



The Companies Act 2013

Enlightening Nation

E-NEWS LETTER

JUNE, 2015

ABOUT THE E-NEWSLETTER

Dear Users,

Thecompaniesact2013.com imports yet another innovation for all the valuable users in the form of e-newsletter. This is the first issue of the June month comprising contemporary articles, latest notifications, circulars & orders.

The notion is to render all the updates about Company law of the current month in a compiled format and serve a better pavement for easy accessibility to the users.



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BOARD REPORT



Board Report is **Mandatory** for every company whether it is **public or private** to forward to its members, along with its annual financial statement. It is a material document containing complete review of the performance of the company during the year and other information as mentioned in Section 134 (3) to (6); corresponding to Section 217 of the previous Act.

The Board of Directors of the company are responsible to prepare an exhaustive report containing all the details as prescribed under **Section 134(3)** of the Companies Act, 2013 and the same needs to be annexed to the Financial Statements which are laid before the members in the annual general meeting.



SIGNING OF BOARD REPORT: -

The Board Report and Annexure thereto shall be signed by

- **‘CHAIRPERSON’** if he is authorized by Board of director; Where he is not so authorized
- By, at least 2 (Two) Director, one of whom shall be a **Managing Director**;
- If there is no Managing Director then by **Two Directors**;

KEY POINTS OF BOARD REPORT:-

- Section 179 (3) of the Act provides that Approval of Board Report shall done only in duly Convened Meeting of the Board of Director (neither by **“Circulation Resolution”**, nor by **“Video Conferencing”**.)
- The Board resolution for approval of Board Report required being file with ROC in form **“MGT 14”** within 30 days of passing of Board Resolution.

BASIS OF BOARD'S REPORT:-

The Board's Report shall be prepared based on Stand Alone financial statement of the company.

But the Board's Report shall contain separate section wherein a section report on the performance and financial position of each.

- Subsidiary
- Associate
- Joint Venture including in the consolidated financial statement is presented.

CONTENT OF BOARD REPORT:-

As per Section 134(3) of Companies Act, 2013 Director Report shall include:

- I. Extract of Annual Return [Section 92(3) and Clause (a) of 134 (3)]:-** Extract of Annual Return in **Form No: MGT-9** shall form part of Board's report.
- II. No. of Board's meeting [Clause (b) of Section 134 (3)]:-**The Report shall contain Number of board meetings held during the financial year.
- III. Directors' Responsibility Statement [Clause (c) of Section 134 (3)] :-** The Directors' Responsibility Statement 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.

IV. Declaration about Independent Director [Clause (d) of Section 134 (3) and Section 149 (6) & (7)]:- Directors shall disclose the statement on declaration given by Independent Directors.

V. Report of the Nomination and Remuneration Committee on Company's Policy on Director's remuneration in Listed Company and other companies [Clause (e) of Section 134 (3)]:- The director will disclose in Board's Report:

- The policy of qualification
- The remuneration of directors as, formulated under section 178(3)

VI. Explanations or Comments by Board on every qualification, reservation or adverse mark made by the Statutory auditor and secretarial Auditor in their reports [Clause (f) of Section 134 (3)]

VII. Particulars of Loan, guarantees or investments [Clause (g) of Section 134 (3) and Section 186]:- There is required to disclose by director in Board's Report that, the company have complied with the provisions of Section 186 of companies Act, 2013 in relation to Loan, Investment & Guarantee given by the company during the financial.

VIII. Disclosure of Related Party Transaction [Clause (h) of Section 134 (3) and Section 188 (1)] :- The directors in Board's Report mention all the related party transactions entered by the company during financial year in form AOC 4.

IX. Statement of affairs of the Company [Clause (i) of Section 134 (3)] :- Generally following information is given about current year and pervious year:

- Turnover
- Profit
- Production of year

X. Dividend Recommended [Clause (k) of Section 134 (3)]:- If any dividend was declared by the company during the financial year the financial year. Directors required disclosing in Board Report regarding status payment of same.

XI. Material changes and commitments, [Clause (l) of Section 134 (3)]:- 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 statement relate and the date of report. Generally there is gap of 4 to 5 month between financial year ending and preparation of report of Board of Director's. If the yearend is 31st March, report of board of Directors commitments affecting the financial position of company between these periods.

XII. The Conversation of energy, technology absorption, foreign exchange earnings and outgo , in such manner [Clause (m) of Section 134 (3)]: The report of the Board shall contain the following information and details, namely :

(A) Conservation of energy

- (i) The steps taken or impact on conservation of energy;

(ii) The steps taken by the company for utilizing alternate sources of energy;

(iii) The capital investment on energy conservation equipments;

(B) Technology absorption

(i) The efforts made towards technology absorption;

(ii) The benefits derived like product improvement, cost reduction, product development or import substitution;

(iii) In case of imported technology (imported during the last three years reckoned from the beginning of the financial year)-

(a) The details of technology imported;

(b) The year of import;

(c) Whether the technology been fully absorbed;

(d) If not fully absorbed, areas where absorption has not taken place, and the reasons thereof; and

(C) Foreign exchange earnings and Outgo:-

The Foreign Exchange earned in terms of actual inflows during the year and the Foreign Exchange outgo during the year in terms of actual outflows

XIII. Risk Management Policy [Clause (n) of Section 134 (3)]:- A statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, this in the opinion of the Board may threaten the existence of the company.

XIV. Corporate Social Responsibility [Clause (o) of Section 134 (3)]:- Directors required to disclose in the Board Report the details about the policy developed and implemented by the company on Corporate Social Responsibility initiatives taken during the year.

XV. Secretarial Audit Report [Rule 9 of the Companies Appointment and Remuneration of Managerial Personnel]:- Every listed company and a company belonging to other class of companies as may be prescribed shall annex with its Board's Report, a Secretarial audit report. The following class of companies shall be required to Annex Secretarial Audit Report with Director Report, namely:

a) All Listed Companies

b) Every Public Company having a Paid Up Share Capital of Rs. 50 Crore (fifty crore rupees) or more

c) Every Public Company having a Turnover of Rs. 250 Crore (two hundred fifty crore rupees) or more

XVI. Disclosure about cost Audit: Full particular of cost auditor, along with due date and actual filling of cost audit report by the cost auditor.

XVII. Disclosure if MD/WTD is receiving remuneration or commission from a MD/WTD or Subsidiary Company: As per Section 197(14) of the Act, 2013 A MD/WTD of company can receive remuneration

or commission from any holding company or subsidiary company of such company. This should be disclosed by the company in Board's Report.

XVIII. Disclosure of Vigil Mechanism: - If provisions of vigil Mechanism apply on company, then directors required disclosing in Board's report establishment of Vigil Mechanism.

XIX. Disclosure of composition of Audit committee and their recommendations not accepted: Section 117(8)

- Composition of Audit Committee shall be disclosed in Board's Report of the Company.
- If the board doesn't recommendation of Audit Committees, it shall be disclosed along with reason in Board's report.

XX. Details Relating to Deposit:

- Details of deposits which are not in compliance with the requirement of chapter V of the Act.
- Deposit Accepted during the year.
- Unpaid and unclaimed deposit at the end of the year.
- If there is any default in repayment of deposit or payment of interest thereon during the year then; Number of such cases and total amount involved
 - At the beginning of the year
 - Maximum during the year
 - At the end of the year

XXI. Details of Director and KMP: There should be disclosure in the Director's Report about:

- Directors & KMP appointed during the Year.
- Directors & KMP appointed Resigned the Year.

XXII. General Disclosures:

- Name of retiring directors and whether or not they offer themselves for re- appointment.
- Casual vacancies in the Board filled during the year.
- Re-appointment.
- Casual vacancy in the Board filed during the year.
- Changes in Board during the year, by change of nominees, appointment of additional directors, death, resignation or any other reason
- Details, if anyone is contesting for election as director/ small shareholder director.

XXIII. Disclosure about ESOP and Sweat Equity Share: Director Report shall disclose following about Sweat Equity Shares: [Rule 7 of UnlistedCompanies (Issue of Sweat Equity Share] Rules, 2003

- Number of Share issued Condition of issue of shares.
- Pricing formula
- Total Sweat equity share issued.
- Money realized and benefit accrued
- Diluted EPS pursuant to issue of sweat equity shares.

ProvidedIf ESOP has been given, its details are to be disclosed.

XXIV. Director Perception of Future of Company: In this report director's perception of future of company given in consideration of;

- Market Competition
- Production constraints
- Government Policies etc.

XXV. Order of Court: The details of significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company's operation in future.

XXVI. Details of employees drawing salary above prescribed limits: 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. [197(12)]. The disclosures are summarized as below:

- Comparison between remuneration managerial personnel and remuneration to employees.
- Details of employees drawing salary of Rs. 500,000/4 or more per month.
- Details of remuneration to person holding 2% or more equity shares
- Details of employees (who are not directors or relatives) posted outside India.

XXVII. Other Details:

- The names of Companies which have become or ceased to be its Subsidiaries, Joint ventures or associated company during the year.
- The change in the nature of business, if any;
- The financial summary or highlights;
- The details in respect of adequacy of internal financial controls with reference to the financial Statements.
- Major evens concerning the company are highlighted.



PUNISHMENT FOR DEFAULT:-

If company **fails** to comply with the provision of Board report, then:-

The company shall be punishable with

- fine of **fifty thousand** rupees which may extend to **twenty five lakh** rupees and

Every officer in default shall be punishable with

- Imprisonment up to **three years** or
- Fine of **fifty thousand rupees** and up to **five lakh rupees** or both.

CONCLUSION: Drafting a **Board's Report** under the New Act will be a challenge to the Company Secretaries as the scope of the Report has been widened. Enlarged scope of **Directors Responsibility Statement** casts a huge responsibility on the board of directors as they are required not only to confirm framing of policies and internal financial controls but also adherence to policies and compliance of all applicable laws for **safeguarding interests and assets of company**.

To View Format & Annexure of Board's Report: - [Click Here](#)



A. G.S.R. (E) The Companies (Share Capital and Debentures) Second Amendment Rules, 2015

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:-

Short title and Commencement:

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 authorized 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 authorized by the Board of Directors of the company for the purpose and the Company Secretary, or any other person authorized 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. "

B. S.O (E) The Companies Notification of Companies (Amendment) Act, 2015.

In exercise of the powers conferred by sub-section (2) of section 1 of the Companies (Amendment) Act, 2015 (21 of 2015), the Central Government hereby appoints the 29th May, 2015 as the date on which the provisions of sections 1 to 12 and 15 to 23 of the said Act shall come into force.

C. G.S.R(E) The Companies(Declaration and Payment of Dividend) Second Amendment Rules ,2015

In exercise of the powers conferred under subsection (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:-

Short title and Commencement:

- 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.

D. G.S.R(E) The Companies (Incorporation) Second Amendment Rules, 2015

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:-

Short title and Commencement:

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) Form **INC-13 and INC-16** has been substituted

E. G.S.R(E) The Companies (Registration of Charges) Amendment Rules,2015

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,

Short title and Commencement:

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. G.S.R (E) The Companies (Registration Offices and Fees) Second Amendment Rules, 2015

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:-

Short title and Commencement:

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 section 117 of the Act.

G. G.S.R 464(E) Exemptions to Private Companies under section 462 of CA 2013

In exercise of the powers conferred by clauses (a) and (b) of sub-section (I) of section 462 and in pursuance of sub-section (2) of said section of the Companies Act, 2013 (18 of 2013), the Central Government, in the interest of public, hereby directs that certain provisions of the Companies Act, 2013, shall not apply or shall apply with such exceptions, modifications and adaptations, as, to a Private Company, namely:-

- a) Chapter I, Sub- Clause (viii) of Clause 76 of Section 2 Shall not apply with respect to section 188.
- b) Chapter IV, Section 43 and Section 47 Shall not apply where memorandum or articles of association of the private company so provides.

- c) Chapter IV ,Sub- Clause (i) of Clause (a) of Sub –Section (1) and Sub –Section (2) of Section 62 shall apply with following modifications:-
- In clause (a), in sub-clause (i), the following proviso shall be inserted, namely:-

Provided that notwithstanding anything contained in this sub clause and sub-section (2) of this section, in case ninety percent. of the members of a private company have given their consent in writing or in electronic mode, the periods lesser than those specified in the said sub- clause or sub-section shall apply.
- d) Chapter IV, Clause (b) of Sub- Section (1) of Section 62 for the words "special resolution", the words "ordinary resolution" shall be substituted.
- e) Chapter IV, Section 67 Shall not apply to private companies -
- In whose share capital no other body corporate has invested any money;
 - If the borrowings of such a company from banks or financial institutions or anybody corporate is less than twice its paid up share capital or fifty crore rupees, whichever is Lower; **and**
 - Such a company is not in default in repayment of such borrowings subsisting at the lime of making transactions under this section.
- f) Chapter V, Clauses (a) to (e) of Sub- Section (2) of Section 73 Shall not apply to a private company which accepts from its members not exceeding one hundred percent of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.
- g) Chapter VII, Section 101 to 107 and Section 109 Shall apply unless otherwise specified in respective sections or articles of the company otherwise provides.
- h) Chapter VII, Clause (g) of Sub- Section (3) of section 177 shall not apply.
- i) Chapter X , Clause (g) of Sub- Section (3) of Section 141 Shall apply with the modification that the words "other than one person companies, dormant companies, small companies and private companies having paid-up share capital less than one hundred crore rupees" shall be inserted after the words "twenty companies".
- j) Chapter XI, Section 160 shall not apply.
- k) Chapter XI, Section 162 shall not apply.
- l) Chapters XII, Section 180shall not apply.
- m) Chapters XII, Sub-Section (2) of section 1 84 shall apply with the exception that the interested director may participate in such meeting after disclosure of his interest.
- n) Chapters XII, Section 185 shall not apply to a private company

- In whose share capital no other body corporate has invested any money;
 - If the borrowings of such a company from banks or , financial institutions or anybody corporate is less than twice of its paid up share capital or fifty crore rupee .Whichever is lower; and
 - Such a company has no default in repayment of such borrowings subsisting at the time of making transactions under this section.
- o) Chapter XII, Second Proviso of Sub-Section (1) of Section 188 shall not apply.
- p) Chapter XIII, Sub – Section (4) and (5) of Section 196 shall not apply.

A. The private companies while complying with such exceptions, modifications and adaptations shall ensure that the interests of their shareholders are protected.

3. A copy of this notification has been laid in draft before both Houses of Parliament as required by sub- section (2) of section 462 of the Companies Act, 2013.

H. G.S.R 466 (E) Exemptions to Section 8 (Non-Profit) under section 462 of CA 2013

In exercise of the powers conferred by clauses (a) and (b) of sub-section (I) of Section 462 and in pursuance of sub-section (2) of said Section read with Section 8 of the Companies Act, 2013 (18 of 2013), and in supersession of notifications issued under section 25 of the Companies Act, 1956 (I of 1956) namely except as respect things done or omitted to be done before such suppression ,the central Government in the interest of public, hereby directs that certain provisions of the Companies Act, 2013, shall not apply or shall apply with such exceptions, modifications and adaptations, to a body to which a license is granted under the provisions of the aforesaid Section 8, namely :-

- a) The provisions of clause (24) of section 2 shall not apply.
- b) In clause 68 of section 2 the requirement of having minimum paid-up share capital shall not apply.
- c) In Clause 71 of section 2 the requirement of having minimum paid up capital shall not apply.
- d) In Sub-section (2) of section 96. In sub-section (2), after the proviso and before the explanation, the following proviso shall be inserted, namely:-Provided further that the time, date and place of each annual general meeting arc decided upon before-hand by the board of directors having regard to the directions, if any, given in this regard by the company in its general meeting.
- e) In Subsection 1 of Section 101, for the words "twenty one days", the words "fourteen days" shall be substituted.
- f) Section 118 shall not apply as a whole except that minute may be recorded within thirty days of the conclusion of every meeting in case of companies where the articles of association provide for confirmation of minutes by circulation.
- g) In Sub-section (1) of section 136 for the words "twenty one days", the words "fourteen days" shall be substituted.
- h) In Sub-section (1) of section 149 shall not apply and the first proviso to subsection (1).
- i) In Sub-sections (4), (5), (6), (7), Shall not apply. (8), (9), (10), (II), clause (i) of sub-section (12) and subsection (13) of section 149.
- j) Section 150. Shall not apply.

- k) Proviso to sub-section (5) of Section 159 Shall not apply
- l) Section 160 shall not apply to companies whose articles provide for election of directors by ballot.
- m) Sub-section (1) of section 165. shall not apply.
- n) Sub-section (1) of section 173. Shall apply only to the extent that the Board of Directors, of such Companies shall hold at least one meeting within every six calendar months.

- o) In Sub-section (I) of section 174.
 - (a) For the words "one-third of its total strength or two directors, whichever is higher", the words "either eight members or twenty five per cent. of its total strength I whichever is less" shall be substituted;
 - (b) The following proviso shall be inserted, namely: "Provided that the quorum shall not be less than two members".
- p) In Sub-section (2) of section 177 the words "with independent directors forming majority" shall be omitted.
- q) Section 178. Shall not apply.
- r) In Section 179. Matters referred to in clauses (d), (e) and (f) of subsection (3) may be decided by the Board by circulation instead of at a meeting.
- s) In Sub-section (2) of section 184 shall apply only if the transaction with reference to section.188 on the basis of terms and conditions of the contract or arrangement exceeds one lakh rupees.
- t) Section 189 shall apply only if the transaction with reference to section 188 on the basis of terms and conditions of the contract or arrangement exceeds one lakh rupees.

B. The Section 8 Companies while complying with such exceptions. Modifications and adaptations shall ensure that the interests of their shareholders are protected.

I. G.S.R 465 (E) Exemptions to Nidhi Companies under section 462 of CA 2013

In exercise of the powers conferred by clauses (a) and (b) of sub section (1) of Section 462 read with section 406 of the Companies Act, 2013 (18 of 2013) and in supersession of notification number GSR 517(E), dated the 31st August, 2006 and GSR 326(E), dated the 8th April, 2011 or any other notification issued under section 620A of the Companies Act. 1956, except as respects things done or omitted to be done before such supersession, the Central Government in the interest of public, hereby directs that certain provisions of the Companies Act, 2013, as specified in column (2) of the Table, shall not apply or shall apply with such exceptions, modifications and adaptations, as specified in column (3) of the said Table, to

- In Sub-section (2) of Section 20 Shall apply subject to the modification that in the case of a Nidhi, the document may be served only on members who hold shares of more than one thousand rupees in face value or more than one per cent. of the total paid-up share capital of the Nidhis whichever is less.
- For other shareholders, document may be served by a public notice in newspaper circulated in the district where the Registered Office of the Nidhi is situated; and publication of the same on the notice board of the Nidhi.

- Section 42 except sub-section (I), explanation (II) to sub-section (2), sub-sections (4), (6), (8), (9) and (10) shall not apply.
- Clause (b) of sub-section (I) of Section 47 shall apply, subject to the modification that no member shall exercise voting rights on poll in excess of five per cent. of total voting rights of equity shareholders.
- Section 62 shall not apply.
- In Sub-section (I) of Section 67 Shall not apply, when shares are purchased by the company from a member on his ceasing to be a depositor or borrower and it shall not be considered as reduction of capital, under section 66 of the Companies Act 2013.
- In Sub-section (5) of Section 123 Shall apply, subject to the modification that any dividend payable in cash may be paid by crediting the same to the account of the member, if the dividend is not claimed within 30 days from the date of declaration of the dividend..
- Section 127 shall apply subject to the modification that where the dividend payable to a member is one hundred rupees or less, it shall be sufficient compliance of the provisions of the section, if the declaration of dividend is announced in the local language in one local newspaper of wide circulation and announcement of the said declaration is also displayed on the notice board of the Nidhis for at least 3 months.
- Sub-section (1) of Section 136 shall apply, subject to the modification that. in the case of members who do not individually or jointly hold shares of more than one thousand rupees in face value or more than one per cent. of the total paid-up Share capital whichever is less, it shall be sufficient compliance with the provisions of the , section if an intimation is sent by public notice in newspaper circulated in the district in which the Registered Office of the Nidhi is situated stating the date, time and venue of Annual General Meeting and the financial statement with its enclosures can be inspected at the registered office of the company, and the financial statement with enclosures are affixed in the Notice Board of the company and a member is entitled to vote either in person or through proxy.
- In sub-section (1), of section 160 for the words "one lakh rupees", the words "ten thousand rupees" shall be substituted.
- Section 185 shall not apply, provided the loan is given to a director or his relative in their capacity as members and such transaction is disclosed in the annual accounts by a note.
- Second proviso to sub-section (I) of Section 197 Shall apply with the modification that the remuneration of a Director who is neither managing director nor whole-time director or manager for performing special services to the Nidhis specified in the articles of association may be paid by way of monthly payment subject to the approval of the company in general meeting and also to the provisions of section 197 :

Provided "that no approval of the company in general meeting shall be required where,-

- (a) A Nidhi does not have a managing director or a whole-time director or a manager;
 - (b) The remuneration payable during a financial year to all the directors of the Nidhi does not exceed ten per cent. of the net profits of such Nidhi or fifteen lakh rupees, whichever is less;
 - (c) A remuneration payable under clause (b) is approved by a special resolution passed in this behalf by the Nidhi.
- Section 403 shall apply. with the modification that the filing fees in respect of every return of allotment under sub-section (9) of section 42 shall be calculated at the rate of one rupee for every one hundred rupees or parts thereof on the face value of the shares included in the return but shall not exceed the amount of normal filing fee payable.

2. The Nidhis while complying with such exceptions, modifications and adaptations, shall ensure that the interests of their shareholders are protected.

J. G.S.R 463 (E) Exemptions to Government Companies under section 462 of CA 2013

Short Title: - In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of Section 462 and in pursuance of sub-section (2) of said Section of the Companies Act, 2013 (18 of 2013) and in supersession of notifications issued under section 620 of the Companies Act, 1956 (1 of 1956), except as respects things done or omitted to be done before such supersession, the Central Government, in the interest of public, hereby directs that certain provisions of the Companies Act, 2013, as specified in column (2) of the Table, shall not apply or shall apply with such exceptions, modifications and adaptations, as specified in column (3) of the said Table, to a Government company, namely:-

- I. Chapter II in Clause (a) of Sub- Section (1) of Section 4 the words 'in the case of a public limited company, or the last words "Private Limited" in the case of a private limited company' shall be omitted.
- II. Chapter IV in Section 56 after Sub- Section (1) following proviso shall be inserted :-
 - a. Provided further that the provisions of this sub-section, in so far as it requires a proper instrument of transfer, to be duly stamped and executed by or on behalf at the transferor and by or on behalf of the transferee, shall not apply with respect to bonds issued by a Government company, provided that an intimation by the transferee specifying his name, address and occupation, if any, has been delivered to the company along with the certificate relating to the bond; and if no such certificate is in existence, along with the letter of allotment of the bond:
 - b. Provided also that the provisions of this sub-section shall not apply to a Government Company in respect of securities held by nominees of the Government.
- III. In Chapter VII Section 89 shall not apply.
- IV. In Chapter VII Section 90 shall not apply.

- V. In Chapter VII Sub-Section (2) of Section 96 for the words "some other place within the city, town or village in which the registered office of the company is situate", the words "such other place as the Central Government may approve in this behalf" shall be substituted.
- VI. In Chapter VIII Second Proviso to Sub- Section (1) of section 123 Shall not apply to a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments.
- VII. In Chapter VIII Sub- Section (4) of section 123 shall not apply to a Government Company in which the entire of section 123. paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments or by one or more Government Company.
- VIII. Chapter IX Section 129 shall not apply to the extent of application of Accounting Standard 17 (Segment Reporting) to the companies engaged in defence production.
- IX. Chapter IX Clause (e) of Sub- Section (3) of Section 134 shall not apply.
- X. Chapter IX Clause (p) of Sub- Section (3) of Section 134 Shall not applies in case the directors are evaluated by the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may, be, the State Government, as per its own evaluation methodology.
- XI. In Section 149 (1) (b) and First Proviso to Sub- Section (1) of section 149 shall not apply.
- XII. In Clause (a) of sub- Section (6) of Section 149 for the word "Board", the words "Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government" shall be substituted.
- XIII. Clause (c) of Sub- Section (6) of Section 149 shall not apply.
- XIV. Sub-Section (5) of section 152 shall not apply where appointment of such director is done by the Central Government or State Government, as the case may be.
- XV. Sub-Section (6) and (7) of section 152 shall not apply to :-
(a) A Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments;
(b) A subsidiary of a Government company referred to in (a) above, in which the entire paid up share capital is held by that Government company.
- XVI. Sub- Section 160 shall not apply to :-
a. A Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments;
b. A subsidiary of a Government company referred to in (a) above, in which the entire paid up share capital is held by that Government company.

- XVII. Sub- Section 162 shall not apply to :-
- a. A Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments;
 - b. A subsidiary of a Government company. referred to in (a) above, in which the entire paid up share capital is held by that Government company
- XVIII. Sub- Section 163 shall not apply to :-
- a. A Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments;
 - (a) A subsidiary of a Government company. referred to in (a) above, in which the entire paid up share capital is held by that Government company
- XIX. Sub- Section (2) of Section 164 shall not apply.
- XX. Section 170 shall not apply to a Government Company in which the entire share capital is held by the Central Government, or by any State Government or Governments or by the Central Government or by one or more State Governments.
- XXI. Section 171 shall not apply to a Government Company in which the entire share capital is held by the Central Government, or by any State Government or Governments or by the Central Government or by one or more State Governments.
- XXII. In clause (i) of sub-section (4) of the section 177, for the words "recommendation for appointment, remuneration and terms of appointment" the words "recommendation for remuneration" shall be substitute.
- XXIII. Sub- Section (2), (3) (4) of section 178 shall not apply to Government company except with regard to appointment of ' senior management' and other employees.
- XXIV. Section 185 shall not apply to Government Company in case such company obtains approval of the Ministry or department of the central Government which is administratively in charge of the company. or, as the case may be, the State Government before, making any loan or giving any guarantee or providing any security under the section.
- XXV. In Chapter XII, section 186 shall not apply to –
- (a) Government company engaged in defence production;
 - (b) Government company, other than a listed company, in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before making any loan or giving any guarantee or providing any security or making any investment under the section.

- XXVI. In Chapter X, first and second proviso to sub-section (1) of section 188 shall not apply to a Government company in respect of contracts or arrangements entered into by it with any other Government company.
(b) a Government company, other than a listed company, in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before making any loan or giving any guarantee or providing any security or making any investment under the section.
- XXVII. In Chapter XIII, sub-sections (2), (4) and (5) of section 196, shall not apply,
- XXVIII. In Chapter XIII, section 197 shall not apply.
- XXIX. In Chapter XIII, sub-sections (1), (2), (3) and (4) of section 203. After sub-section (4), the following sub-section shall be inserted, namely:
The Provisions of subsection (1), (2), (3) and (4) of this section shall not apply to a MD or CEO or Manager and in their absence, a Whole time director of Government Company.
- XXX. In Chapter XXIX subsection (2) of section 439 the words “ the Registrar , a shareholder of the company , or of’ shall be omitted

G.S.R (E) The Companies (Cost Record and Audit) (Amendment) Rules, 2014

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 and section 148 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (cost records and audit) Rules, 2014, namely:

1. (1) These rules may be called the Companies (cost records and audit) (Amendment) Rules, 2015.
- (2) They shall come into force from the date of their publication in the official Gazette.
2. Form **CRA-2 and CRA-4** has been revised.



Subject: - Constitution of Company Law Committee

Dated 4th June, 2015

The Government constituted a Companies Law Committee consisting of the following:-

S.No.	Name of Person /institution	Position
1	Secretary, Ministry of Corporate Affairs	Chairperson
2	Ms. RevaKhetarpal, former Judge, DelhiHigh Court	Member
3	Sh. ManojFadnis, President, TheInstitute of Chartered Accountants ofIndia	Member
4	Sh. Atul H Mehta, President, TheInstitute of Company Secretaries ofIndia	Member
5	Dr. A.S. Durga Prasad, President, The Institute of Cost Accountants of India	Member
6	Shri Bharat Vasani, Chief Legal & Group General Counsel, Tata Sons Ltd, Industry nominee	Member
7	Shri Y.M. Deosthalee Chairman, L&T Finance Holdings, Industry nominee	Member
8	Joint Secretary (Policy), Ministry of Corporate Affairs	Member-Convener

2. The Committee may invite or co-opt subject matter experts relating to corporate law or any other subject matter, as well as experts from SEBI, RBI, CAG as needed. The Committee may also invite any other person or body in the interest of broad-based consultation.
3. The terms of reference of the Committee are as follows:
 - (i) to make recommendations to the Government on issues arising from the implementation of the Companies Act, 2013 and
 - (ii) to examine the recommendations received from the Bankruptcy Law Reforms Committee, the High Level Committee on CSR, the Law Commission and other agencies, while undertaking (i) above.
4. Non-official members of the Committee will be eligible for travelling, conveyance and other allowances as per extant Government instructions, wherever the sponsoring agency is unable to bear their expenditure. Secretarial support to the Committee will be given by the Ministry of Corporate Affairs.
5. The Committee shall submit its recommendations within **six months** of its first meeting.



A. Clarification on repayment of deposits accepted by the companies before commencement of The Companies Act, 2013 under Section 74 of the said Act.

Subject: Clarification on repayment of deposits accepted by the companies before the commencement of the Companies Act, 2013 under section 74 of the said Act:

1. This Ministry has received representations seeking clarification regarding processing of the deposits related complaints received from investors under section 74 of the Companies Act, 2013 (the said Act) in respect of defaults made by companies in repayment of deposits accepted by them before the commencement of the said Act i.e. before 1st April, 2014 and filing of prosecutions against defaulting companies by the Registrars of Companies/Regional Directors.
2. The matter has been examined in the Ministry and it is clarified that vide Removal of Difficulties (Second) Order [S.O. 1428(E)] dated 2nd June, 2014 and Removal of Difficulties (Fourth) Order [S.O. 1460(E)] dated 6th June, 2014 the Company Law Board has been empowered to exercise the powers of National Company Law Tribunal under subsection (4) of section 73 and subsection (2) of section 74 of the said Act) till the latter's constitution. Thus a depositor is free to file an application under section 73(4) of the said Act) with the Company Law Board if the company fails to make repayment of deposits accepted by it. Further the company may also file application under section 74(2) of the said Act with the Company Law Board seeking extension of time in making the repayment of deposits accepted by it before the commencement of the provisions of the said Act.
3. Further, attention is also drawn to Explanation appearing below Rule 19 of the Companies (Acceptance of Deposits) Rules, 2014 which clarifies the conditions subject to which a company would be deemed to have complied with the requirements laid down in Section 74(1) (b) of the Companies Act, 2013. Companies can repay deposits accepted prior to 1st April, 2014 in accordance with terms and conditions for which the deposits had been accepted.
4. It is also clarified that there is no bar on the Registrar of Companies for filing of prosecution against a company if such company fails to make repayment of deposits accepted by it under the provisions of the Companies Act, 1956 or Companies Act, 2013,

B. Extension of time for filing of Notice of appointment of the Cost Auditor for the F.Y. 2015-16 in Form CRA-2 and filing of cost audit report to the Central Government for the F.Y. 2014-15 in Form CRA-4.

Sub: Extension of time for filing of Notice of appointment of the Cost Auditor" for the F.Y. 2015-16 in Form CRA-2 and mine o{cost audit report to the Central Government for the F.Y. 2014-15 in form CRA-4.

1. The Ministry has received several Representations about the non-availability of the revised form CRA-2 on MCA-21 required for filing of notice of appointment of the Cost Auditor for the F.Y. 2015-16, although the time limit for filing of the same has either lapsed or will be lapsing. The revised form CRA-2 has now been notified on 12th June, 2015 and is available on the MCA21 system for filing.
2. In view of the delay in availability of revised Form CRA-2 on the MCA21 portal, however, the additional fee on account of any delay beyond the prescribed period of 30 days from the date of Board Meeting in which the appointment of the Auditor was made for filing of CRA-2 for the financial year starting on or after 1st April, 2015 is waived for all such filings till 30th June, 2015.
3. The revised e-Form CRA-4 has also been notified vide the above mentioned notification and will be made available on MCA-21 portal shortly. Therefore, on the similar lines mentioned above additional fees on delayed filing of form CRA- 4 beyond the prescribed period of 30 days from the date of receipt of a copy of Cost Audit Report from the Cost Auditor for the Financial Year' starting on or after 1st April, 2014 is also waived for all such filings till 31" August, 2015.

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Editors Column

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In Association with: Arms & Associates, LLP
Practicing Company Secretaries
24 ka 1 Jyoti Nagar, Jaipur
Ph.No. 0141-3263017, 3111777

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