter, statutes or memorandum and articles, of the company or other instrument constituting or defining the constitution of the company and, if the instrument is not in the English language, a certified translation thereof in the English language ;

(b) the full address of the registered or principal office of the company ;

(c) a list of the directors and secretary of the company containing such particulars as may be prescribed ;

(d) the name and address or the names and addresses of one or more persons resident in India authorised to accept on behalf of the company service of process and any notices or other documents required to be served on the company ;

(e) the full address of the office of the company in India which is deemed to be its principal place of business in India ;

(f) particulars of opening and closing of a place of business in India on earlier occasion or occasions ;

(g) declaration that none of the directors of the company or the authorised representative in India has ever been convicted for debarred from formation of companies and management in India or abroad ; and

(h) any other information as may be prescribed.

(2) Every foreign company existing at the commencement of this Act shall, if it has not delivered to the Registrar before such commencement, the documents and particulars specified in sub-section *(1)* of section 592 of the Companies Act, 1956 (1 of 1956) continue to be subject to the obligation to deliver those documents and particulars in accordance with that Act.

(3) Where any alteration is made or occurs in the documents delivered to the Registrar under this section, the foreign company shall, within thirty days of such alteration, deliver to the Registrar for registration, a return containing the particulars of the alteration in the prescribed form.

381. *Accounts of foreign company.—(1)* Every foreign company shall, in every calendar year,—

(a) make out a balance sheet and proft and loss account in such form, containing such particulars and including or having annexed or attached thereto such documents as may be prescribed; and

(b) deliver a copy of those documents to the Registrar :

Provided that the Central Government may, by notification, direct that, in the case of any foreign company or class of foreign companies, the requirements of clause *(a)* shall not apply, or shall apply subject to such exceptions and modifications as may be specified in that notification.

(2) If any such document as is mentioned in sub-section *(1)* is not in the English language, there shall be annexed to it a certified translation thereof in the English language.

(3) Every foreign company shall send to the Registrar along with the documents required to be delivered to him under sub-section *(1)*, a copy of a list in the prescribed form of all places of business established by the company in India as at the date with reference to which the balance sheet referred to in sub-section *(1)* is made out.

382. *Display of name, etc., of foreign company.*—Every foreign company shall—

(a) conspicuously exhibit on the outside of every office or place where it carries on business in India, the name of the company and the country in which it is incorporated, in letters easily legible in English characters, and also in the characters of the language or one of the languages in general use in the locality in which the office or place is situate ;

(b) cause the name of the company and of the country in which the company is incorporated, to be stated in legible English characters in all business letters, bill-heads and letter paper, and in all notices, and other official publications of the company; and

(c) if the liability of the members of the company is limited, cause notice of that fact—

(*i*) to be stated in every such prospectus issued and in all business letters, bill-heads, letter paper, notices, advertisements and other official publications of the company, in legible English characters; and

(*ii*) to be conspicuously exhibited on the outside of every office or place where it carries on business in India, in legible English characters and also in legible characters of the language or one of the languages in general use in the locality in which the office or place is situate.

383. *Service on foreign company.*—Any process, notice, or other document required to be served on a foreign company shall be deemed to be sufficiently served, if addressed to any person whose name and address have been delivered to the Registrar under section 380 and left at, or sent by post to, the address which has been so delivered to the Registrar or by electronic mode.

384. *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.

(2) The provisions of section 92 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.

(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.

(4) The provisions of Chapter VI shall apply *mutatis mutandis* to charges on properties which are created or acquired by any foreign company.

(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.

385. *Fee for registration of documents.*—There shall be paid to the Registrar for registering any document required by the provisions of this Chapter to be registered by him, such fee, as may be prescribed.

386. *Interpretation.*—For the purposes of the foregoing provisions of this Chapter,—

(a) the expression "certified" means certified in the prescribed manner to be a true copy or a correct translation ;

(b) the expression "director", in relation to a foreign company, includes any person in accordance with whose directions or instructions the Board of Directors of the company is accustomed to act ; and

(c) the expression "place of business" includes a share transfer or registration office.

387. *Dating of prospectus and particulars to be contained therein.*—*(1)* No person shall issue, circulate or distribute in India any prospectus offering to subscrib for securities of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless the prospectus is dated and signed, and—

(a) contains particulars with respect to the following matters, namely:—

(i) the instrument constituting or defining the constitution of the company ;

(ii) the enactments or provisions by or under which the incorporation of the company was effected;

(iii) address in India where the said instrument, enactments or provisions, or copies thereof, and if the same are not in the English language, a certified translation thereof in the English language can b inspected;

(iv) the date on which and the country in which the company would be or was incorporated; and

(v) whether the company has established a place of business in India and, if so, the address of its principal office in India; and

(b) states the matters specified under section 26:

Provided that sub-clauses *(i)*, *(ii)* and *(iii)* of clause *(a)* of this sub-section shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business.

(*2*) Any condition requiring or binding an applicant for securities to waive compliance with any requirement imposed by virtue of sub-section (*1*), or purporting to impute him with notice of any contract, documents or matter not specifically referred to in the prospectus, shall be void.

(3) No person shall issue to any person in India a form of application for securities of such a company or intended company as is mentioned in sub-section (*1*), unless the form is issued with a prospectus which complies with the provisions of this Chapter and such issue does not contravene the provisions of section 388:

Provided that this sub-section shall not apply if it is shown that the form of application was issued in connection with a *bonafide* invitation to a person to enter into an underwriting agreement with respect to securities.

(*4*) This section—

(a) shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of applicaition relating to securities of the company, whether an applicant for securities will or will not have the right to renounce in favour of other persons; and

(b) except in so far as it requires a prospectus to be dated, to the issue of a prospectus relating to securities which are or are to be in all respects uniform with securities previously issued and for the time being dealt in or quoted on a recognised stock exchange,

but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(*5*) Nothing in this section shall limit or diminish any liability which any person may incur under any law for the time being in force in India or under this Act apart from this section.

388. *Provisions as to expert's consent and allotment.*—(*1*) No person shall issue, circulate or distribute in India any prospectus offering for subscription in securities of a company incorporated or to be incorporated outside India, whether the company has or has not been established, or when formed will or will not establish, a place of business in India,—

(a) if where the prospectus includes a statement purporting to be made by an expert, he has not given, or has before delivery of the prospectus for registration withdrawn, his written consent to the issue of the prospectus with the statement included in the form and context in which it is included, or there does not appear in the prospectus a statement that he has given and has not withdrawn his consent as aforesaid; or

(b) if the prospectus does not have the effect, where an application is made in pursuance thereof, of rendering all persons concerned bound by all the provisions of sections 33 and 40, so far as applicable.

(*2*) For the purposes of this section, a statement shall be deemed to be included in a prospectus, if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

389. *Registration of Prospectus.*—No person shall issue, circulate or distribute in India any prospectus offering for subscription in securities of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless before the issue, circulation or distribution of the prospectus in India, a copy thereof certified by the chairperson of the company and two other directors of the company as having been approved by resolution of the managing body has been delivered for registration to the Registrar and the prospectus states on the face of it that a copy has been so delivered, and there is endorsed on or attached to the copy, any consent to the issue of the prospectus required by section 388 and such documents as may be prescribed.

390. *Offer of Indian Depository Receipts.*—Notwithstanding anything contained in any other law for the time being in force, the Central Government may make rules applicable for—

(a) the offer of Indian Depository Receipts;

(b) the requirement of disclosures in prospectus or letter of offer issued in connection with Indian Depository Receipts;

(c) the manner in which the Indian Depository Receipts shall be dealt with in a depository mode and by custodian and underwriters; and

(d) the manner of sale, transfer or transmission of Indian Depository Receipts,

by a company incorporated or to be incorporated outside India, whether the company has or has not established, or will or will not establish, any place of business in India.

391. *Application of sections 34 to 36 and Chapter XX.*—*(1)* The provisions of sections 34 to 36 (both inclusive) shall apply to—

(i) the issue of a prospectus by a company incorporated outside India under section 389 as they apply to prospectus issued by an Indian company;

(ii) the issue of Indian Depository Receipts by a foreign company.

(*2*) The provisions of Chapter XX shall apply *mutatis mutandis* for closure of the place of business of a foreign company in India as if it were a company incorporated in India.

392. *Punishment for contravention.*—Without prejudice to the provisions of section 391, if a foreign company contravenes the provisions of this Chapter, the foreign company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees and in the case of a continuing offence, with an additional fine which may extend to fifty thousand rupees for every day after the first during which the contravention continues and every officer of the foreign 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 twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

393. *Company's failure to comply with provisions of this Chapter not to affect validity of contracts, etc.*—Any failure by a company to comply with the provisions of this Chapter shall not affect the validity of any contract, dealing or transaction entered into by the company or its liability to be sued in respect thereof, but the company shall not be entitled to bring any suit, claim any set-off, make any counter-claim or institute any legal proceeding in respect of any such contract, dealing or transaction, until the company has complied with the provisions of this Act applicable to it.

CHAPTER XXIII

GOVERNMENT COMPANIES

394. *Annual reports on Government companies.*—(*1*) Where the Central Government is a member of a Government company, the Central Government shall cause an annual report on the working and affairs of that company to be—

(a) prepared within three months of its annual general meeting before which the comments given by the Comptroller and Auditor-General of India and the audit report is placed under the proviso to sub-section (*6*) of section 143; and

(b) as soon as may be after such preparation, laid before both Houses of Parliament together with a copy of the audit report and comments upon or supplement to the audit report, made by the Comptroller and Auditor-General of India.

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(*2*) Where in addition to the Central Government, any State Government is also a member of a Government company, that State Government shall cause a copy of the annual report prepared under sub-section (*1*) to be laid before the House or both Houses of the State Legislature together with a copy of the audit report and the comments upon or supplement to the audit report referred to in sub-section (*1*).

395. *Annual reports where one or more State Governments are members of companies.*—(1) Where the Central Government is not a member of a Government company, every State Government which is a member of that company, or where only one State Government is a member of the company, that State Government shall cause an annual report on the working and affairs of the company to be—

(a) prepared within the time specified in sub-section (*1*) of section 394; and

(b) as soon as may be after such preparation, laid before the House or both Houses of the State Legislature together with a copy of the audit report and comments upon or supplement to the audit report referred to in sub-section (*1*) of that section.

(2) The provisions of this section and section 394 shall, so far as may be, apply to a Government company in liquidation as they apply to any other Government company.

CHAPTER XXIV

REGISTRATION OFFICES AND FEES

396. *Registration offices.*—(*1*) For the purposes of exercising such powers and discharging such functions as are conferred on the Central Government by or under this Act or under the rules made thereunder and for the purposes of registration of companies under this Act, the Central Government shall, by notification, establish such number of offices at such places as it thinks fit, specifying their jurisdiction.

(2) The Central Government may appoint such Registrars, Additional, Joint, Deputy and Assistant Registrars as it considers necessary for the registration of companies and discharge of various functions under this Act, and the powers and duties that may be exercisable by such officers shall be such as may be prescribed.

(3) The terms and conditions of service, including the salaries payable to persons appointed under sub-section *(2)*, shall be such as may be prescribed.

(4) The Central Government may direct a seal or seals to be prepared for the authentication of documents required for, or connected with, the registration of companies.

397. *Admissibility of certain documents as evidence.*—Notwithstanding anything contained in any other law for the time being in force, any document reproducing or derived from returns and documents filed by a company with the Registrar on paper or in electronic form or stored on any electronic data storage device or computer readable media by the Registrar, and authenticated by the Registrar or any other officer empowered by the Central Government in such manner as may be prescribed, shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder without further proof or production of the original as evidence of any contents of the original or of any fact stated therein of which direct evidence is admissible.

398. *Provisions relating to filing of applications, documents, inspection etc. in electronic form.*—*(1)* Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions contained in section 6 of the Information Technology Act, 2000 (21 of 2000), the Central Government may make rules so as to require from such date as may be prescribed in the rules that—

(a) such applications, balance sheet, prospectus, return, declaration, memorandum, articles, particulars of charges, or any other particulars or document as may be required to be filed or delivered under this Act or the rules made thereunder, shall be filed in the electronic form and authenticated in such manner as may be prescribed;

(b) such document, notice, any communication or intimation, as may be required to be served or delivered under this Act, in the electronic form and authenticated in such manner as may be prescribed;

(c) such applications, balance sheet, prospectus, return, register, memorandum, articles, particulars of charges, or any other particulars or document and return filed under this Act or rules made thereunder shall be maintained by the Registrar in the electronic form and registered or authenticated, as the case may be, in such manner as may be prescribed ;

(d) such inspection of the memorandum, articles, register, index, balance sheet, return or any other particulars or document maintained in the electronic form, as is otherwise available for inspection under this Act or the rules made thereunder, may be made by any person through the electronic form in such manner as may be prescribed;

(e) such fees, charges or other sums payable under this Act or the rules made thereunder shall be paid through the electronic form and in such manner as may be prescribed; and

(f) the Registrar shall register change of registered office, alteration of memorandum or articles, prospectus, issue certificate of incorporation, register such document, issue such certificate, record the notice, receive such communication as may be required to be registered or issued or recorded or received, as the case may be, under this Act or the rules made thereunder or perform duties or discharge functions or exercise powers under this Act or the rules made thereunder or do any act which is by this Act directed to be performed or discharged or exercised or done by the Registrar in the electronic form in such manner as may be prescribed.

Explanation.—For the removal of doubts, it is hereby clarified that the rules made under this section shall not relate to imposition of fines or other pecuniary penalties or demand or payment of fees or contravention of any of the provisions of this Act or punishment therefor.

(*2*) The Central Government may, by notification, frame a scheme to carry out the provisions of sub-section *(1)* through the electronic form.

399. *Inspection—production and evidence of documents kept by Register.* (*1*) Save as otherwise provided elsewhere in this Act, any person may—

(a) inspect by electronic means any documents kept by the Registrar in accordance with the rules made, being documents filed or registered by him in pursuance of this Act, or making a record of any fact required or authorised to be recorded or registered in pursuance of this Act, on payment for each inspection of such fees as may be prescribed;

(b) require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document to be certified by the Registrar, on payment in advance of such fees as may be prescribed:

Provided that the rights conferred by this sub-section shall be exercisable—

(i) in relation to documents delivered to the Registrar with a prospectus in pursuance of section 26, only during the fourteen days beginning with the date of publication of the prospectus; and at other times, only with the permission of the Central Government; and

(ii) in relation to documents so delivered in pursuance of clause *(b)* of sub-section *(1)* of section 388, only during the fourteen days beginning with the date of the prospectus; and at other times, only with the permission of the Central Government.

(2) No process for compelling the production of any document kept by the Registrar shall issue from any court or the Tribunal except with the leave of that court or the Tribunal and any such process, if issued, shall bear thereon a statement that it is issued with the leave of the court or the Tribunal.

(3) A copy of, or extract from, any document kept and registered at any of the offices for the registration of companies under this Act, certified to be a true copy by the Registrar (whose official position it shall not be necessary to prove), shall, in all legal proceedings, be admissible in evidence as of equal validity with the original document.

400. *Electronic form to be exclusive, alternative or in addition to physical form.*—The Central Government may also provide in the rules made under section 398 and section 99 that the electronic form for the purposes specified in these sections shall be exclusive, or in the alternative or in addition to the physical form, therefor.

401. *Provision of value added services through electronic form.*—The Central Government may provide such value added services through the electronic form and levy such fee thereon as may be prescribed.

402. *Application of provisions of Information Technology Act, 2000.*—All the provisions of the Information Technology Act, 2000 (21 of 2000) relating to the electronic records, including the manner and format in which the

electronic records, shall be filed, in so far as they are not inconsistent with this Act, shall apply in relation to the records in electronic form specified under section 398.

403. *Fee for filing, etc.*—(*1*) 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:

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:

Provided further that 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.

(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.

404. *Fees, etc. to be credited into public account.*—All fees, charges and other sums received by any Registrar, Additional, Joint, Deputy or Assistant Registrar or any other officer of the Central Government in pursuance of any provision of this Act shall be paid into the public account of India in the Reserve Bank of India.

CHAPTER XXV

COMPANIES TO FURNISH INFORMATION OR STATISTICS

405. *Power of Central Government to direct companies to furnish information or statistics.*—*(1)* The Central Government may, by order, require companies generally, or any class of companies, or any company, to furnish such information or statistics with regard to their or its constitution or working, and within such time, as may be specified in the order.

(2) Every order under sub-section *(1)* shall be published in the Official Gazette and may be addressed to companies generally or to any class of companies, in such manner, as the Central Government may think fit and the date of such publication shall be deemed to be the date on which requirement for information or statistics is made on such companies or class of companies, as the case may be.

(3) For the purpose of satisfying itself that any information or statistics furnished by a company or companies in pursuance of any order under sub-section *(1)* is correct and complete, the Central Government may by order require such company or companies to produce such records or documents in its possession or allow inspection thereof by such officer or furnish such further information as that Government may consider necessary.

(4) If any company fails to comply with an order made under sub-section *(1)* or sub-section (3), or knowingly furnishes any information or statistics which is incorrect or incomplete in any material respect, the company shall be punishable with fine which may extend to twenty-five thousand 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 twenty-five thousand rupees but which may extend to three lakh rupees, or with both.

(5) Where a foreign company carries on business in India, all references to a company in this section shall be deemed to include references to the foreign company in relation, and only in relation, to such business.

CHAPTER XXVI

NIDHIS

406. *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 which complies with such rules as are prescribed by the Central Government for regulation of such class of companies.

(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.

(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 which may 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 form as may be agreed upon by both the Houses.

CHAPTER XXVII

NATIONAL COMPANY LAW TRIBUNAL AND APPELLATE TRIBUNAL

407. *Definitions.*—In this Chapter, unless the context otherwise requires,—

(a) "Chairperson" means the Chairperson of the Appellate Tribunal;

(b) "Judicial Member" means a member of the Tribunal or the Appellate Tribunal appointed as such and includes the President or the Chairperson, as the case may be;

(c) "Member" means a member, whether Judicial or Technical of the Tribunal or the Appellate Tribunal and includes the President or the Chairperson, as the case may be;

(d) "President" means the President of the Tribunal;

(e) "Technical Member" means a member of the Tribunal or the Appellate Tribunal appointed as such.

408. *Constitution of National Company law Tribunal.*—The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a Tribunal to be known as the National Company Law Tribunal consisting of a President and such number of Judicial and Technical members, as the Central Government may deem necessary, to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.

409. *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.

(2) A person shall not be qualified for appointment as, a Judicial Member unless he—

(a) is, or has been, a judge of a High Court; or

(b) is, or has been, a District Judge for at least five years; or

(c) has, for at least ten years been an advocate of a court.

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.

(3) A person shall not be qualified for appointment as a Technical Member unless he—

(a) has, for at least fifteen 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

(b) is, or has been, in practice as a chartered accountant for at least fifteen years; or

(c) is, or has been, in practice as a cost accountant for at least fifteen years; or

(d) is, or has been, in practice as a company secretary for at least fifteen years; or

(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

(f) is, or has been, for at least five years, a presiding officer of a Labour Court, Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947).

410. *Constitution of Appellate Tribunal.*—The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical Members, not exceeding eleven, as the Central Government may deem fit, to be appointed by it by notification, for hearing appeals against the orders of the Tribunal.

411. *Qualification of chairperson and Members of Appellate Tribunal.*—*(1)* The chairperson shall be a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court.

(2) A Judicial Member shall be a person who is or has been a Judge of a High Court or is a Judicial Member of the Tribunal for five years.

(3) A Technical member shall be a person of proven ability, integrity and standing having special knowledge and experience, of not less than twenty-five 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.

412. *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.

(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—

(a) Chief Justice of India or his nominee—Chairperson;

(b) a senior Judge of the Supreme Court or a Chief Justice of High Court—Member;

(c) Secretary in the Ministry of Corporate Affairs—member;

(d) Secretary in the Ministry of Law and Justice—Member; and

(e) Secretary in the Department of Financial Services in the Ministry of Finance—Member.

(3) The Secretary, Ministry of Corporate Affairs shall be the Convener of the Selection Committee.

(4) The Selection Committee shall determine its procedure for recommending persons under sub-section *(2)*.

(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.

413. *Term of Office of President, Chairperson and other Members.*—*(1)* The President and every other Member of the Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years.

(2) A Member of the Tribunal shall hold office as such until he attains,—

(a) in the case of the President, the age of sixty-seven years;

(b) in the case of any other Member, the age of sixty-five years:

Provided that a person who has not completed fifty years of age shall not be eligible for appointment as Member:

Provided further that the Member may retain his lien with his parent carde or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

(3) The chairperson or a Member of the Appellate Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years.

(4) A Member of the Appellate Tribunal shall hold office as such until he attains,—

(a) in the case of the Chairperson, the age of seventy years;

(b) in the case of any other Member, the age of sixty-seven years:

Provided that a person who has not completed fifty years of age shall not be eligible for appointment as member:

Provided further that the Member may retain his lien with his parent cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

414. *Salary, allowances and other terms and conditions of service of Members.*—The salary, allowances and other terms and conditions of service of the Members of the Tribunal and the Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Members shall be varied to their disadvantage after their appointment.

415. *Acting President and Chairperson of Tribunal or Appellate Tribunal.—(1)* In the event of the occurrence of any vacancy in the office of the President or the Chairperson by reason of his death, resignation or otherwise, the senior-most Member shall act as the President or the Chairperson, as the case may be, until the date on which a new President or Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the President or the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the President or the Chairperson, as the case may be, until the date on which the President or the Chairperson resumes his duties.

416. *Resignation of Members.*—The President, the Chairperson or any Member may, by notice in writing under his hand addressed to the Central Government, resign from his office:

Provided that the President, the Chairperson, or the Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earliest.

417. *Removal of Members.—(1)* The Central Government may, after consultation with the Chief Justice of India, remove from office the President, Chairperson or any Member, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such President, the Chairperson, or Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, the Chairperson or Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President, the Chairperson or the Member shall not be removed on any of the grounds specified in clauses *(b)* to *(e)* without giving him a reasonable opportunity of being heard.

(2) Without prejudice to the provisions of sub-section *(1)*, the President, the Chairperson or the Member shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government in which such President, the Chairperson or Member had been informed of the charges against him and given a reasonable opportunity of being heard.

(3) The Central Government may, with the concurrence of the Chief Justice of India, suspend from office, the President, the Chairperson or Member in respect of whom reference has been made to the Judge of the Supreme Court under sub-section (2) until the Central Government has passed orders on receipt of the report of the Judge of the Supreme Court on such reference.

(4) The Central Government shall, after consultation with the Supreme Court, make rules to regulate the procedure for the inquiry on the ground of proved misbehaviour or incapacity referred to in sub-section (2).

418. *Staff of Tribunal and Appellate Tribunal.—(1)* The Central Government shall, in consultation with the Tribunal and the Appellate Tribunal, provide the Tribunal and the Appellate Tribunal, as the case may be, with such officers and other employees as may be necessary for the exercise of the powers and discharge of the functions of the Tribunal and the Appellate Tribunal.

(2) The officers and other employees of the Tribunal and the Appellate Tribunal shall discharge their functions under the general superintendence and control of the President, or as the case may be, the Chairperson, or any other Member to whom powers for exercising such superintendence and control are delegated by him.

(3) The salaries and allowances and other conditions of service of the officers and other employees of the Tribunal and the Appellate Tribunal shall be such as may be prescribed.

419. *Benches of Tribunal.*—(1) There shall be constituted such number of Benches of the Tribunal, as may, by notification, be specified by the Central Government.

(2) The Principal Bench of the Tribunal shall be at New Delhi which shall be presided over by the President of the Tribunal.

(3) The powers of the Tribunal shall be exercisable by Benches consisting of two Members out of whom one shall be a Judicial Member and the other shall be a Technical Member:

Provided that it shall be competent for the Members of the Tribunal authorised in this behalf to function as a Bench consisting of a single Judicial Member and exercise the powers of the Tribunal in respect of such class of cases or such matters pertaining to such class of cases, as the President may, by general or special order, specify:

Provided further that if at any stage of the hearing of any such case or matter, it appears to the Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the President, or, as the case may be, referred to him for transfer, to such Bench as the President may deem fit.

(4) The President shall, for the disposal of any case relating to rehabilitation, restructuring, reviving or winding up, of companies, constitute one or more Special Benches consisting of three or more Members, majority necessarily being of Judicial Members.

(5) If the Members of a Bench differ in opinion on any point or points, it shall be decided according to the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

420. *Orders of Tribunal.—(1)* The Tribunal may, after giving the parties to any proceeding before it, a reasonable, opportunity of being heard, pass such orders thereon as it thinks fit.

(2) The Tribunal may, at any time within two years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act.

(3) The Tribunal shall send a copy of every order passed under this section to all the parties concerned.

421. *Appeal from Orders of Tribunal.—(1)* Any person aggrieved by an order of the Tribunal may prefer an appeal to the Appellate Tribunal.

(2) No appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.

(3) Every appeal under sub-section *(1)* shall be filed within a period of forty-five days from the date on which a copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days from the date aforesaid, but within a further period not exceeding forty-five days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period.

(4) On the receipt of an appeal under sub-section *(1)*, the Appellate Tribunal shall, after giving the parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the Tribunal and the parties to appeal.

422. *Expeditious disposal by Tribunal and Appellate Tribunal.—(1)* Every application or petition presented before the Tribunal and every appeal filed before the Appellate Tribunal shall be dealt with and disposed of by it as expeditiously as possible and every endeavour shall be made by the Tribunal or the Appellate Tribunal, as the case may be, for the disposal of such application or petition or appeal within three months from the date of its presentation before the Tribunal or the filing of the appeal before the Appellate Tribunal.

(2) Where any application or petition or appeal is not disposed of within the period specified in sub-section (*1*), the Tribunal or, as the case may be, the Appellate Tribunal, shall record the reasons for not disposing of the application or petition or the appeal, as the case may be, within the period so specified; and the President or the Chairperson, as the case may be, may, after taking into account the reasons so recorded, extend the period referred to in sub-section (*1*) by such period not exceeding ninety days as he may consider necessary.

423. *Appeal to Supreme Court.*—Any person aggrieved by any order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of receipt of the order of the Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satistied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

424. Procedure before Tribunal and Appellate Tribunal.—(1) The Tribunal and the Appellate Tribunal shall, not while disposing of any proceeding before it or, as the case may be, an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice, and, subject to the other provisions of this Act and of any rules made thereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure.

(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, 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:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) dismissing a representation for default or deciding it *ex parte;*

(g) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte;* and,

(h) any other matter which may be prescribed.

(3) Any order made by the Tribunal or the Appellate Tribunal may be enforced by that Tribunal in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Tribunal or the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—

(a) in the case of an order against a company, the registered office of the company is situate; or

(b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

(*4*) All proceedings before the Tribunal or the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Tribunal and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

425. *Power to punish for contempt.*—The Tribunal and the Appellate Tribunal shall have the same jurisdiction, powers and authority in respect of contempt of themselves as the High Court has and may exercise, for this purpose, the powers under the provisions of the Contempt of Courts Act, 1971 (70 of 1971) which shall have the effect subject to modifications that—

(a) the reference therein to a High Court shall be construed as including a referencer to the Tribunal and the Appellate Tribunal; and

(b) the reference to Advocate-General in section 15 of the said Act shall be construed as a reference to such Law Officers as the Central Government may specify in this behalf.

426. *Delegation of powers.*—The Tribunal or the Appellate Tribunal may, by general or special order, direct, subject to such conditions, if any, as may be specified in the order, any of its officers or employees or any other person

authorised by it to inquire into any matter connected with any proceeding or, as the case may be, appeal before it and to report to it in such manner as may be specified in the order.

427. *President, Members, Officers, etc. to be public servants.*—The President, Members, officers and other employees of the Tribunal and the Chairperson, Members, officers and other employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

428. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against the Tribunal, the President, Member, officer or other employee, or against the Appellate Tribunal, the Chairperson, Member, officer or other employees thereof or liquidator or any other person authorised by the Tribunal or the Appellate Tribunal for the discharge of any function under this Act in respect of any loss or damage caused or likely to be caused by any act which is in good faith done or intended to be done in pursuance of this Act.

429. *Power to seek assistance of Chief Metropolitan Magistrate, etc.*— (*1*) The Tribunal may, in any proceeding relating to a sick company or winding up of any other company, in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such sick or other company, are situate or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,—

(a) take possession of such property, books of account or other documents; and

(b) cause the same to be entrusted to the Tribunal or other person authorised by it.

(2) For the purpose of securing compliance with the provisions of sub-section (*1*), the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector may take or cause to be taken such steps and use or cause to be used such force as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector done in pursuance of this section shall be called in question in any court or before any authority on any ground whatsoever.

430. *Civil court not to have jurisdiction.*—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Tribunal or the Appellate Tribunal is empowered to determine by or under this Act or any other law for the time being in force and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or any other law for the time being in force, by the Tribunal or the Appellate Tribunal.

431. *Vacancy in Tribunal or Appellate Tribunal not to invalidate acts or proceedings.*—No act or proceeding of the Tribunal or the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Tribunal or the Appellate Tribunal, as the case may be.

432. *Right to legal representation.*—A party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be, may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any other person to present his case before the Tribunal or the Appellate Tribunal, as the case may be.

433. *Limitation.*—The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to proceedings or appeals before the Tribunal or the Appellate Tribunal, as the case may be.

434. *Transfer of certain pending proceedings.—(1)* On such date as may be notified by the Central Government in this behalf,—

(a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section *(1)* of section 10E of the Companies Act, 1956 (1 of 1956), immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;

(b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:

Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days;

(c) all proceedings under the Companies Act, 1956 (1 of 1956), including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer.

(d) any appeal preferred to the Appellate Authority for Industrial and Financial Reconstruction or any reference made or inquiry pending to or before the Board of Industrial and Financial Reconstruction or any proceeding of whatever nature pending before the Appellate Authority for Industrial and Financial Reconstruction or the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) immediately before the commencement of this Act shall stand abated:

Provided that a company in respect of which such appeal or reference or inquiry stands abated under this clause may make a reference to the Tribunal under this Act within one hundred and eighty days from the commencement of this Act in accordance with the provisions of this Act:

Provided further that no fees shall be payable for making such reference under this Act by a company whose appeal or reference or inquiry stands abated under this clause.

(2) The Central Government may make rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section.

CHAPTER XXVIII

SPECIAL COURTS

435. *Establishment of Special Courts.—(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.

(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.

(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.

436. *Offences triable by Special Courts.—(1)* Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) all offences under this Act shall be triable only by the Special Court established for the area in which the registered office of the company in relation to which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned;

(b) where a person accused of, or suspected of the commission of, an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section *(2A)* of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974), such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that where such Magistrate considers that the detention of such person upon or before the expiry of the period of detention is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

(c) the Special Court may exercise, in relation to the person forwarded to it under clause *(b)*, the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973 (2 of 1974) in relation to an accused person who has been forwarded to him under that section; and

(d) a Special Court may, upon perusal of the police report of the facts constituting an offence under this Act or upon a complaint in that behalf, take cognizance of that offence without the accused being committed to it for trial.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974) be charged at the same trial.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court may, if it thinks fit, try in a summary way any offence under this Act which is punishable with imprisonment for a term not exceeding three years:

Provided that in the case of any conviction in a summary trial, no sentence of imprisonment for a term exceeding one year shall be passed:

Provided further that when at the commencement of, or in the course of, a summary trial, it appears to the Special Court that the nature of the case is such that the sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Special Court shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or rehear the case in accordance with the procedure for the regular trial.

437. *Appeal and revision.*—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

438. *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 deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

439. *Offences to be non-cognizable.*—*(1)* Notwithstanding anything in the Code of Criminal Procedure, 1973 (2 of 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.

(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, a shareholder of the company, or of a person authorised by the Central Government in that behalf:

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:

Provided further that nothing in this sub-section shall apply to a prosecution by a company of any of its officers.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974), where the complaint under sub-section (2) is the Registrar or a person authorised by the Central Government, the presence of such officer before the Court trying the offences shall not be necessary unless the court requires his personal attendance at the trial.

(4) The provisions of sub-section (2) shall not apply to any action taken by the liquidator of a company in respect of any offence alleged to have been committed in respect of any of the matters in Chapter XX or in any other provision of this Act relating to winding up of companies.

Explanation.—The liquidator of a company shall. not be deemed to be an officer of the company within the meaning of sub-section (2).

440. *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 Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal 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 Court of Session under this section.

441. *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) with fine only, 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 any officer authorised by the Central Government,

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 specified shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded:

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:

Provided also that any offence covered under this sub-section by any company or its officer shall not be compounded if the investigation against such company has been initiated or is pending under this Act.

(2) Nothing in sub-section—(*1*) shall apply to an offence committed by a company or its officer within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.—For the purposes of this section,—

(a) any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence;

(b) "Regional Director" means a person appointed by the Central Government as a Regional Director for the purposes of this Act.

(3) (a) Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon, to the Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be.

(b) Where any offence is compounded under this section, whether before or after the institution of any prosecution, an intimation thereof shall be given by the company to the Registrar within seven days from the date on which the offence is so compounded.

(c) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, either by the Registrar or by any shareholder of the company or by any person authorised by the Central Government against the offender in relation to whom the offence is so compounded.

(d) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought by the Registrar in writing, to the notice of the court in which the prosecution is pending and on such notice of the compounding of the offence being given, the company or its officer in relation to whom the offence is so compounded shall be discharged.

(4) The Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be, while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires a company or its officer to file or register with, or deliver or send to, the Registrar any return, account or other document, may direct, by an order, if it or he thinks fit to do so, any officer or other employee of the company to file or register with, or on payment of the fee, and the additional fee, required to be paid under section 403, such return, account or other document within such time as may be specified in the order.

(5) Any officer or other employee of the company who fails to comply with any order made by the Tribunal or the Regional Director or any officer authorised by the Central Government under sub-section (4) shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one lakh rupees, or with both.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) any offence which is punishable under this Act, with imprisonment or fine, or with imprisonment or fine or with both, shall be compoundable with the permission of the Special Court, in accordance with the procedure laid down in that Act for compounding of offences;

(b) any offence which is punishable under this Act with imprisonment only or with imprisonment and also with fine shall not be compoundable.

(7) No offence specified in this section shall be compounded except under and in accordance with the provisions of this section.

442. *Mediation and Conciliation Panel.*—(1) The Central Government shall maintain a panel of experts to be called as the Mediation and Conciliation Panel consisting of such number of experts having such qualifications as may be prescribed for mediation between the parties during the pendency of any proceedings before the Central Government or the Tribunal or the Appellate Tribunal under this Act.

(2) Any of the parties to the proceedings may, at any time during the proceedings before the Central Government or the Tribunal or the Appellate Tribunal, apply to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, in such form along with such fees as may be prescribed, for referring the matter pertaining to such proceedings to the Mediation and Conciliation Panel and the Central Government or Tribunal or the Appellate Tribunal, as the case may be, shall appoint one or more experts from the panel referred to in sub-section (1).

(3) The Central Government or the Tribunal or the Appellate Tribunal before which any proceeding is pending may, *suo motu,* refer any matter pertaining to such proceeding to such number of experts from the Mediation and Conciliation Panel as the Central Government or the Tribunal of the Appellate Tribunal, as the case may be, deems fit.

(4) The fee and other terms and conditions of experts of the Mediation and Conciliation Panel shall be such as may be prescribed.

(5) The Mediation and Conciliation Panel shall follow such procedure as may be prescribed and dispose of the matter referred to it within a period of three months from the date of such reference and forward its recommendations to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

(6) Any party aggreived by the recommendation of the Mediation and Conciliation Panel may file objections to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

443. *Power of Central Government to appoint company prosecutors.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government may appoint generally, or for any case, or in any case, or for any specified class of cases in any local area, one or more persons, as company prosecutors for the conduct of prosecutions arising out of this Act and the persons so appointed as company prosecutors shall have all the powers and privileges conferred by the Code on Public Prosecutors appointed under section 24 of the Code.

444. *Appeal against acquittal.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) , the Central Government may, in any case arising under this Act, direct any company prosecutor or authorise any other person either by name or by virtue of his office, to present an appeal from an order of acquittal passed by any court, other than a High Court, and an appeal presented by such prosecutor or other person shall be deemed to have been validly presented to the appellate court.

445. *Compensation for accusation without reasonable cause.*—The provisions of section 250 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply *mutatis mutandis* to compensation for accusation without reasonable cause before the Special Court or the Court of Session.

446. *Application of fines.*—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.

CHAPTER XXIX

MISCELLANEOUS

447. *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 guilty of fraud, 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:

Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

Explanation.—For the purposes of this section—

(i) "fraud" in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;

(ii) "wrongful gain" means the gain by unlawful means of property to which the person gaining is not legally entitled;

(iii) "wrongful loss" means the loss by unlawful means of property to which the person losing is legally entitled.

448. *Punishment for false statement.*—Save as otherwise provided in this Act, if in any return, report, certificate, financial statement, prospectus, statement or other document required by, or for, the purposes of any of the provisions of this Act or the rules made thereunder, any person makes a statement,—

(a) which is false in any material particulars, knowing it to be false; or

(b) which omits any material fact, knowing it to be material,

he shall be liable under section 447.

449. *Punishment for false evidence.*—Save as otherwise provided in this Act, if any person intentionally gives false evidence—

(a) upon any examination on oath or solemn affirmation, authorised under this Act; or

(b) in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act,

he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to ten lakh rupees.

450. *Punishment were no specific penalty or punishment is provided.*—If a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to ten thousand rupees, and where the contravention is continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.

451. *Punishment in case of repeated default.*—If a company or an officer of a company commits an offence punishable either with fine or with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of three years, then, that company and every officer thereof who is in default shall be punishable with twice the amount of fine for such offence in addition to any imprisonment provided for that offence.

452. *Punishment for wrongful with holding of property.*—*(1)* If any officer or employee of a company—

(a) wrongfully obtains possession of any property, including cash of the company; or

(b) having any such property including cash in his possession, wrongfully withholds it or knowingly applies it for the purposes other than those expressed or directed in the articles and authorised by this Act,

he shall, on the complaint of the company or of any member or creditor or contributory thereof, be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(2) The Court trying an offence under sub-section (1) may also order such officer or employee to deliver up or refund, within a time to be fixed by it, any such property or cash wrongfully obtained or wrongfully withheld or knowingly misapplied, the benefits that have been derived from such property or cash or in default, to undergo imprisonment for a term which may extend to two years.

453. *Punishment for improper use of "Limited" or "Private Limited".*—If any person or persons trade or carry on business under any name or title, of which the word "Limited" or the words "Private Limited" or any contraction or imitation thereof is or are the last word or words, that person or each of those persons shall, unless duly incorporated with limited liability, or unless duly incorporated as a private company with limited liability, as the case may be, punishable with fine which shall not be less than five hundred rupees but may extend to two thousand rupees for every day for which that name or title has been used.

454. *Adjudication of penalties.—(1)* The Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of this Act in the manner as may be prescribed.

(2) The Central Government shall while appointing adjudicating officers, specify their jurisdiction in the order under sub-section (1).

(3) The adjudicating officer may, by an order impose the penalty on the company and the officer who is in default stating any non-compliance or default under the relevant provision of the Act.

(4) The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such company and the officer who is in default.

(5) Any person aggrieved by an order made by the adjudicating officer under sub-section (3) may prefer an appeal to the Regional Director having jurisdiction in the matter.

(6) Every appeal under sub-section *(5)* shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and be accompanied by such fees as may be prescribed.

(7) The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

(8) (i) Where company does not pay the penalty imposed by the adjudicating officer or the Regional Director within a period of ninety days from the date of the receipt of the copy of the order, 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.

(ii) Where an officer of a company who is in default does not pay the penalty within a period of ninety days from the date of the receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

455. *Dormant Company.—(1)* Where a company is formed and registered under this Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar in such manner as may be prescribed for obtaining the status of a dormant company.

Explanation.—For the purposes of this section,—

(i) "inactive company" means a company which has not been carrying on any business or operation, or has not made any significant accounting transaction during the last two financial years or has not filed financial statements and annual returns during the last two financial years.

(ii) "significant accounting transaction" means any transaction other than—

(a) payment of fees by a company to the Registrar;

(b) payments made by it to fulfil the requirements of this Act or any other law;

(c) allotment of shares to fulfil the requirements of this Act; and

(d) payments for maintenance of its office and records.

(2) The Registrar on consideration of the application shall allow the status of a dormant company to the applicant and issue a certificate in such form as may be prescribed to that effect.

(3) The Registrar shall maintain a register of dormant companies in such form as may be prescribed.

(4) In case of a company which has not filed financial statements or annual returns for two financial years consecutively, the Registrar shall issue a notice to that company and enter the name of such company in the register maintained for dormant companies.

(5) A dormant company shall have such minimum number of directors, file such documents and pay such annual fee as may be prescribed to the Registrar to retain its dormant status in the register and may become an active company on an application made in this behalf accompanied by such documents and fee as may be prescribed.

(6) The Registrar shall strike off the name of a dormant company from the register of dormant companies, which has failed to comply with the requirements of this section.

456. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Government or any office of the Government or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder, or in respect of the publication by or under the authority of the Government or such officer, of any report, paper or proceedings.

457. *Non-disclosure of information in certain cases.*—Notwithstanding anything contained in any other law for the time being in force, the Registrar, any officer of the Government or any other person shall not be compelled to disclose to any court, Tribunal or other authority, the source from where he got any information which—

(a) has led the Central Government to order an investigation under section 210; or

(b) is or has been material or relevant in connection with such investigation.

458. *Deligation by Central Government of its powers and functions.*—(1) The Central Government may, by notification, and subject to such conditions, limitations and restrictions as may be specified therein, delegate any of its powers or functions under this Act other than the power to make rules to such authority or officer as may be specified in the notification:

Provided that the powers to enforce the provisions contained in section 194 and section 195 relating to forward dealing and insider trading shall be delegated to Securities and Exchange Board for listed companies or the companies which intend to get their securities listed and in such case, any officer authorised by the Securities and Exchange Board shall have the power to file a complaint in the court of competent jurisdiction.

(2) A copy of every notification issued under sub-section *(1)* shall, as soon as may be after it is issued, be laid before each House of Parliament.

459. *Powers of Central Government of Tribunal to accord approval, etc. subject to conditions and to prescribe fees on applications.—(1)* Where the Central Government or the Tribunal is required or authorised by any provision of this Act—

(a) to accord approval, sanction, consent, confirmation or recognition to, or in relation to, any matter; or

(b) to give any direction in relation to any matter; or

(c) to grant any exemption in relation to any matter,

then, the Central Government or the Tribunal may in the absence of anything to the contrary contained in that provision or any other provision of this Act, accord, give or grant such approval, sanction, consent, confirmation, recognition, direction or exemption, subject to such conditions, limitations or restrictions as it may think fit to impose and may, in the case of a contravention of any such condition, limitation or restriction, rescind or withdraw such approval, sanction, consent, confirmation, recognition, direction or exemption.

(2) Save as otherwise provided in this Act, every application which may be, or is required to be, made to the Central Government or the Tribunal under any provision of this Act—

(a) in respect of any approval, sanction, consent, confirmation or recognition to be accorded by that Government or the Tribunal to, or in relation to, any matter; or

(b) in respect of any direction or exemption to be given or granted by that Government or the Tribunal in relation to any matter; or

(c) in respect of any other matter,

shall be accompanied by such fees as may be prescribed:

Provided that different fees may be prescribed for applications in respect of different matters or in case of applications by different classes of companies.

460. *Condonation of delay in certain cases.*—Notwithstanding anything contained in this Act,—

(a) where any application required to be made to the Central Government under any provision of this Act in respect of any matter is not made within the time specified therein, that Government may, for reasons to be recorded in writing, condone the delay; and

(b) where any document required to be filed with the Registrar under any provision of this Act is not filed within the time specified there in, the Central Government may, for reasons to be recorded in writing, condone the delay.

461. *Annual report by Central Government.*—The Central Government shall cause a general annual report on the working and administration of this Act to be prepared and laid before each House of Parliament within one year of the close of the year to which the report relates.

462. *Power to exempt class or classes of companies from provisions of this Act.*—(1) The Central Government may in the public interest, by notification direct that any of the provisions of this Act,—

(a) shall not apply to such class or classes of companies; or

(b) shall apply to the class or classes of companies with such exceptions, modifications and adaptations as may be specified in the notification.

(2) A copy of every notification proposed to be issued under sub-section—*(1)*, shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may 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 form as may be agreed upon by both the Houses.

463. *Power of court to grant relief in certain cases.*—(1) If in any proceeding for negligence, default, breach of duty, misfeasance or breach of trust against an officer of a company, it appears to the court hearing the case that he is or may be liable in respect of the negligence, default, breach of duty, misfeasance or breach of trust, but that he has acted honestly and reasonably, and that having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused, the court may relieve him, either wholly or partly, from his liability on such term, as it may think fit:

Provided that in a criminal proceeding under this sub-section, the court shall have no power to grant relief from any civil liability which may attach to an officer in respect of such negligence, default, breach of duty, misfeasance or breach of trust.

(2) Where any such officer has reason to apprehend that any proceeding will or might be brought against him in respect of any negligence, default, breach of duty, misfeasance or breach of trust, he may apply to the High Court for relief and the High Court on such application shall have the same power to relieve him as it would have had if it had been a court before which a proceedings against that officer for negligence, default, breach of duty, misfeasance or breach of trust had been brought under sub-section (1).

(3) No court shall grant any relief to any officer under sub-section (1) or sub-section (2) unless it has, by notice served in the manner specified by it, required the Registrar and such other person, if any, as it thinks necessary, to show cause why such relief should not be granted.

464. *Prohibition of association or partnership of persons exceeding certain number.*—(1) No association or partnership consisting of more than such number of persons as may be prescribed shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain by the association or partnership or by the individual members thereof, unless it is registered as a company under this Act or is formed under any other law for the time being in force:

Provided that the number of persons which may be prescribed under this sub-section shall not exceed one hundred.

(2) Nothing in sub-section (1) shall apply to—

(a) a Hindu undivided family carrying on any business; or

(b) an association or partnership, if it is formed by professionals who are governed by special Acts.

(3) Every member of an association or partnership carrying on business in contravention of sub-section (1) shall be punishable with fine which may extend to one lakh rupees and shall also be personally liable for all liabilities incurred in such business.

465. *Repeal of certain enactments and savings.*—(1) The Companies Act, 1956 (1 of 1956), and the Registration of Companies (Sikkim) Act, 1961 (Sikkim Act 8 of 1961), (hereafter in this section referred to as the repealed enactments) shall stand repealed:

Provided that the provisions of Part IX A of the Companies Act, 1956 (1 of 1956) shall be applicable *mutatis mutandis* to a Producer Company in a manner as if the Companies Act, 1956 has not been repealed until a special Act is enacted for Producer Companies:

Provided further that until a date is notified by the Central Government under sub-section *(1)* of Section 434 for transfer of all matters, proceedings or cases to the Tribunal, the provisions of the Companies Act, 1956 (1 of 1956) in regard to the jurisdiction, powers, authority and functions of the Board of Company LawAdministration and court shall continue to apply as if the companies Act, 1956 has not been repealed:

Provided also that provisions of the Companies Act, 1956 (1 of 1956) referred in the notification issued under section 67 of the Limited Liability Partnership Act, 2008 (6 of 2009) shall, until the relevant notification under such section applying relevant corresponding provisions of this Act to limited liability partnerships is issued, continue to apply as if the Companies Act, 1956 has not been repealed.

(2) Notwithstanding the repeal under sub-section (1) of the repealed enactments,—

(a) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation

undertaken or any direction given or any proceeding taken or a penalty unishment, forfeiture or fine imposed under the repealed enactments shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) subject to the provisions of clause *(a),* any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Act continue to be in force, and shall have effect as if made, directed, passed given, taken, executed, issued or done under or in pursuance of this Act;

(c) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;

(d) any person appointed to any office under or by virtue of any repealed enactment shall be deemed to have been appointed to that office under or by virtue of this Act;

(e) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored;

(f) the offices existing on the commencement of this Act for the registration of companies shall continue as if they have been established under the provisions of this Act;

(g) the incorporation of companies registered under the repealed enactments shall continue to be valid and the provisions of this Act shall apply to such companies as if they were registered under this Act;

(h) all registers and all funds constituted and established under the repealed enactments shall be deemed to be registers and funds constituted or established under the corresponding provisions of this Act;

(i) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Act before any Court shall, subject to the provisions of this Act, continue to be heard and disposed' of by the said Court;

(j) any inspection, investigation or inquiry ordered to be done under the Companies Act, 1956 (1 of 1956) shall continue to be proceeded with as if such inspection, investigation or inquiry as been ordered under the corresponding provisions of this Act; and

(k) any matter filed with the Registrar, Regional Director or the Central Government under the Companies Act, 1956 (1 of 1956) before the commencement of this Act and not fully addressed at that time shall be concluded by the Registrar, Regional Director or the Central Government, as the case may be, in terms of that Act, despite its repeal.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeal of the repealed enactments as if the Registration of Companies (Sikkim) Act, 1961 (Sikkim Act 8 of 1961) were also a Central Act.

466. *Dissolution of Company Law Board and consequential provisions.*— *(1)* Notwithstanding anything contained in section 465, the Board of Company Law Administration constituted under the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the Company Law Board) shall stand dissolved on the constitution of the Tribunal and the Appellate Tribunal:

Provided that until the Tribunal and the Appellate Tribunal is constituted, the Chairman, Vice-Chairman and Members of the Company Law Board immediately before the constitution of the Tribunal and the Appellate Tribunal, who fulfil the qualifications and requirements provided under this Act regarding appointment as President or Chairperson or Member of the Tribunal or the Appellate Tribunal, shall function as President, Chairperson or Member of the Tribunal or the Appellate Tribunal:

Provided further that every officer or other employee, who had been appointed on deputation basis to the Company Law Board, shall, on such dissolution,—

(i) become officer or employee of the Tribunal or the Appellate Tribunal, if he fulfils the qualifications and requirements under this Act; an

(ii) stand reverted to his parent cadre, Ministry or Department, in any other case:

Provided also that every officer and the other employee of the Company Law Board, employed on regular basis by that Board, shall become, on and from such dissolution the officer and other employee, respectively, of the Tribunal or the Appellate Tribunal with the same rights and privileges as to pension, gratuity and other like benefits as would have been admissible to him if he had continued to serve that Board and shall continue to do so unless and until his employment in the Tribunal or the Appellate Tribunal is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Tribunal or the Appellate Tribunal, as the case may be:

Provided also that notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947) or in any other law for the time being in force, any officer or other employee who becomes an officer or other employee of the Tribunal or the Appellate Tribunal under the preceding proviso shall not be entitled to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority:

Provided also that where the Company Law Board has etablished a provident fund, superannuation fund, welfare fund or other fund for the benefit of the officers and other employees employed in that Board, the monies relatable to the officers and other employees who have become officers or employees of the Tribunal or the Appellate Tribunal shall, out of the monies standing to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and vest in, the Tribunal or the Appellate Tribunal, as the case may be, and such monies which stand so transferred shall be dealt with by the Tribunal or the Appellate Tribunal in such manner as may be prescribed.

(2) The persons holding the offices of Chairman, Vice-Chairman and Members, and officers and other employees of the Company Law Board immediately before the constitution of the Tribunal and the Appellate Tribunal who are not covered under proviso to sub-section *(1)* shall vacate their respective offices on such constitution and no such Chairman, Vice-Chairman and Members and officers or other employees shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service, if any.

467. *Power of Central Government to amend Schedules.*—(1) Subject to the provisions of this section, the Central Government may, by notification, alter any of the regulations, rules, Tables, forms and other provisions contained in any of the Schedules to this Act.

(2) Any alteration notified under sub-section *(1)* shall have effect as if enacted in this Act and shall come into force on the date of the notification, unless the notification otherwise directs:

Provided that no such alteration in Table F of Schedule I shall apply to any company registered before the date of such alteration.

(3) Every alteration made by the Central Government under sub-section *(1)* shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may 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 making any modification in the alteration, or both Houses agree that the alteration should not be made, the alteration shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification ar annulment shall be without prejudice to the validity of anything previously done in pursuance of that alteration.

468. *Powers of Central Government to make rules relating to winding up.*— (1) The Central Government shall, make rules consistent with the Code of Civil Procedure, 1908 (5 of 1908) providing for all matters relating to the winding up of companies, which by this Act, are to be prescribed, and may make rules providing for all such matters, as may be prescribed.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) as to the mode of proceedings to be held for winding up of a company by the Tribunal;

(ii) for the voluntary winding up of companies, whether by members or by creditors;

(iii) for the holding of meetings of creditors and members in connection with proceedings under section 230;

(iv) for giving effect to the provisions of this Act as to the reduction of the capital;

(v) generally for all applications to be made to the Tribunal under the provisions of this Act;

(vi) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;

(vii) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;

(viii) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;

(ix) the making of calls; and

(x) the fixing of a time within which debts and claims shall be proved.

(3) All rules made by the Supreme Court on the matters referred to in this section as it stood immediately before the commencement of this Act and in force at such commencement, shall continue to be in force, tiII such time the rules are made by the Central Government and any reference to the High Court in relation to winding up of a company in such rules shall be construed as a reference to the Tribunal.

469. *Power of Central Government to make rules.—(1)* The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the provisions of sub-section *(l)*, the Central Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provision is to be or may be made by rules.

(3) Any rule made under sub-section *(l)* may provide that a contravention thereof shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which such contravention continues.

(4) Every rule made under this section and every regulation made by Securities and Exchange Board under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may 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 making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

470. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Govement may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of section 1 of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

SCHEDULE I

(*See* sections 4 and 5)

TABLE-A

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

1st The name of the company is " ..... Limited/Private Limited".

2nd The registered office of the company will be situated in the State of.....

3rd *(a)* The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause *3(a)* are:—

4th The liability of the member(s) is limited and this liability is limited to the amount unpaid, if any, on the shares held by them.

5th The share capital of the company is ..... rupees, divided into..... shares of ..... rupees each.

6th We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant	.....		Signed before me: Signature.....
C.D. of .....Merchant	.....		Signed before me: Signature.....
E.F. of .....Merchant	.....		Signed before me: Signature.....
G.H. of .....Merchant	.....		Signed before me: Signature.....
I.J. of .....Merchant	.....		Signed before me: Signature.....
K.L. of .....Merchant	.....		Signed before me: Signature.....
M.N. of .....Merchant	.....		Signed before me: Signature.....

Total shares taken: _____

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.....Merchant		Signed before me: Signature.....

8th Shri/Smt.....,son/daughter of.....,resident of.....aged.....years shall be the nominee in the event of death of the sole member (Applicable in case of one person company).

Dated.....the day of.....

TABLE-B

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

Ist The name of the company is ".....Limited/Private Limited".

2nd The registered office of the company will be situated in the State of.....

3rd *(a)* The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause *3(a)* are:—

4th The liability of the member(s) is limited.

5th Every member of the company undertakes to contribute:

(i) 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; and

(ii) to 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.....rupees.

6th We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscribers	Signature of subscriber	Signature,names, addresses, descriptions and occupations of witnesses
(1)	(2)	(3)
A.B. of .....Merchant		Signed before me: Signature.....
C.D. of .....Merchant		Signed before me: Signature.....

(1)	(2)	(3)
E.F. of .....Merchant		Signed before me: Signature.....
G.H. of .....Merchant		Signed before me: Signature.....
I.J. of .....Merchant		Signed before me: Signature.....
K.L. of .....Merchant		Signed before me: Signature.....
M.N. of .....Merchant		Signed before me: Signature.....

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.....Merchant		Signed before me: Signature.....

8th Shri/Smt ..... ,son/daughter of.....,resident of.....aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated ..... the day of.....

TABLE-C

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

1st The name of the company is ".....Limited/Private Limited".

2nd The registered office of the company will be situated in the State of.....

3rd *(a)* The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause 3*(a)* are:—

4th The liability of the member(s) is limited.

5th Every member of the company undertakes to contribute:

(i) 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; and

(ii) to 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.....rupees.

6th The share capital of the company is ..... rupees, divided into..... shares of..... rupees each.

7th We, the several persons whose names, addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant	.....		Signed before me: Signature.....
C.D. of .....Merchant	.....		Signed before me: Signature.....
E.F. of .....Merchant	.....		Signed before me: Signature.....
G.H. of .....Merchant	.....		Signed before me: Signature.....
I.J. of .....Merchant	.....		Signed before me: Signature.....
K.L. of .....Merchant	.....		Signed before me: Signature.....
M.N. of .....Merchant	.....		Signed before me: Signature.....

8th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Names, addresses, descriptions and occupations of subscriber	Signature of subscriber	Signature,name, address, descriptions and occupations of witness
A.B. of.....Merchant		Signed before me: Signature.....

9th Shri/Smt ..... ,son/daughter of ..... ,resident of.....aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated ..... the day of.....

TABLE-D

MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY AND NOT HAVING SHARE CAPITAL

1st The name of the company is ".....Company".

2nd The registered office of the company will be situated in the State of.....

3rd *(a)* The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause *3(a)* are:—

4th The liability of the member(s) is unlimited.

5th We, the several persons, whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscribers	Signature of subscriber	Signature,names, addresses, descriptions and occupations of witnesses
A.B. of .....Merchant		Signed before me: Signature.....
C.D. of .....Merchant		Signed before me: Signature.....
E.F. of .....Merchant		Signed before me: Signature.....
G.H. of .....Merchant		Signed before me: Signature.....
I.J. of .....Merchant		Signed before me: Signature.....
K.L. of .....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

6th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.....Merchant		Signed before me: Signature.....

7th Shri/Smt ..... ,son/daughter of..... ,resident of.....aged ..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated ..... the day of.....

TABLE-E

MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY AND HAVING SHARE CAPITAL

1st The name of the company is ".....Company".

2nd The registered office of the company will be situated in the State of.....

3rd *(a)* The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause *3(a)* are:—

4th The liability of the member(s) is unlimited.

5th The share capital of the company is ..... rupees, divided into .....shares of .....rupees each.

6th We, the several persons, whose names, and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of .....Merchant	.....		Signed before me: Signature.....
C.D. of .....Merchant	.....		Signed before me: Signature.....
E.F. of .....Merchant	.....		Signed before me: Signature.....
G.H. of .....Merchant	.....		Signed before me: Signature.....
I.J. of .....Merchant	.....		Signed before me: Signature.....
K.L. of .....Merchant	.....		Signed before me: Signature.....
M.N. of .....Merchant	.....		Signed before me: Signature.....

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of *subscriber*	Signature of subscriber	Signature, name, address, description and occupation *of witness*
A.B. .....Merchant		Signed before me: Signature.....

8th Shri/Smt. ....., son/daughter of ....., resident of ..... aged ..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company).

Dated..... the day of .....

TABLE-F

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

Interpretation

I. *(1)* In these regulations—

(a) "the Act" means the Companies Act, 2013,

(b) "the seal" means the common seal of the company.

(*2*) Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.

Share capital and variation of rights

II. 1. Subject to the provisions of the Act and these Articles, the shares in the capital of the company shall be under the control of the Directors who may issue, allot or otherwise dispose of the same or any of them to such persons, in such proportion and on such terms and conditions and either at a premium or at par and at such time as they may from time to time think fit.

2. *(i)* Every person whose name is entered as a member in the register of members shall be entitled to receive within two months after incorporation, in case of subscribers to the memorandum or after allotment or within one month after the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided,—

(a) one certificate for all his shares without payment of any charges; or

(b) several certificates, each for one or more of his shares, upon payment of twenty rupees for each certificate after the first.

(ii) Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid-up thereon.

(iii) In respect of any share or shares held jointly by several persons, he company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.

3. *(i)* If any share certificate be worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the company and on execution of such indemnity as the company deem adequate, a new certificate in lieu thereof shall be given. Every certificate under this Article shall be issued on payment of twenty rupees for each certificate.

(ii) The provisions of Articles *(2)* and *(3)* shall *mutatis mutandis* apply to debentures of the company.

4. Except as required by law, no person shall be recognised by the company as holding any share upon any trust, and the company shall not be bound by, or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.

5. *(i)* The company may exercise the powers of paying commissions conferred by sub-section *(6)* of section 40, provided that the rate percent or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made thereunder.

(ii) The rate or amount of the commission shall not exceed the rate or amount prescribed in rules made under sub-section (6) of section 40.

(iii) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in the one way and partly in the other.

6. *(i)* If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of section 48, and whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class.

(ii) To every such separate meeting, the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be at least two persons holding at least one-third of the issued shares of the class in question.

7. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.

8. Subject to the provisions of section 55, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are to be redeemed on such terms and in such manner as the company before the issue of the shares may, by special resolution, determine.

Lien

9. *(i)* The company shall have a first and paramount lien—

(a) on every share (not being a fully paid share), for all monies (whether presently payable or not) called, or payable at a fixed time, in respect of that share; and

(b) on all shares (not being fully paid shares) standing registered in the name of a single person, for all monies presently payable by him or his estate to the company:

Provided that the Board of directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause.

(ii) The company's lien, if any, on a share shall extend to all dividends payable and bonuses declared from time to time in respect of such shares.

10. The company may sell, in such manner as the Board thinks fit, any shares on which the company has a lien:

Provided that no sale shall be made—

(a) unless a sum in respect of which the lien exists is presently payable; or

(b) until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or insolvency.

11. *(i)* To give effect to any such sale, the Board may authorise some person to transfer the shares sold to the purchaser thereof.

(ii) The purchaser shall be registered as the holder of the shares comprised in any such transfer.

(iii) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

12. *(i)* The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable.

(ii) The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.

Calls on shares

13. *(i)* The Board may, from time to time, make calls upon the members in respect of any monies unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times:

Provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call.

(ii) Each member shall, subject to receiving at least fourteen days' notice specifying the time or times and place of payment, pay to the company, at the time or times and place so specified, the amount called on his shares.

(iii) A call may be revoked or postponed at the discretion of the Board.

14. A call shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed and may be required to be paid by instalments.

15. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

16. *(i)* If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at ten per cent. per annum or at such lower rate, if any, as the Board may determine.

(ii) The Board shall be at liberty to waive payment of any such interest wholly or in part.

17. *(i)* Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall, for the purposes of these regulations, be deemed to be a call duly made and payable on the date on which by the terms of issue such sum becomes payable.

(ii) In case of non-payment of such sum, all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

18. The Board—

(a) may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him; and

(b) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate not exceeding, unless the company in general meeting shall otherwise direct, twelve per cent. per annum, as may be agreed upon between the Board and the member paying the sum in advance.

Transfer of shares

19. *(i)* The instrument of transfer of any share in the company shall be executed by or on behalf of both the transferor and transferee.

(ii) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

20. The Board may, subject to the right of appeal conferred by section 58 decline to register—

(a) the transfer of a share, not being a fully paid share, to a person of whom they do not approve; or

(b) any transfer of shares on which the company has a lien.

21. The Board may decline to recognise any instrument of transfer unless—

(a) the instrument of transfer is in the form as prescribed in rules made under sub-section *(1)* of section 56;

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and

(c) the instrument of transfer is in respect of only one class of shares.

22. On giving not less than seven days' previous notice in accordance with section 91 and rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine:

Provided that such registration shall not be suspended for more than thirty days at anyone time or for more than forty-five days in the aggregate in any year.

Transmission of shares

23. *(i)* On the death of a member, the survivor or survivors where the member was a joint holder, and his nominee or nominees or legal representatives where he was a sole holder, shall be the only persons recognised by the company as having any title to his interest in the shares.

(ii) Nothing in clause *(i)* shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.

24. (i) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either—

(a) to be registered himself as holder of the share ; or

(b) to make such transfer of the share as the deceased or insolvent member could have made.

(ii) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent member had transferred the share before his death or insolvency.

25. *(i)* If the person so becoming entitled shall elect to be registered as holder of the share himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects.

(ii) If the person aforesaid shall elect to transfer the share, he shall testify his election by executing a transfer of the share.

(iii) All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or Insolvency of the member had not occurred and the notice or transfer were a transfer signed by that member.

26. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company :

Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share, until the requirements of the notice have been complied with.

27. In case of a One Person Company—

(i) on the death of the sole member, the person nominated by such member shall be the person recognised by the company as having title to all the shares of the member ;

(ii) the nominee on becoming entitled to such shares in case of the member's death shall be informed of such event by the Board of the company ;

(iii) such nominee shall be entitled to the same dividends and other rights and liabilities to which such sole member of the company was entitled or liable ;

(iv) on becoming member, such nominee shall nominate any other person with the prior written consent of such person who, shall in the event of the death of the member, become the member of the company.

Forfeiture of shares

28. If a member fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

29. The notice aforesaid shall—

(a) name a further day (Not being earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made ; and

(b) state that, in the event of non-payment on or before the day so named, the shares in respect of which the call was made shall be liable to be forfeited.

30. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.

31. *(i)* A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit.

(ii) At any time before a sale or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.

32. *(i)* A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares.

(ii) The liability of such person shall cease if and when the company shall have received payment in full of all such monies in respect of the shares.

33. *(i)* A duly verified declaration in writing that the declarant is a director, the manager or the secretary, of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share ;

(ii) The company may receive the consideration, if any, given for the share on any sale or disposal thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of ;

(iii) The transferee shall thereupon be registered as the holder of the share ; and

(iv) The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

34. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Alteration of capital

35. The company may, from time to time, by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as may be specified in the resolution.

36. Subject to the provisions of section 61, the company may, by ordinary resolution,—

(a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares ;

(b) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination ;

(c) sub-divide its existing shares or any of them into shares of smaller amount then is fixed by the memorandum ;

(d) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

37. Where shares are converted into stock,—

(a) the holders of stock may transfer the same or any part thereof in the same manner as, and subject to the same regulations under which, the shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit :

Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so, however, that such minimum shall not exceed the nominal amount of the shares from which the stock arose.

(b) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (Except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.

(c) such of the regulations of the company as are applicable to paid-up shares shall apply to stock and the words "share" and "shareholder" in those regulations shall include "stock" and "stock-holder" respectively.

38. The company may, by special resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law,—

(a) its share capital ;

(b) any capital redemption reserve account ; or

(c) any share premium account.

Capitalisation of profits

39. *(i)* The company in general meeting may, upon the recommendation of the Board, resolve—

(a) that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts, or to the credit of the profit and loss account, or otherwise available for distribution; and

(b) that such sum be accordingly set free for distribution in the manner specified in clause *(ii)* amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions.

(ii) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause *(iii)*, either in or towards—

(A) paying up any amounts for the time being unpaid on any shares held by such members respectively;

(B) paying up in full, unissued shares of the company to be allotted and distributed, credited as fully paid-up, to and amongst such members in the proportions aforesaid;

(C) partly in the way specified in sub-clause *(A)* and partly in that specified in sub-clause *(B)*;

(D) A securities premium account and a capital redemption reserve account may, for the purposes of this regulation, be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares;

(E) The Board shall give effect to the resolution passed by the company in pursuance of this regulation.

40. *(i)* Whenever such a resolution as aforesaid shall have been passed, the Board shall—

(a) make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares if any; and

(b) generally do all acts and things required to give effect thereto.

(ii) The Board shall have power—

(a) to make such provisions, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, for the case of shares becoming distributable in fractions; and

(b) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the company providing for the allotment to them respectively, credited as fully paid-up, of any further shares to which they may be entitled upon such capitalisation, or as the case may require, for the payment by the company on their behalf, by the application thereto of their respective proportions of profits resolved to be capitalised, of the amount or any part of the amounts remaining unpaid on their existing shares;

(iii) Any agreement made under such authority shall be effective and binding on such members.

Buy-back of shares

41. Notwithstanding anything contained in these articles but subject to the provisions of sections 68 to 70 and any other applicable provision of the Act or any other law for the time being in force, the company may purchase its own shares or other specified securities.

General meetings

42. All general meetings other than annual general meeting shall be called extra-ordinary general meeting.

43. (*i*) The Board may, whenever it thinks fit, call an extraordinary general meeting.

(ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.

Proceedings at general meetings

44. *(i)* No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.

45. The chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.

46. If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.

47. If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.

48. In case of a One Person Company—

(i) the resolution required to be passed at the general meetings of the company shall be deemed to have been passed if the resolution is agreed upon by the sole member and communicated to the company and entered in the minutes book maintained under section 118;

(ii) such minutes book shall be signed and dated by the member;

(iii) the resolution shall become effective from the date of signing such minutes by the sole member.

Adjournment of meeting

49. (*i*) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

(ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting rights

50. Subject to any rights or restrictions for the time being attached to any class or classes of shares,—

(a) on a show of hands, every member present in person shall have one vote; and

(b) on a poll, the voting rights of members shall be in proportion to his share in the paid-up equity share capital of the company.

51. A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.

52. *(i)* In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders.

(ii) For this purpose, seniority shall be determined by the order in which the names stand in the register of members.

53. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

54. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

55. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

56. *(i)* No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

(ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.

Proxy

57. The instrument appointing a proxy and the power-of-attorney or other authority, if any, under which it is signed or a notarised copy of that power or authority, shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll; and in default the instrument of proxy shall not be treated as valid.

58. An instrument appointing a proxy shall be in the form as prescribed in the rules made under section 105.

59. A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given:

Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.

Board of Directors

60. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

61. *(i)* The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day.

(ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them—

(a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or

(b) in connection with the business of the company.

62. The Board may pay all expenses incurred in getting up and registering the company.

63. The company may exercise the powers conferred on it by section 88 with regard to the keeping of a foreign register; and the Board may (subject to the provisions of that section) make and vary such regulations as it may thinks fit respecting the keeping of any such register.

64. All cheques, promissory notes, drafts, *hundis*, bills of exchange and other negotiable instruments, and all receipts for monies paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by such person and in such manner as the Board shall from time to time by resolution determine.

65. Every director present at any meeting of the Board or of a committee thereof shall sign his name in a book to be kept for that purpose.

66. *(i)* Subject to the provisions of section 149, the Board shall have power at any time, and from time to time, to appoint a person as an additional director, provided the number of the directors and additional directors together shall not at any time exceed the maximum strength fixed for the Board by the articles.

(ii) Such person shall hold office only up to the date of the next annual general meeting of the company but shall be eligible for appointment by the company as a director at that meeting subject to the provisions of the Act.

Proceedings of the Board

67. *(i)* The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.

(ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.

68. *(i)* Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.

(ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.

69. The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.

70. *(i)* The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office.

(ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be Chairperson of the meeting.

71. *(i)* The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.

(ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.

72. *(i)* A committee may elect a Chairperson of its meetings.

(ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.

73. *(i)* A committee may meet and adjourn as it thinks fit.

(ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairperson shall have a second or casting vote.

74. All acts done in any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of anyone or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.

75. Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.

76. In case of a One Person Company—

(i) where the company is having only one director, all the businesses to be transacted at the meeting of the Board shall be entered into minutes book maintained under section 118;

(ii) such minutes book shall be signed and dated by the director;

(iii) the resolution shall become effective from the date of signing such minutes by the director.

Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer

77. Subject to the provisions of the Act,—

(i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it may thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board;

(ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.

78. A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.

The Seal

79. *(i)* The Board shall provide for the safe custody of the seal.

(ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Dividends and Reserve

80. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.

81. Subject to the provisions of section 123, the Board may from time to time pay to the members such interim dividends as appear to it to be justified by the profits of the company.

82. *(i)* The Board may, before recommending any dividend, set aside out of the profits of the company such sums as it thinks fit as a reserve or reserves which shall, at the discretion of the Board, be applicable for any purpose to which the profits of the company may be properly applied, including provision for meeting contingencies or for equalising dividends; and pending such application, may at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the Board may, from time to time, thinks fit.

(ii) The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve.

83. *(i)* Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares.

(ii) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share.

(iii) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

84. The Board may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.

85. *(i)* Any dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members, or to such person and to such address as the holder or joint holders may in writing direct.

(ii) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.

86. Anyone of two or more joint holders of a share may give effective receipts for any dividends, bonuses or other monies payable in respect of such share.

87. Notice of any dividend that may have been declared shall be given to the persons entitled to share therein in the manner mentioned in the Act.

88. No dividend shall bear interest against the company.

Accounts

89. (i) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the company, or any of them, shall be open to the inspection of members not being directors.

(ii) No member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the Board or by the company in general meeting.

Winding up

90. Subject to the provisions of Chapter XX of the Act and Rules made thereunder—

(i) If the company shall be wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the company, whether they shall consist of property of the same kind or not.

(ii) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members.

(iii) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories if he considers necessary, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

Indemnity

91. Every officer of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in which relief is granted to him by the court or the Tribunal.

Note:— The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of atleast one witness who shall attest the signature and shall likewise add his address, description and occupation, if any, and such signatures shall be in form specified below :

Names, addresses, descriptions and occupations of subscribers	*Witnesses (along with names, addresses, descriptions and occupations)*
A.B. of .....Merchant	Signed before me Signature.....
C.D. of .....Merchant	Signed before me Signature.....
E.F. of .....Merchant	Signed before me Signature.....
G.H. of .....Merchant	Signed before me Signature.....
I.J. of .....Merchant	Signed before me Signature.....
K.L. of .....Merchant	Signed before me Signature.....
M.N. of .....Merchant	Signed before me Signature.....

Dated the.....day of.....20.....

Place :.....

TABLE-G

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.

2. All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

TABLE-H

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING SHARE CAPITAL

Interpretation

I. (1) In these regulations—

(a) "the Act" means the Companies Act, 2013;

(b) "the seal" means the common seal of the company.

(2) Unless the context otherwise requires, words or expressions contained in these regulations shall have the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.

Members

II. 1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.

2. The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.

General meetings

3. All general meetings other than annual general meeting shall be called extraordinary general meeting.

4. *(i)* The Board may, whenever it thinks fit, call an extraordinary general meeting.

(ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.

Proceedings at general meetings

5. (*i*) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.

6. The Chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.

7. If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.

8. If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.

Adjournment of meeting

9. *(i)* The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

(ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting rights

10. Every member shall have one vote.

11. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

12. No member shall be entitled to vote at any general meeting unless all sums presently payable by him to the company have been paid.

13. *(i)* No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

(ii) Any such objection made in due time shall be reffered to the Chairperson of the meeting, whose decision shall be final and conclusive.

14. A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given:

Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.

15. A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.

16. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

Board of Directors

17. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

18. *(i)* The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day.

(ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them—

(a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or

(b) in connection with the business of the company.

Proceedings of the Board

19. *(i)* The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.

(ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.

20. *(i)* Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.

(ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.

21. The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.

22. *(i)* The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office.

(ii) If no such chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their members to be Chairperson of the meeting.

23. *(i)* The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.

(ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.

24. *(i)* A committee may elect a Chairperson of its meetings.

(ii) If no such Chairperson is elected, or if at any meeting the chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.

25. (i) A committee may meet and adjourn as it thinks proper.

(ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the chairman shall have a second or casting vote.

26. All acts done by any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of anyone or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.

27. Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be as valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.

Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer

28. Subject to the provisions of the Act,—

(i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board.

(ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.

29. A provision of the Act or these regulations requiring or authorising a thing, to the done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.

The Seal

30. *(i)* The Board shall provide for the safe custody of the seal.

(ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Note:—The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address, description and occupation, if any, and such signatures shall be in form specified below:

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses descriptions and occupations)
(1)	(2)
A. B. of .....Merchant	Signed before me Signature.....
C. D. of .....Merchant	Signed before me Signature.....
E. F. of .....Merchant	Signed before me Signature.....
G. H. of .....Merchant	Signed before me Signature.....

(1)	(2)
I. J. of .....Merchant	Signed before me Signature.....
K. L. of .....Merchant	Signed before me Signature.....
M. N. of .....Merchant	Signed before me Signature.....

Dated the.....day of.....20.....

Place : .....

TABLE-I

ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY
AND
HAVING A SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.

2. All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

TABLE-J

ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY
AND

NOT HAVING SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.

2. The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.

3. All the articles of Table H in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

SCHEDULE II

(See section 123)

USEFUL LIVES TO COMPUTE DEPRECIATION

PART 'A'

1. Depreciation is the systematic allocation of the depreciable amount of an asset over its useful life. The depreciable amount of an asset is the cost of an asset or other amount substituted for cost, less its residual value. The useful life of an asset is the period over which an asset is expected to be available for use by an entity, or the number of production or similar units expected to be obtained from the asset by the entity.

2. For the purpose of this Schedule, the term depreciation includes amortisation.

3. Without prejudice to the foregoing provisions of paragraph 1,—

(*i*) In case of such class of companies, as may be prescribed and whose financial statements comply with the accounting standards prescribed for such class of companies under section 133 the useful life of an asset shall not normally be different from the useful life and the residual value shall not be different from that as indicated in Part C, provided that if such a company uses a useful life or residual value which is different from the useful life or residual value indicated therein, it shall disclose the justification for the same.

(ii) In respect of other companies the useful life of an asset shall not be longer than the useful life and the residual value shall not be higher than that prescribed in Part C.

(iii) For intangible assets, the provisions of the Accounting Standards mentioned under sub-para (*i*) or *(ii)*, as applicable, shall apply.

PART 'B'

4. The useful life or residual value of any specific asset, as notified for accounting purposes by a Regulatory Authority constituted under an Act of Parliament or by the Central Government shall be applied in calculating the depreciation to be provided for such asset irrespective of the requirements of this Schedule.

PART 'C'

5. Subject to Parts A and B above, the following are the useful lives of various tangible assets:

Nature of assets	*Useful Life*
I. Buildings [NESD]	
(a) Buildings (other than factory buildings) RCC Frame Structure	60 Years
(b) Buildings (other than factory buildings) other than RCC Frame Structure	30 Years
(c) Factory buildings	do.
(d) Fences, wells, tube wells	5 Years
(e) Others (including temporary structure, etc.)	3 Years
II. Bridges, culverts, bunders, etc. [NESD]	30 Years
III. Roads [NESD]	
(a) Carpeted roads	
(i) Carpeted Roads-RCC	10 years
(ii) Carpeted Roads-other than RCC	5 years
(b) Non-carpeted roads	3 Years
IV. Plant and Machinery	
(i) **General rate applicable to plant and machinery not covered under special plant and machinery**	
(a) Plant and Machinery other than continuous process plant not covered under specific industries	15 years
(b) continuous process plant for which no special rate has been prescribed under *(ii)* below [NESD]	8 Years

(ii) **Special Plant and Machinery**

(a) Plant and Machinery related to production and exhibition of Motion Picture Films

1. Cinematograph films-Machinery used in the production and exhibition of cinematograph films, recording and reproducing equipments, developing machines, printing machines, editing machines,synchronizers and studio lights except bulbs.	13 Years
2. Projecting equipment for exhibition of films	do.

(b) Plant and Machinery used in glass manufacturing

1. Plant and Machinery except direct fire glass melting furnaces—Recuperative and regenerative glass melting furnaces	13 Years
2. Plant and Machinery except direct fire glass melting furnaces—Moulds [NESD]	8 Years
3. Float Glass Melting Furnaces [NESD]	10 Years

(c) Plant and Machinery used in mines and quarries—

Portable underground machinery and earth moving machinery used in open cast mining [NESD]	8 Years

(d) Plant and Machinery used in Telecommunications [NESD]

1. Towers	I8 Years
2. Telecom transceivers, switching centres, and other network equipment	13 Years
3. Telecom—Ducts, Cables and optical fibre	18 Years
4. Satellites	do.

(e) Plant and Machinery used in exploration, production and refining oil and gas [NESD]		
1. Refineries	25	Years
2. Oil and gas assets (including wells), processing plant and facilities		do.
3. Petrochemical Plant		do.
4. Storage tanks and related equipment		do.
5. Pipelines	30	Years
6. Drilling Rig		do.
7. Field operations (above ground) Portable boilers, drilling tools, well-head tanks, etc.	8	Years
8. Loggers		do.
(f) Plant and Machinery used in generation, transmission and distribution of power [NESD]		
1. Thermal/ Gas/ Combined Cycle Power Generation Plant	40	Years
2. Hydro Power Generation Plant		do.
3. Nuclear Power Generation Plant		do.
4. Transmission lines, cables and other network assets		do.
5. Wind Power Generation Plant	22	Years
6. Electric Distribution Plant	35	Years
7. Gas Storage and Distribution Plant	30	Years
8. Water Distribution Plant including pipelines		do.
(g) Plant and Machinery used in manufacture of steel		
1. Sinter Plant	20	Years
2. Blast Furnace		do.
3. Coke ovens		do.
4. Rolling mill in steel plant		do.
5. Basic oxygen Furnace Converter	25	Years

(h) Plant and Machinery used in manufacture of non-ferrous metals

1.	Metal pot line [NESD]	40 Years
2.	Bauxite crushing and grinding section [NESD]	do.
3.	Digester Section [NESD]	do.
4.	Turbine [NESD]	do.
5.	Equipments for Calcination [NESD]	do.
6.	Copper Smelter [NESD]	do.
7.	Roll Grinde	40 Years
8.	Soaking Pit	30 Years
9.	Annealing Furnace	do.
10.	Rolling Mills	do.
11.	Equipments for Scalping, Slitting, etc. [NESD]	do.
12.	Surface Miner, Ripper Dozer, etc., used in mines	25 Years
13.	Copper refining plant [NESD]	do.

(i) Plant and Machinery used in medical and surgical operations [NESD]

1.	Electrical Machinery, X-ray and electrotherapeutic apparatus and accessories thereto, medical, diagnostic equipments, namely, Cat-scan, Ultrasound Machines, ECG Monitors, etc.	13 Years
2.	Other Equipments	15 Yeart#

(j) Plant and Machinery used in manufacture of pharmaceuticals and chemicals [NESD]

1.	Reactors	20 Years
2.	Distillation Columns	do.
3.	Drying equipments/Centrifuges and Decanters	do.
4.	Vessel/storage tanks	do.

(k) Plant and Machinery used in civil construction		
1. Concreting, Crushing, Piling Equipments and Road Making Equipments	12	Years
2. Heavy Lift Equipments— Cranes with capacity of more than 100 tons	20	Years
Cranes with capacity of less than 100 tons	15	Years
3. Transmission line, Tunneling Equipments [NESD]	10	Years
4. Earth-moving equipments	9	Years
5. Others including Material Handling/Pipeline/ Welding Equipments [NESD]	12	Years
(l) Plant and Machinery used in salt works [NESD]	15	Years
V. Furniture and fittings [NESD]		
(i) General furniture and fittings	10	Years
(ii) Furniture and fittings used in hotels, restaurants and boarding houses, schools, colleges and other educational institutions, libraries; welfare centres; meeting halls, cinema houses; theatres and circuses; and furniture and fittings let out on hire for use on the occasion of marriages and similar functions.	8	Years
VI. Motor Vehicles [NESD]		
1. Motor cycles, scooters and other mopeds	10	Years
2. Motor buses, motor lorries, motor cars and motor taxies used in a business of running them on hire	6	Years
3. Motor buses, motor lorries and motor cars other than those used in a business of running them on hire	8	Years
4. Motor tractors, harvesting combines and heavy vehicles		do.
5. Electrically operated vehicles including battery powered or fuel cell powered vehicles	8	Years

VII. Ships [NESD]		
	1. Ocean-going ships	
(i)	Bulk Carriers and liner vessels	25 Years
(ii)	Crude tankers, product carriers and easy chemical carriers with or without conventional tank coatings.	20 Years
(iii)	Chemicals and Acid Carriers:	
(a)	With Stainless steel tanks	25 Years
(b)	With other tanks	20 Years
(iv)	Liquified gas carriers	30 Years
(v)	Conventional large passenger vessels which are used for cruisepurpose also	do.
(vi)	Coastal service ships of all categories	do.
(vii)	Offshore supply and support vessels	20 Years
(viii)	Catamarans and other high speed passenger for ships or boat	do.
(ix)	Drill ships	25 Years
(x)	Hovercrafts	15 Years
(xi)	Fishing vessels with wooden hull	10 Years
(xii)	Dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes	14 Years
2.	Vessels ordinarily operating on inland waters—	
(i)	Speed boats	13 Years
(ii)	Other vessels	28 Years
VIII. Aircrafts or Helicopters [NESD]		20 Years
IX. Railways sidings, locomotives, rolling stocks, tramways and railways used by concerns, excluding railway concerns [NESD]		15 Years
X. Ropeway structures [NESD]		15 Years
XI. Office equipment [NESD]		5 Years

XII. Computers and data processing units [NESD]		
(i)	Servers and networks	6 Years
(ii)	End user devices, such as, desktops, laptops, etc.	3 Years
XIII. Laboratory equipment [NESD]		
(i)	General laboratory equipment	10 Years
(ii)	Laboratory equipments used in educational institutions	5 Years
XIV. Electrical Installations and Equipment [NESD]		10 Years
XV. Hydraulic works, pipelines and sluices [NESD]		15 Years

Notes.—

1. "Factory buildings" does not include offices, godowns, staff quarters.

2. Where, during any financial year, any addition has been made to any asset, or where any asset has been sold, discarded, demolished or destroyed, the depreciation on such assets shall be calculated on a *pro rata* basis from the date of such addition or, as the case may be, up to the date on which such asset has been sold, discarded, demolished or destroyed.

3. The following information shall also be disclosed in the accounts, namely:—

(i) depreciation methods used; and

(ii) the useful lives of the assets for computing depreciation; if they are different from the life specified in the Schedule.

4. Useful life specified in Part C of the Schedule is for whole of the asset. Where cost of a part of the asset is significant to total cost of the asset and useful life of that part is different from the useful life of the remaining asset, useful life of that significant part shall be determined separately.

5. Depreciable amount is the cost of an asset, or other amount substituted for cost, less its residual value. Ordinarily, the residual value of an asset is often insignificant but it should generally be not more than 5% of the original cost of the asset.

6. The useful lives of assets working on shift basis have been specified in the Schedule based on their single shift working. Except for assets in respect of which no extra shift depreciation is permitted (indicated by NESD in Part C above), if an asset is used for any time during the year for double shift, the depreciation will increase by 50% for that period and in case of the triple shift the depreciation shall be calculated on the basis of 100% for that period.

7. From the date this Schedule comes into effect, the carrying amount of the asset as on that date—

(a) shall be depreciated over the remaining useful life of the asset as per this Schedule;

(b) after retaining the residual value, shall be recognised in the opening balance of retained earnings where the remaining useful life of an asset is nil.

8. "Continuous process plant" means a plant which is required and designed to operate for twenty-four hours a day.

SCHEDULE III

(See section 129)

GENERAL INSTRUCTIONS FOR PREPARATION FF BALANCE SHEET AND STATEMENT OF PROFIT FND LOSS OF F COMPANY

GENERAL INSTRUCTIONS

1. Where compliance with the requirements of the Act including Accounting Standards as applicable to the companies require any change in treatment or disclosure including addition, amendment, substitution or deletion in the head or sub-head or any changes, *inter se,* in the financial statements or statements forming part thereof, the same shall be made and the requirements of this Schedule shall stand modified accordingly.

2. The disclosure requirements specified in this Schedule are in addition to and not in substitution of the disclosure requirements specified in the Accounting Standards prescribed under the Companies Act, 2013. Additional disclosures specified in the Accounting Standards shall be made in the notes to accounts or by way of additional statement unless required to be disclosed on the face of the Financial Statements. Similarly, all other disclosures as required by the Companies Act shall be made in the notes to accounts in addition to the requirements set out in this Schedule.

G. 64/2013/DTP.

3. (*i*) Notes to accounts shall contain information in addition to that presented in the Financial Statements and shall provide where required *(a)* narrative descriptions or disaggregations of items recognised in those statements; and *(b)* information about items that do not qualify for recognition in those statements.

(*ii*) Each item on the face of the Balance Sheet and Statement of Profit and Loss shall be cross-referenced to any related information in the notes to accounts. In preparing the Financial Statements including the notes to accounts, a balance shall be maintained between providing excessive detail that may not assist users of financial statements and not providing important information as a result of too much aggregation.

4. (i) Depending upon the turnover of the company, the figures appearing in the Financial Statements may be rounded off as given below:—

	Turnover	**Rounding off**
(a)	less than one hundred crore rupees	To the nearest hundreds, thousands, lakhs or millions, or decimals thereof.
(b)	one hundred crore rupees or more	To the nearest lakhs, millions or crores, or decimals thereof.

(ii) Once a unit of measurement is used, it shall be used uniformly in the Financial Statements.

5. Except in the case of the first Financial Statements laid before the Company (after its incorporation) the corresponding amounts (comparatives) for the immediately preceding reporting period for all items shown in the Financial Statements including notes shall also be given.

6. For the purpose of this Schedule, the terms used herein shall be as per the applicable Accounting Standards.

Note:—This part of Schedule sets out the minimum requirements for disclosure on the face of the Balance Sheet, and the Statement of Profit and Loss (hereinafter referred to as "Financial Statements" for the purpose of this Schedule) and Notes. Line items, sub-line items and sub-totals shall be presented as an addition or substitution on the face of the Financial Statements when such presentation is relevant to an understanding of the company's financial position or performance or to cater to industry/sector-specific disclosure requirements or when required for compliance with the amendments to the Companies Act or under the Accounting Standards,

PART I—BALANCE SHEET

Name of the Company.....

Balance Sheet as at..... (Rupees in.....)

Particulars	Note No.	Figures as at the end of current reporting period	Figures as at the end of the previous reporting period
1	2	3	4
I. EQUITY AND LIABILITIES			
(1) **Shareholders' funds**			
(a) Share capital			
(b) Reserves and surplus			
(c) Money received against share warrants			
(2) **Share application money pending allotment**			
(3) **Non-current liabilities**			
(a) Long-term borrowings			
(b) Deferred tax liabilities (Net)			
(c) Other Long term liabilities			
(d) Long-term provisions			
(4) **Current liabilities**			
(a) Short-term borrowings			
(b) Trade payables			
(c) Other current liabilities			
(d) Short-term provisions			
TOTAL			

II. ASSETS

Non-current assets

(1) (a) Fixed assets

(i) Tangible assets
(ii) Intangible assets
(iii) Capital work-in-progress
(iv) Intangible assets under development
(b) Non-current investments
(c) Deferred tax assets (net)
(d) Long-term loans and advances
(e) Other non-current assets

(2) Current assets

(a) Current investments
(b) inventories
(c) Trade receivables
(d) Cash and cash equivalents
(e) Short-term loans and advances
(f) Other current assets

TOTAL

See accompanying notes to the Financial Statements.

Notes:

GENERAL INSTRUCTIONS FOR PREPARATION OF BALANCE SHEET

1. An asset shall be classified as current when it satisfies any of the following criteria:—

(a) it is expected to be realised in, or is intended for sale or consumption in, the company's normal operating cycle;

(b) it is held primarily for the purpose of being traded;

(c) it is expected to be realised within twelve months after the reporting date; or

(d) it is cash or cash equivalent unless it is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting date.

All other assets shall be classified as non-current.

2. An operating cycle is the time between the acquisition of assets for processing and their realisation in cash or cash equivalents. Where the normal operating cycle cannot be identified, it is assumed to have a duration of twelve months.

3. A liability shall be classified as current when it satisfies any of the following criteria:—

(a) it is expected to be settled in the company's normal operating cycle;

(b) it is held primarily for the purpose of being traded;

(c) it is due to be settled within twelve months after the reporting date; or

(d) the company does not have an unconditional right to defer settlement of the liability for at least twelve months after the reporting date. Terms of a liability that could, at the option of the counterparty, result in its settlement by the issue of equity instruments do not affect its classification.

All other liabilities shall be classified as non-current.

4. A receivable shall be classified as a "trade receivable" if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business.

5. A payable shall be classified as a "trade payable" if it is In respect of the amount due on account of goods purchased or services received in the normal course of business.

6. A company shall disclose the following in the notes to accounts.

A. Share Capital

For each class of share capital (different classes of preference shares to be treated separately):

(a) the number and amount of shares authorised;

(b) the number of shares issued, subscribed and fully paid, and subscribed but not fully paid;

(c) par value per share;

(d) a reconciliation of the number of shares outstanding at the beginning and at the end of the reporting period;

(e) the rights, preferences and restrictions attaching to each class of shares including restrictions on the distribution of dividends and the repayment of capital;

(f) shares in respect of each class in the company held by its holding company or its ultimate holding company including shares held by or by subsidiaries or associates of the holding company or the ultimate holding company in aggregate;

(g) shares in the company held by each shareholder holding more than 5 per cent. shares specifying the number of shares held;

(h) shares reserved for issue under options and contracts/commitments for the sale of shares/disinvestment, including the terms and amounts;

(i) for the period of five years immediately preceding the date as at which the Balance Sheet is prepared:

(A) Aggregate number and class of shares allotted as fully paid-up pursuant to contract(s) without payment being received in cash.

(B) Aggregate number and class of shares allotted as fully paid-up by way of bonus shares.

(C) Aggregate number and class of shares bought back.

(j) terms of any securities convertible into equity/preference shares issued along with the earliest date of conversion in descending order starting from the farthest such date;

(k) calls unpaid (showing aggregate value of calls unpaid by directors and officers);

(l) forfeited shares (amount originally paid-up).

B. Reserves and Surplus

(i) Reserves and Surplus shall be classified as:

(a) Capital Reserves;

(b) Capital Redemption Reserve;

(c) Securities Premium Reserve;

(d) Debenture Redemption Reserve;

(e) Revaluation Reserve;

(f) Share Options Outstanding Account;

(g) Other Reserves—(specify the nature and purpose of each reserve and the amount in respect thereof);

(h) Surplus *i.e.*, balance in Statement of Profit and Loss disclosing allocations and appropriations such as dividend, bonus shares and transfer to/from reserves, etc.;

(Additions and deductions since last balance sheet to be shown under each of the specified heads);

(ii) A reserve specifically represented by earmarked investments shall be termed as a "fund".

(iii) Debit balance of statement of profit and loss shall be shown as a negative figure under, the head "Surplus". Similarly, the balance of "Reserves and Surplus", after adjusting negative balance of surplus, if any, shall be shown under the head "Reserves and Surplus" even if the resulting figure is in the negative.

C. Long-Term Borrowings

(*i*) Long-term borrowings shall be classified as:

(a) Bonds/debentures;

(b) Term loans:

(A) from banks.

(B) from other parties.

(c) Deferred payment liabilities;

(d) Deposits;

(e) Loans and advances from related parties;

(f) Long term maturities of finance lease obligations;

(g) Other loans and advances (specify nature).

(ii) Borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.

(iii) Where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed.

(iv) Bonds/debentures (along with the rate of interest and particulars of redemption or conversion, as the case may be) shall be stated in descending order of maturity or conversion, starting from farthest redemption or conversion date, as the case may be. Where bonds/debentures are redeemable by instalments, the date of maturity for this purpose must be reckoned as the date on which the first instalment becomes due.

(v) Particulars of any redeemed bonds/debentures which the company has power to reissue shall be disclosed.

(vi) Terms of repayment of term loans and other loans shall be stated.

(vii) Period and amount of continuing default as on the balance sheet date in repayment of loans and interest, shall be specified separately in each case.

D. Other Long-term Liabilities

Other Long-term Liabilities shall be classified as:

(a) Trade payables;

(b) Others.

E. Long-term provisions

The amounts shall be classified as:

(a) Provision for employee benefits;

(b) Others (specify nature).

F. Short-term borrowings

(i) Short-term borrowings shall be classified as:

(a) Loans repayable on demand;

(A) from banks.

(B) from other parties.

(b) Loans and advances from related parties;

(c) Deposits;

(d) Other loans and advances (specify nature).

(ii) Borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.

(iii) Where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed.

(iv) Period and amount of default as on the balance sheet date in repayment of loans and interest, shall be specified separately in each case.

G. Other current liabilities

The amounts shall be classified as:

(a) Current maturities of long-term debt;

(b) Current maturities of finance lease obligations;

(c) Interest accrued but not due on borrowings;

(d) Interest accrued and due on borrowings;

(e) Income received in advance;

(f) Unpaid dividends;

(g) Application money received for allotment of securities and due for refund and interest accrued thereon. Share application money includes advances towards allotment of share capital. The terms and conditions including the number of shares proposed to be issued, the amount of premium, if any, and the period before which shares shall be allotted shall be disclosed. It shall also be disclosed whether the company has sufficient authorised capital to cover the share capital amount resulting from allotment of shares out of such share application money. Further, the period for which the share application money has been pending beyond the period for allotment as mentioned in the document inviting application for shares along with the reason for such share application money being pending shall be disclosed. Share application money not exceeding the issued capital and to the extent not refundable shall be shown under the head Equity and share application money to the extent refundable, *i. e.,* the amount in excess of subscription or in case the requirements of minimum subscription are not met, shall be separately shown under "Other current liabilities";

(h) Unpaid matured deposits and interest accrued thereon;

(i) Unpaid matured debentures and interest accrued thereon;

(j) Other payables (specify nature).

H. Short-term provisions

The amounts shall be classified as:

(a) Provision for employee benefits.

(b) Others (specify nature).

I. Tangible assets

(i) Classification shall be given as:

(a) Land;

(b) Buildings;

(c) Plant and Equipment;

(d) Furniture and Fixtures;

(e) Vehicles;

(f) Office equipment;

(g) Others (specify nature).

(ii) Assets under lease shall be separately specified under each class of asset.

(iii) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations and other adjustments and the related depreciation and impairment losses/reversals shall be disclosed separately.

(iv) Where sums have been written-off on a reduction of capital or revaluation of assets or where sums have been added on revaluation of assets, every balance sheet subsequent to date of such write-off, or addition shall show the reduced or increased figures as applicable and shall by way of a note also show the amount of the reduction or increase as applicable together with the date thereof for the first five years subsequent to the date of such reduction or increase.

J. Intangible assets

(i) Classification shall be given as:

(a) Goodwill;

(b) Brands/trademarks;

(c) Computer software;

(d) Mastheads and publishing titles;

(e) Mining rights;

(f) Copyrights, and patents and other intellectual property rights, services and operating rights;

(g) Recipes, formulae, models, designs and prototypes;

(h) Licences and franchise;

(i) Others (specify nature).

(ii) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposal, acquisitions through business combinations and other adjustments and the related amortization and impairment losses/reversals shall be disclosed separately.

(iii) Where sums have been written-off on a reduction of capital or revaluation of assets or where sums have been added on revaluation of assets, every balance sheet subsequent to date of such write-off, or addition shall show the reduced or increased figures as applicable and shall by way of a note also show the amount of the reduction or increase as applicable together with the date thereof for the first five years subsequent to the date of such reduction or increase.

K. Non-current investments

(i) Non-current investments shall be classified as trade investments and other investments and further classified as:

(a) Investment property;

(b) Investments in Equity Instruments;

(c) Investments in preference shares;

(d) Investments in Government or trust securities;

(e) Investments in debentures or bonds;

(f) Investments in Mutual Funds;

(g) Investments in partnership firms;

(h) Other non-current investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate indicating separately whether such bodies are (*i*) subsidiaries, *(ii)* associates, *(iii)* joint ventures, or *(iv)* controlled special purpose entities in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly-paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.

(ii) Investments carried at other than at cost should be separately stated specifying the basis for valuation thereof;

(iii) The following shall also be disclosed:

(a) Aggregate amount of quoted investments and market value thereof;

(b) Aggregate amount of unquoted investments;

(c) Aggregate provision for diminution in value of investments.

L. Long-term loans and advances

(i) Long-term loans and advances shall be classified as:

(a) Capital Advances;

(b) Security Deposits;

(c) Loans and advances to related parties (giving details thereof);

(d) Other loans and advances (specify nature).

(ii) The above shall also be separately sub-classified as:

(a) Secured, considered good;

(b) Unsecured, considered good;

(c) Doubtful.

(iii) Allowance for bad and doubtful loans and advances shall be disclosed under the relevant heads separately.

(iv) Loans and advances due by directors or other officers of the company or any of them either severally or jointly with any other persons or amounts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

M. Other non-current assets

Other non-current assets shall be classified as:

(i) Long-term Trade Receivables (including trade receivables on deferred credit terms);

(ii) Others (specify nature);

(iii) Long term Trade Receivables, shall be sub-classified as:

(A) (a) Secured, considered good;

(B) Unsecured, considered good;

(C) Doubtful.

(b) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

(c) Debts due by directors or other officers ofthe company orany of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

N. Current Investments

(i) Current investments shall be classified as:

(a) Investments in Equity Instruments;

(b) Investment in Preference Shares;

(c) Investments in Government or trust securities;

(d) Investments in debentures or bonds;

(e) Investments in Mutual Funds;

(f) Investments in partnership firms

(g) Other investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate [indicating separately whether such bodies are: *(i)* subsidiaries, *(ii)* associates, *(iii)* joint ventures, or *(iv)* controlled special purpose entities] in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.

(ii) The following shall also be disclosed:

(a) The basis of valuation of individual investments;

(b) Aggregate amount of quoted investments and market value thereof;

(c) Aggregate amount of unquoted investments;

(d) Aggregate provision made for diminution in value of investments.

O. Inventories

(i) Inventories shall be classified as:

(a) Raw materials;

(b) Work-in-progress;

(c) Finished goods;

(d) Stock-in-trade (in respect of goods acquired for trading);

(e) Stores and spares;

(f) Loose tools;

(g) Others (specify nature).

(ii) Goods-in-transit shall be disclosed under the relevant sub-head of inventories.

(iii) Mode of valuation shall be stated.

P. Trade Receivables

(i) Aggregate amount of Trade Receivables outstanding for a period exceeding six months from the date they are due for payment should be separately stated.

(ii) Trade receivables shall be sub-classified as:

(a) Secured, considered good;

(b) Unsecured, considered good;

(c) Doubtful.

(iii) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

(iv) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

Q. Cash and cash equivalents

(i) Cash and cash equivalents shall be classified as:

(a) Balances with banks;

(b) Cheques, drafts on hand;

(c) Cash on hand;

(d) Others (specify nature).

(ii) Earmarked balances with banks (for example, for unpaid dividend) shall be separately stated.

(iii) Balances with banks to the extent held as margin money or security against the borrowings, guarantees, other commitments shall be disclosed separately.

(iv) Repatriation restrictions, if any, in respect of cash and bank balances shall be separately stated.

(v) Bank deposits with more than twelve months maturity shall be disclosed separately.

R. Short-term loans and advances

(i) Short-term loans and advances shall be classified as:

(a) Loans and advances to related parties (giving details thereof);

(b) Others (specify nature).

(ii) The above shall also be sub-classified as:

(a) Secured, considered good;

(b) Unsecured, considered good;

(c) Doubtful.

(iii) Allowance for bad and doubtful loans and advances shall be disclosed under the relevant heads separately.

(iv) Loans and advances due by directors or other officers of the company or any of them either severally or jointly with any other person or amounts due by firms or private companies respectively in which any director is a partner or a director or a member shall be separately stated.

S. Other current assets (specify nature)

This is an all-inclusive heading, which incorporates current assets that do not fit into any other asset categories.

T. Contingent liabilities and commitments (to the extent not provided for)

(i) Contingent liabilities shall be classified as:

(a) Claims against the company not acknowledged as debt;

(b) Guarantees;

(c) Other money for which the company is contingently liable.

(ii) Commitments shall be classified as:

(a) Estimated amount of contracts remaining to be executed on capital account and not provided for;

(b) Uncalled liability on shares and other investments partly paid;

(c) Other commitments (specify nature).

U. The amount of dividends proposed to be distributed to equity and preference shareholders for the period and the related amount per share shall be disclosed separately. Arrears of fixed cumulative dividends on preference shares shall also be disclosed separately.

V. Where in respect of an issue of securities made for a specific purpose, the whole or part of the amount has not been used for the specific purpose at the balance sheet date, there shall be indicated by way of note how such unutilised amounts have been used or invested.

W. If, in the opinion of the Board, any of the assets other than fixed assets and non-current investments do not have a value on realisation in the ordinary course of business at least equal to the amount at which they are stated, the fact that the Board is of that opinion, shall be stated.

PART II—STATEMENT OF PROFIT AND LOSS

Name of the Company.....

Profit and loss statement for the year ended.....

(Rupees in.....)

Particulars	Note No.	Figures as at the end of current reporting period	Figures as at the end of the previous reporting period
1	2	3	4
I. Revenue from operations		xxx	xxx
II. Other income		xxx	xxx
III. Total Revenue (I + II)		xxx	xxx
IV. Expenses:			
Cost of materials consumed		xxx	xxx
Purchases of Stock-in-Trade		xxx	xxx
Changes in inventories of finished goods work-in-progress and Stock-in-Trade		xxx	xxx
Employee benefits expense		xxx	xxx
Finance costs			
Depreciation and amortisation expense			
Other expenses			
Total expenses		xxx	xxx
V. Profit before exceptional and extraordinary items and tax (III-IV)		xxx	xxx

1	2	3	4
VI.	Exceptional items	xxx	xxx
VII.	Profit before extraordinary items and tax (V-VI)	xxx	xxx
VIII.	Extraordinary items	xxx	xxx
IX.	Profit before tax (VII-VIII)	xxx	xxx
X	Tax expense:		
	(1) Current tax	xxx	xxx
	(2) Deferred tax	xxx	xxx
XI.	Profit (Loss) for the period from continuing operations (VII-VIII)	xxx	xxx
XII.	Profit/(1oss) from discontinuing operations	xxx	xxx
XIII.	Tax expense of discontinuing operations	xxx	xxx
XIV.	Profit/(1oss) from Discontinuing operations (after tax) (XII-XIII)	xxx	xxx
XV.	Profit (Loss) for the period (XI + XIV)	xxx	xxx
XVI.	Earnings per equity share:		
	(1) Basic	xxx	xxx
	(2) Diluted	xxx	xxx

See accompanying notes to the financial statements.

GENERAL INSTRUCTIONS FOR PREPARATION OF STATEMENT OF PROFIT AND LOSS

1. The provisions of this Part shall apply to the income and expenditure account referred to in sub-clause *(ii)* of clause *(40)* of section 2 in like manner as they apply to a statement of profit and loss.

2. *(A)* In respect of a company other than a finance company revenue from operations shall disclose separately in the notes revenue from—

(a) Sale of products;

(b) Sale of services;

(c) Other operating revenues;

Less:

(d) Excise duty.

(*B*) In respect of a finance company, revenue from operations shall include revenue from—

(a) Interest; and

(b) Other financial services.

Revenue under each of the above heads shall be disclosed separately by way of notes to accounts to the extent applicable.

3. Finance Costs

Finance costs shall be classified as:

(a) Interest expense;

(b) Other borrowing costs;

(c) Applicable net gain/loss on foreign currency transactions and translation.

4. Other income

Other income shall be classified as:

(a) Interest Income (in case of a company other than a finance company);

(b) Dividend Income;

(c) Net gain/loss on sale of investments;

(d) Other non-operating income (net of expenses directly attributable to such income).

5. Additional Information

A Company shall disclose by way of notes additional information regarding aggregate expenditure and income on the following items:—

(i) (a) Employee Benefits Expense [showing separately *(i)* salaries and wages, *(ii)* contribution to provident and other funds, *(iii)* expense on Employee Stock Option Scheme (ESOP) and Employee Stock Purchase Plan (ESPP), *(iv)* staff welfare expenses].

(b) Depreciation and amortisation expense;

(c) Any item of income or expenditure which exceeds one per cent. of the revenue from operations or ₹ 1,00,000, whichever is higher;

(d) Interest Income;

(e) Interest expense;

(f) Dividend income;

(g) Net gain/loss on sale of investments;

(h) Adjustments to the carrying amount of investments;

(i) Net gain or loss on foreign currency transaction and translation (other than considered as finance cost);

(j) Payments to the auditor as *(a)* auditor; *(b)* for taxation matters; *(c)* for company law matters; (d) for management services; *(e)* for other services; and (f) for reimbursement of expenses;

(k) In case of Companies covered under section 135, amount of expenditure incurred on corporate social responsibility activities;

(l) Details of items of exceptional and extraordinary nature;

(m) Prior period items;

(ii) (a) In the case of manufacturing companies,—

(1) Raw materials under broad heads.

(2) goods purchased under broad heads.

(b) In the case of trading companies, purchases in respect of goods traded in by the company under broad heads.

(c) In the case of companies rendering or supplying services, gross income derived from services rendered or supplied under broad heads.

(d) In the case of a company, which falls under more than one of the categories mentioned in *(a)*, *(b)* and *(c)* above, it shall be sufficient compliance with the requirements herein if purchases, sales and consumption of raw material and the gross income from services rendered is shown under broad heads.

(e) In the case of other companies, gross income derived under broad heads.

(iii) In the case of all concerns having works in progress, works-in progress under broad heads.

(iv) (a) The aggregate, if material, of any amounts set aside or proposed to be set aside, to reserve, but not including provisions made to meet any specific liability, contingency or commitment known to exist at the date as to which the balance sheet is made up.

(b) The aggregate, if material, of any amounts withdrawn from such reserves.

(v) (a) The aggregate, if material, of the amounts set aside to provisions made for meeting specific liabilities, contingencies or commitments.

(b) The aggregate, if material, of the amounts withdrawn from such provisions, as no longer required.

(vi) Expenditure incurred on each of the following items, separately for each item:—

(a) Consumption of stores and spare parts;

(b) Power and fuel;

(c) Rent;

(d) Repairs to buildings;

(e) Repairs to machinery;

(f) Insurance;

(g) Rates and taxes, excluding, taxes on income;

(h) Miscellaneous expenses,

(vii) (a) Dividends from subsidiary companies.

(b) Provisions for losses of subsidiary companies.

(viii) The profit and loss account shall also contain by way of a note the following information, namely:—

(a) Value of imports calculated on C.I.F basis by the company during the financial year in respect of—

I. Raw materials;

II. Components and spare parts;

III. Capital goods;

(b) Expenditure in foreign currency during the financial year on account of royalty, know-how, professional and consultation fees, interest, and other matters;

(c) Total value if all imported raw materials, spare parts and components consumed during the financial year and the total value of all indigenous raw materials, spare parts and components similarly consumed and the percentage of each to the total consumption;

(d) The amount remitted during the year in foreign currencies on account of dividends with a specific mention of the total number of non resident shareholders, the total number of shares held by them on which the dividends were due and the year to which the dividends related;

(e) Earnings in foreign exchange classified under the following heads, namely:—

I. Export of goods calculated on F.O.B. basis;

II. Royalty, know-how, professional and consultation fees;

III. Interest and dividend;

IV. Other income, indicating the nature thereof.

Note:—Broad heads shall be decided taking into account the concept of materiality and presentation of true and fair view of financial statements.

GENERAL INSTRUCTIONS FOR THE PREPARATION OF CONSOLIDATED FINANCIAL STATEMENTS

1. Where a company is required to prepare Consolidated Financial Statements, *i.e.,* consolidated balance sheet and consolidated statement of profit and loss, the company shall *mutatis mutandis* follow the requirements of this Schedule as applicable to a company in the preparation of balance sheet and statement of profit and loss. In addition, the consolidated financial statements shall disclose the information as per the requirements specified in the applicable Accounting Standards including the following:

(i) Profit or loss attributable to "minority interest" and to owners of the parent in the statement of profit and loss shall be presented as allocation for the period.

(ii) "Minority interests" in the balance sheet within equity shall be presented separately from the equity of the owners of the parent.

2. In Consolidated Financial Statements, the following shall be disclosed by way of additional information:

Name of the entity in the	Net Assets, i.e., total assets minus total liabilities		Share in profit or loss	
	As % of consolidated net assets	Amount	As % of consolidated profit or loss	Amount
1	2	3	4	5
Parent				
Subsidiaries				
Indian				
1.				
2.				
3.				
.				
.				

1	2	3	4	5
Foreign				
1.				
2.				
3.				
.				
Minority Interests in all subsidiaries				
Associates (Investment as per the equity method) Indian				
1.				
2.				
3.				
.				
.				
Foreign				
1.				
2.				
3.				
.				
.				
Joint Ventures (as per pro-portionate consolidation/				

1	2	3	4	5
investment as per the equity method)				
Indian				
1.				
2.				
3.				
.				
.				
Foreign				
1.				
2.				
3.				
.				
.				
TOTAL				

3. All Subsidiaries, associates and joint ventures (whether Indian or foreign) will be covered under consolidated financial statements.

4. An entity shall disclose the list of subsidiaries or associates or joint ventures which have not been consolidated in the consolidated financial statements along with the reasons of not consolidating.

SCHEDULE IV

[*See* section 149(8)]

CODE FOR INDEPENDENT DIRECTORS

The Code is a guide to professional conduct for independent directors. Adherence to these standards by independent directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent directors.

I. Guidelines of professional conduct:

An independent director shall:

(1) uphold ethical standards of integrity and probity;

(2) act objectively and constructively while exercising his duties;

(3) exercise his responsibilities in a *bona fide* manner in the interest of the company;

(4) devote sufficient time and attention to his professional obligations for informed and balanced decision making;

(5) not allow any extraneous considerations that will vitiate his exercise of objective independent judgment in the paramount interest of the company as a whole, while concurring in or dissenting from the collective judgment of the Board in its decision making;

(6) not abuse his position to the detriment of the company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person;

(7) refrain from any action that would lead to loss of his independence;

(8) where circumstances arise which make an independent director lose his independence, the independent director must immediately inform the Board accordingly;

(9) assist the company in implementing the best corporate governance practices.

II. Role and functions:

The independent directors shall:

(1) help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct;

(2) bring an objective view in the evaluation of the performance of board and management;

(3) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;

(4) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible;

(5) safeguard the interests of all stakeholders, particularly the minority shareholders;

(6) balance the conflicting interest of the stakeholders;

(7) determine appropriate levels of remuneration of executive directors, key managerial personnel and senior management and have a prime role in appointing and where necessary recommend removal of executive directors, key managerial personnel and senior management;

(8) moderate and arbitrate in the interest of the company as a whole in situations of conflict between management and shareholder's interest.

III. Duties:

The independent directors shall—

(1) undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company;

(2) seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company;

(3) strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member;

(4) participate constructively and actively in the committees of the Board in which they are chairpersons or members;

(5) strive to attend the general meetings of the company;

(6) where they have concerns about the running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting;

(7) keep themselves well informed about the company and the external environment in which it operates;

(8) not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board;

(9) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the company;

(10) ascertain and ensure that the company has an adequate and functional vigil mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;

(11) report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy;

(12) acting within his authority, assist in protecting the legitimate interests of the company, shareholders and its employees;

(13) not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

IV. Manner of appointment:

(1) Appointment process of independent directors shall be independent of the company management; while selecting independent directors the Board shall ensure that there is appropriate balance of skills, experience and knowledge in the Board so as to enable the Board to discharge its functions and duties effectively.

(2) The appointment of independent director(s) of the company shall be approved at the meeting of the shareholders.

(3) The explanatory statement attached to the notice of the meeting for approving the appointment of independent director shall include a statement that in the opinion of the Board, the independent director proposed to be appointed fulfils the conditions specified in the Act and the rules made thereunder and that the proposed director is independent of the management.

(4) The appointment of independent directors shall be formalised through a letter of appointment, which shall set out:

(a) the term of appointment;

(b) the expectation of the Board from the appointed director; the Board-level committee(s) in which the director is expected to serve and its tasks;

(c) the fiduciary duties that come with such an appointment along with accompanying liabilities;

(d) provision for Directors and Officers (D and O) insurance, if any;

(e) the Code of Business Ethics that the company expects its directors and employees to follow;

(f) the list of actions that a director should not do while functioning as such in the company; and

(g) the remuneration, mentioning periodic fees, reimbursement of expenses for participation in the Boards and other meetings and profit related commission, if any.

(5) The terms and conditions of appointment of independent directors shall be open for inspection at the registered office of the company by any member during normal business hours.

(6) The terms and conditions of appointment of independent directors shall also be posted on the company's website.

V. Re-appointment:

The re-appointment of independent director shall be on the basis of report of performance evaluation.

VI. Resignation or removal:

(1) The resignation or removal of an independent director shall be in the same manner as is provided in sections 168 and 169 of the Act.

(2) An independent director who resigns or is removed from the Board of the company shall be replaced by a new independent director within a period of not more than one hundred and eighty days from the date of such resignation or removal, as the case may be.

(3) Where the company fulfils the requirement of independent directors in its Board even without filling the vacancy created by such resignation or removal, as the case may be, the requirement of replacement by a new independent director shall not apply.

VII. Separate meetings:

(1) The independent directors of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and members of management;

(2) All the independent directors of the company shall strive to be present at such meeting;

(3) The meeting shall:

(a) review the performance of non-independent directors and the Board as a whole;

(b) review the performance of the Chairperson of the company, taking into account the views of executive directors and non executive directors;

(c) assess the quality. quantity and timeliness of flow of information between the company management and the Board that isnecessary for the Board to effectively and reasonably perform their duties.

VIII. Evaluation mechanism:

(1) The performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated.

(2) On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director.

SCHEDULE V

(See sections 196 and 197)

PART I

CONDITIONS TO BE FULFILLED FOR THE APPOINTMENT OF A MANAGING OR WHOLE-TIME DIRECTOR OR A MANAGER WITHOUT THE APPROVAL OF THE CENTRAL GOVERNMENT

APPOINTMENTS

No person shall be eligible for appointment as a managing or whole-time director or a manager (hereinafter referred to as managerial person) of a company unless he satisfies the following conditions, namely:—

(a) he had not been sentenced to imprisonment for any period, or to a fine exceeding one thousand rupees, for the conviction of an offence under any of the following Acts, namely:—

(*i*) the Indian Stamp Act, 1899 (2 of 1899);

(*ii*) the Central Excise Act, 1944 (1 of 1944);

(*iii*) the Industries (Development and Regulation) Act, 1951 (65 of 1951);

(*iv*) the Prevention of Food Adulteration Act, 1954 (37 of 1954);

(*v*) the Essential Commodities Act, 1955 (10 of 1955);

(*vi*) the Companies Act, 2013;

(*vii*) the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*viii*) the Wealth-tax Act, 1957 (27 of 1957);

(*ix*) the Income-tax Act, 1961 (43 of 1961);

(*x*) the Customs Act, 1962 (52 of 1962);

(*xi*) the Competition Act, 2002 (12 of 2003);

(*xii*) the Foreign Exchange Management Act, 1999 (42 of 1999);

(*xiii*) the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(*xiv*) the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*xv*) the Foreign Trade (Development and Regulation) Act, 1922 (22 of 1922);

(*xvi*) the Prevention of Money-Laundering Act, 2002 (15 of 2003);

(*b*) he had not been detained for any period under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974):

Provided that where the Central Government has given its approval to the appointment of a person convicted or detained under sub-paragraph (*a*) or sub-paragraph (*b*), as the case may be, no further approval of the Central Government shall be necessary for the subsequent appointment of that person if he had not been so convicted or detained subsequent to such approval.

(c) he has completed the age of twenty-one years and has not attained the age of seventy years:

Provided that where he has attained the age of seventy years; and where his appointment is approved by a special resolution passed by the company in general meeting, no further approval of the Central Government shall be necessary for such appointment;

(d) where he is a managerial person in more than one company, he draws remuneration from one or more companies subject to the ceiling provided in section V of Part II;

(e) he is resident of India.

Explanation I.—For the purpose of this Schedule, resident in India includes a person who has been staying in India for a continuous period of not less than twelve months immediately preceding the date of his appointment as a managerial person and who has come to stay in India,—

(i) for taking up employment in India; or

(ii) for carrying on a business or vacation in India.

Explanation II.—This condition shall not apply to the companies in Special Economic Zones as notified by Department of Commerce from time to time:

Provided that a person, being a non-resident in India shall enter India only after obtaining a proper Employment Visa from the concerned Indian mission abroad. For this purpose, such person shall be required to furnish, along with the visa application form, profile of the company, the principal employer and terms and conditions of such person's appointment.

PART II

REMUNERATION

Section I.—Remuneration payable by companies having profits:

Subject to the provisions of section 197, a company having profits in a financial year may pay remuneration to a managerial person or persons not exceeding the limits specified in such section.

Section II.—Remuneration payable by companies having no profit or inadequate profit without Central Government approval:

Where in any financial year during the currency of tenure of a managerial person, a company has no profits or its profits are inadequate, it may, without Central Government approval pay remuneration to the managerial person not exceeding the higher of the limits under *(A)* and *(B)* given below:—

(A):

(1)	(2)
Where the effective capital is	Limit of yearly remuneration payable shall not exceed (Rupees)
(i) Negative or less than 5 crores	30 lakhs
(ii) 5 crores and above but less than 100 crores	42 lakhs
(iii) 100 crores and above but less than 250 crores	60 lakhs
(iv) 250 crores and above	60 lakhs *plus* 0.01% of the effective capital in excess of ₹ 250 crores:

Provided that the above limits shall be doubled if the resolution passed by the shareholders is a special resolution.

Explanation.—It is hereby clarified that for a period less than one year, the limits shall be pro-rated.

(B) In the case of a managerial person who was not a security holder holding securities of the company of nominal value of rupees five lakh or more or an employee or a director of the company or not related to any director or promoter at any time during the two years prior to his appointment as a managerial person, - 2.5% of the current relevant profit:

Provided that if the resolution passed by the shareholders is a special resolution, this limit shall be doubled:

Provided further that the limits specified under this section shall apply, if—

(i) payment of remuneration is approved by a resolution passed by the Board and, in the case of a company covered under sub-section *(1)* of section 178 also by the Nomination and Remuneration Committee;

(ii) the company has not made any default in repayment of any of its debts (including public deposits) or debentures or interest payable there on for a continous period of thirty days in the preceding financial year before the date of appointment of such managerial person;

(iii) a special resolution has been passed at the general meeting of the company for payment of remuneration for a period not exceeding three years;

(iv) a statement along with a notice calling the general meeting referred to in clause *(iii)* is given to the share nolders containing the following information, namely:—

I. General Information:

(1) Nature of industry

(2) Date or expected date of commencement of commercial production

(3) In case of new companies, expected date of commencement of activities as per project approved by financial institution appearing in the prospectus

(4) Financial performance based on given indicators

(5) Foreign investments or collaborations, if any.

II. Information about the appointee:

(1) Background details

(2) Past remuneration

(3) Recognition or awards

(4) Job profile and his suitability

(5) Remuneration proposed

(6) Comparative remuneration profile with respect to industry, size of the company, profile of the position and person (in case of expatriates the relevant details would be with respect to the country of his origin)

(7) Pecuniary relationship directly or indirectly with the company, or relationship with the managerial personnel, if any.

III. Other information:

(1) Reasons of loss or inadequate profits

(2) Steps taken or proposed to be taken for improvement

(3) Expected increase in productivity and profits in measurable terms.

IV. Disclosures:

The following disclosures shall be mentioned in the Board of Director's report under the heading "Corporate Governance", if any, attached to the financial statement:—

(i) all elements of remuneration package such as salary, benefits, bonuses, stock options, pension, etc., of all the directors;

(ii) details of fixed component and performance linked incentives along with the performance criteria;

(iii) service contracts, notice period, severance fees;

(iv) stock option details, if any, and whether the same has been issued at a discount as well as the period over which accrued and over which exercisable.

Section 11I.—Remuneration payable by companies having no profit or inadequate profit without Central Government approval in certain special circumstances:

In the following circumstances a company may, without the Central Government approval, pay remuneration to a managerial person in excess of the amounts provided in Section II above:—

(a) where the remuneration in excess of the limits specified in Section I or II is paid by any other company and that other company is either a foreign company or has got the approval of its shareholders in general meeting to make such payment, and treats this amount as managerial remuneration for the purpose of section 197 and the total managerial remuneration payable by such other company to its managerial persons including such amount or amounts is within permissible limits under section 197.

(b) where the company—

(i) is a newly incorporated company, for a period of seven years from the date of its incorporation, or

(ii) is a sick company, for whom a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction or National Company Law Tribunal, for a period of five years from the date of sanction of scheme of revival,

it may pay remuneration up to two times the amount permissible under Section II.

(c) where remuneration of a managerial person exceeds the limits in Section II but the remuneration has been fixed by the Board for Industrial and Financial Reconstruction or the National Company Law Tribunal:

Provided that the limits under this Section shall be applicable subject to meeting all the conditions specified under Section II and the following additional conditions:—

(i) except as provided in para *(a)* of this Section, the managerial person is not receiving remuneration from any other company ;

(ii) the auditor or Company Secretary of the company or where the company has not appointed a Secretary, a Secretary in whole-time practice, certifies that all secured creditors and term lenders have stated in writing that they have no objection for the appointment of the managerial person as well as the quantum of remuneration and such certificate is filed along with the return as prescribed under sub-section (4) of section 196.

(iii) the auditor or Company Secretary or where the company has not appointed a secretary, a secretary in whole-time practice certifies that there is no default on payments to any creditors, and all dues to deposit holders are being settled on time.

(d) a company in a Special Economic Zone as notified by Department of Commerce from time to time which has not raised any money by public issue of shares or debentures in India, and has not made any default in India in repayment of any of its debts (including public deposits) or debentures or interest payable thereon for a continuous period of thirty days in any financial year, may pay remuneration up to Rs. 2,40,00,000 per annum.

Section IV.—Perquisites not included in managerial remuneration:

1. A managerial person shall be eligible for the following perquisites which shall not be included in the computation of the ceiling on remuneration specified in Section II and Section III:—

(a) contribution to provident fund, superannuation fund or annuity fund to the extent these either singly or put together are not taxable under the Income-tax Act, 1961 (43 of 1961);

(b) gratuity payable at a rate not exceeding half a month's salary for each completed year of service; and

(c) encashment of leave at the end of the tenure.

2. In addition to the perquisites specified in paragraph 1 of this section, an expatriate managerial person (including a non-resident Indian) shall be eligible to the following perquisites which shall not be included in the computation of the ceiling on remuneration specified in Section II or Section III—

(a) Children's education allowance: In case of children studying in or outside India, an allowance limited to a maximum of Rs. 12,000 per month per child or actual expenses incurred, whichever is less. Such allowance is admissible up to a maximum of two children.

(b) Holiday passage for children studying outside India or family staying abroad: Return holiday passage once in a year by economy class or once in two years by first class to children and to the members of the family from the place of their study or stay abroad to India if they are not residing in India, with the managerial person.

(c) *Leave travel concession:* Return passage for self and family in accordance with the rules specified by the company where it is proposed that the leave be spent in home country instead of anywhere in India.

Explanation I.—For the purposes of Section II of this Part, "effective capital" means the aggregate of the paid-up share capital (excluding share application money or advances against shares); amount, if any, for the time being standing to the credit of share premium account; reserves and surplus (excluding revaluation reserve); long-term loans and deposits repayable after one year (excluding working capital loans, over drafts, interest due on loans unless funded, bank guarantee etc., and other short-term arrangements) as reduced by the aggregate of any investments (except in case of investment by an investment company whose principal business is acquisition of shares, stock, debentures or other securities), accumulated losses and preliminary expenses not written off.

Explanation II.—*(a)* Where the appointment of the managerial person is made in the year in which company has been incorporated, the effective capital shall be calculated as on the date of such appointment;

(b) In any other case the effective capital shall be calculated as on the last date of the financial year preceding the financial year in which the appointment of the managerial person is made.

Explanation III—For the purposes of this Schedule, "family" means the spouse, dependent children and dependent parents of the managerial person.

Explanation IV.—The Nomination and Remuneration Committee while approving the remuneration under Section II or Section III, shall—

(a) take into account, financial position of the company, trend in the industry, appointee's qualification, experience, past performance, past remunerations etc.;

(b) be in a position to bring about objectivity in determining the remuneration package while striking a balance between the interest of the company and the shareholders.

Explanation V.—For the purposes of this Schedule, "negative effective capital" means the effective capital which is calculated in accordance with the provisions contained in *Explanation* I of this Part is less than zero.

Explanation VI.—For the purposes of this Schedule:—

(A) "current relevant profit" means the profit as calculated under section 198 but without deducting the excess of expenditure over income referred to in sub-section 4 (1) thereof in respect of those years during which the managerial person was not an employee, director or shareholder of the company or its holding or subsidiary companies.

(B) "Remuneration" means remuneration as defined in clause (78) of section 2 and includes reimbursement of any direct taxes to the managerial person.

Section V. —Remuneration payable to a managerial person in two companies:

Subject to the provisions of sections I to IV, a managerial person shall draw remuneration from one or both companies, provided that the total remuneration drawn from the companies does not exceed the higher maximum limit admissible from anyone of the companies of which he is a managerial person.

PART III

Provisions applicable to Parts I and II of this Schedule

I. The appointment and remuneration referred to in Part I and Part II of this Schedule shall be subject to approval by a resolution of the shareholders in general meeting.

2. The auditor or the Secretary of the company or where the company is not required to appointed a Secretary, a Secretary in whole-time practice shall certify that the requirement of this Schedule have been complied with and such certificate shall be incorporated in the return filed with the Registrar under sub-section (4) of section 196.

PART IV

The Central Government may, by notification, exempt any class or classes of companies from any of the requirements contained in this Schedule.

SCHEDULE VI

(See sections 55 and 186)

The term "infrastructural projects" or "infrastructural facilities" includes the following projects or activities:—

(1) Transportation (including inter modal transportation), includes the following:—

(a) roads, national highways, state highways, major district roads, other district roads and village roads, including toll roads, bridges, highways, road transport providers and other road-relate services;

(b) rail system, rail transport providers, metro rail roads and other railway related services;

(c) ports (including minor ports and harbours), inland waterways, coastal shipping including shipping lines and other port related services;

(d) aviation, including airports, heliports, airlines and other airport related services;

(e) logistics services.

(2) Agriculture, including the following, namely:—

(a) infrastructure related to storage facilities;

(b) construction relating to projects involving agro-processing and supply of inputs to agriculture;

(c) construction for preservation and storage of processed agro products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality.

(3) Water management, including the following, namely:—

(a) water supply or distribution;

(b) irrigation;

(c) water treatment.

(4) Telecommunication, including the following, namely:—

(a) basic or cellular, including radio paging;

(b) domestic satellite service *(i.e.*, satellite owned and operated by an Indian company for providing telecommunication service);

(c) network of trunking, broadband network and internet services.

(5) Industrial, commercial and social development and maintenance, including the following, namely:—

(a) real estate development, including an industrial park or special economic zone;

(b) tourism, including hotels, convention centres and entertainment centres;

(c) public markets and buildings, trade fair, convention, exhibition, cultural centres, sports and recreation infrastructure, public gardens and parks;

(d) construction of educational institutions and hospitals;

(e) other urban development, including solid waste management systems, sanitation and sewerage systems.

(6) Power, including the following:—

(a) generation of power through thermal, hydro, nuclear, fossil fuel, wind and other renewable sources;

(b) transmission, distribution or trading of power by laying a network of new transmission or distribution lines.

(7) Petroleum and natural gas, including the following:—

(a) exploration and production;

(b) import terminals;

(c) liquefaction and re-gasification;

(d) storage terminals;

(e) transmission networks and distribution networks including city gas infrastructure.

(8) Housing, including the following:—

(a) urban and rural housing including public/mass housing, slum rehabilitation, etc;

(b) other allied activities such as drainage, lighting, laying of roads, sanitation and facilities.

(9) Other miscellaneous facilities/services, including the following:—

(a) mining and related activities;

(b) technology related infrastructure;

(c) manufacturing of components and materials or any other utilities or facilities required by the infrastructure sector like energy saving devices and metering devices;

(d) environment related infrastructure;

(e) disaster management services;

(f) preservation of monuments and icons;

(g) emergency services (including medical, police, fire and rescue).

(10) such other facility service as may be prescribed.

SCHEDULE VII

(See sections 135)

Activities which may be included by companies in their Corporate Social Responsibility Policies

Activities relating to:—

(i) cradicating extreme hunger and poverty;

(ii) promotion of education;

(iii) Promoting gender equality and empowering women;

(iv) reducing child moratlity and improving maternal health;

(v) combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;

(vi) ensuring environmental sustainability;

(vii) employment enhancing vocational skills;

(viii) social business projects;

(ix) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and

(x) such other matters as may be prescribed.