

Amendments for Corporate and other laws For CA Inter

NOTE: Only the part of the section which is amended or is relevant has been given. Please refer to the rest of the section from the book.

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The desire to fight will definitely get you a step ahead*

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Section 2:

(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 purpose of this clause,—

- a) the expression "significant influence" means control of at least twenty per cent of **total voting power, or control of or participation** in business decisions under an agreement;
- b) **the expression "joint venture" means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement;**

(28) "Cost Accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 **and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;**

(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.

"Provided that—

- a) **the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and**
- b) **such other instrument, as may be prescribed by the Central Government in consultation with the Reserve Bank of India, issued by a company, shall not be treated as debenture;"**

(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, dormant company and **private company (if such private company is a start-up)** may not include the cash flow statement;

Explanation: for the purpose of this Act the term start-up or start-up company means a private company incorporated under the Companies Act, 2013 or the Companies Act, 1956 and recognized as start-up in accordance with the notification issued by the Department of Industrial Policy and Promotion Ministry of Commerce and Industry.

(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 where a company or body corporate, which is a holding company or a subsidiary or **associate company** of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government (power delegated to Regional Director) may, on an application made by that company or body corporate in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year:

Provided also that any application pending before the Tribunal as on the date of commencement of the Companies (Amendment) Ordinance, 2018, shall be disposed off by the Tribunal in accordance with the provisions applicable to it before such commencement.

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;

(46) "holding company", in relation to one or more other companies, means a company of which such companies are subsidiary companies;

Explanation.—For the purposes of this clause, the expression "company" includes any body corporate.

Clause 49 omitted

(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;
- v. such other officer, not more than one level below the directors who is in whole-time employment, designated as key managerial personnel by the Board; and**
- vi. such other officer as may be prescribed]

(57) "net worth" means the aggregate value of the paid-up share capital and all reserves created out of the profits, securities premium account **and debit or credit balance of profit and loss 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;

(71) "public company" means a company which—

- a) is not a private company; **and**
- b) has a minimum paid-up share capital, as may be prescribed:

Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles ;

(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 **other than this Act or the previous company law**; 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;

(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 or his relative is a member or director;
- v. a public company in which a director and manager is a director and 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 body corporate which is—

- A. holding, subsidiary or an associate company of such company;
- B. a subsidiary of a holding company to which it is also a subsidiary; or
- C. an investing company or the venturer of the company;"**;

Explanation.—For the purpose of this clause, “the investing company or the venturer of a company” means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.

ix. such other person as may be prescribed;

(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 **ten crore rupees**; and
- ii. turnover of which as per profit and loss account for the immediately preceding financial year** does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than **one hundred 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;

(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 voting power** 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.

(91) "turnover" means the **gross amount of revenue recognised in the profit and loss account** from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year.]

Incorporation:

Severe liability of members (section 3A)

If at any time

- the number of members of a company is reduced below the statutory minimum (2 in case of private company and 7 in case of public company) and
- the company carries on business for more than six months with the reduced number while the number of members is so reduced,

every person who is a member of the company during the time that it so carries on business after those six months and has knowledge of the fact of reduction in members shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued for it.

OPC (Companies (Incorporation) Rules, 2014)

Only a natural person who is an Indian citizen and resident in India-

- i. shall be eligible to incorporate a One Person Company;
- ii. shall be a nominee for the sole member of a One Person Company.

The term "resident in India" means a person who has stayed in India for a period of not less than one hundred and eighty two days during the immediately preceding financial year.

Contents of the memorandum (Section 4): A person may make an application, in RUN 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.

Upon receipt of an application the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of

- twenty days from the date of approval or such other period as may be prescribed for a company which is to be incorporated
- sixty days from the date of approval in case of change of name of an existing company

The name may either be approved or rejected by the Registrar. In case of rejection the company shall be allowed to resubmit. On such resubmission if the name is not approved the application shall be rejected.

Incorporation of company (section 7)

a **declaration** 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;

Registered office of company (section 120)

A company shall within **thirty days** of its incorporation and at all times thereafter, have a registered office.

Notice of every change of the situation of the registered officeshall be given to the Registrar **within thirty days** of the change.

Authentication of documents, proceedings and contracts (section 21):

Any

- 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 or employee of the company** duly authorised by the Board in this behalf.

Prospectus and Allotment of Securities

Matters to be stated in the prospectus (section 26):

1. Every prospectus issued shall be dated and signed and shall
 - a) **Shall such information and set out such reports on financial information as may be specified by the Securities and Exchange Board in consultation with the Central Government. Till the Securities and Exchange Board specifies the information and reports on financial information under this sub-section, the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992, in respect of such financial information or reports on financial information shall apply.**
 - b) 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 there under.

Civil liability (section 35)

A person shall not be liable for mis-statement 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.
- c) **regarding every misleading statement purported to be made by an expert or contained in a copy or an extract from a report or valuation of an expert,**
 - **it was a correct and fair representation of the statement or a correct and fair extract from, the report or valuation; and**
 - **he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that**
 - i. **the person making the statement was competent to make it and**
 - ii. **that the said person had given the consent to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge,****before allotment.**

Private placement (section 42):

1. A company may, subject to the provisions of this section, make a private placement of securities.
2. The private placement shall be made only to a select group of persons who have been identified by the Board. The number of such identified person shall not exceed 50 or such higher number as may be prescribed [excluding the qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option in terms of the provisions of section 62], in a financial year.
3. A company making private placement shall issue private placement offer and application to identified persons.
4. The private placement offer and application shall not carry any right of renunciation.
5. Every identified person willing to subscribe shall apply in the private placement and application issued to such person alongwith subscription money paid either by cheque or demand draft or other banking channel and not by cash:
6. The money 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. The company shall not utilise monies raised through private placement unless allotment is made and the return of allotment is filed with the Registrar.
8. The company shall not make a fresh offer 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.
9. The company shall allot the securities within 60 days from the date of receipt of the application money for such securities. If the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within 15 days from the expiry of sixty days. If the company fails to repay the application money within 15 days it shall be liable to repay that money with interest at the rate of 12% p.a. from the expiry of the sixtieth day.
10. The company may make more than one issue subject to the maximum number of identified persons.
11. The company issuing securities under this section shall not release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an issue.
12. The company shall file with the Registrar a return of allotment within 15 days from the date of the allotment including a complete list of all allottees,

with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.

13. If a company defaults in filing the return of allotment within the period prescribed the company, its promoters and directors shall be liable to a penalty for each default of 1000 rupees for each day during which such default continues but not exceeding 25 lakh rupees.

14. If a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount raised through the private placement or 2 crore rupees, whichever is lower, and the company shall also refund all monies with interest to subscribers within a period of thirty days of the order imposing the penalty.

15. If the company makes an offer is made to more than 50 persons it shall be deemed to be a public offer and all the provisions of this Act and the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 shall be applicable.

"Private placement" means any offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in this section.

"Qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, as amended from time to time, made under the Securities and Exchange Board of India Act, 1992.

Share and Share capital

Issue of shares at a discount (section 53):

1. Other than issue of sweat equity shares a company shall not issue shares at a discount.
2. Any issue of share by a company at a **discount** shall be void.
3. **A company may issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by the Reserve Bank of India under the Reserve Bank of India Act, 1934 or the Banking (Regulation) Act, 1949**

If any company fails to comply with the provisions of this section, such company and every officer who is in default shall be liable to a penalty which may extend to an amount equal to the amount raised through the issue of shares at a discount or five lakh rupees, whichever is less, and the company shall also be liable to refund all monies received with interest at the rate of 12% per annum from the date of issue of such shares to the persons to whom such shares have been issued.

Sweat equity shares (section 54):

A company may issue sweat equity shares if the following conditions are fulfilled:—

- 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) The shares must belong to a class of shares already issued
- d) **Not less than one year has, at the date of such issue, elapsed since the date on which the company has commenced business. (omitted)**

Rights issue (section 62):

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—

- 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 the compliance with the**

applicable provisions of Chapter III and any other conditions as may be prescribed.

The notice of the offer shall be dispatched through registered post or speed post or through electronic mode or courier or any other mode having proof of delivery to all the existing shareholders at least three days before the opening of the issue.

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Deposits :

What is not deposits Companies (Acceptance of Deposits) Rules, 2014:

- any amount received by a company from Alternate Investment Funds, Domestic Venture Capital Funds, **Infrastructure Investment Trust** and Mutual Funds registered with the Securities and Exchange Board of India in accordance with regulations made by it.

Prohibition of acceptance of deposits from Public (section 73)

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, as may be agreed upon between the company and its members, subject to the fulfillment of the following conditions, namely—

- a) issue 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) file a copy of the circular along with such statement with the Registrar within 30 days before the date of issue of the circular;
- c) **depositing, on or before 30th April each year, a sum not less than 20% of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account;**
- d) **providing such deposit insurance in such manner and to such extent as may be prescribed. (omitted)**
- 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 where a default had occurred, the company made good the default and a period of five years had lapsed since the date of making good the default;** 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. 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.

Exception :

In case of private company - Points (a) to (e) above shall not apply to private Companies

1. which accepts from its members monies not exceeding 100%, of aggregate of the paid up share capital free reserves and securities premium account; or
2. which is a start-up, for five years from the date of its incorporation; or
3. which fulfils all of the following conditions:
 - i. which is not an associate or subsidiary company of any other company.
 - ii. if the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or 50 cr whichever is lower; and
 - iii. such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under this section.

Provided that companies referred under i to iii shall file the details of monies accepted to the registrar in such manner as may be specified.

Companies (Acceptance of Deposits) Rules, 2014

A private company may accept from its members monies not exceeding 100% of aggregate of the paid up share capital, free reserves and securities premium account and such company shall file the details of monies so accepted to the Registrar in DPT - 3.

Further relaxation is provided to private companies it can now accept deposits from its members without any restriction on the amount, subject to the following conditions:

1. A private company which is a start-up, for five years from the date of its incorporation
2. A private company which fulfils all of the following conditions:
 - a) It is not an associate or a subsidiary of any other company.
 - b) Borrowings from banks, financial institutions or any body corporate is less than twice of its paid-up share capital or 500 million, whichever is less.
 - c) It has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under Section 73.

The company shall file the details of monies so accepted to the Registrar in DPT - 3.

International Financial Services Centre (IFSC) public companies are also allowed to accept deposits from its members not exceeding 100% of the aggregate of paid-up share capital, free reserves and securities premium account.

The company shall file the details of monies so accepted to the Registrar in DPT - 3.

Explanation: for the purpose of this Rule, a specified IFSC public company means an unlisted company which is licensed to operate by the RBI or SEBI or the Insurance Regulatory and Development Authority of India from the International Financial Services Centre located in an approved multi services

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**Special Economic Zone set-up under the Special Economic Zones Act, 2005
read with the Special Economic Zones Rules, 2006**

**Repayment of deposits etc. accepted before the commencement of this Act
(section 74):**

1. Where the company has accepted any deposit before the commencement of this Act and the amount of such deposit or any interest due thereon remains unpaid the company shall—
 - a) file, within a period of 3 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, and
 - b) repay within **three years from such commencement or on or before expiry of the period for which the deposits were accepted, whichever is earlier.**

Punishment for contravention of section 73 or section 76:

Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made thereunder or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made thereunder or such further time as may be allowed by the Tribunal under section 73,—

- a) the **company** shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees **or twice the amount of deposit accepted by the company, whichever is lower** but which may extend to ten crore rupees; and
- b) every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years **and** with fine which shall not be less than twenty five lakh rupees but which may extend to two crore rupees,

Register of Deposits:

Every company accepting deposits shall maintain at its **registered office** one or more separate **registers for deposits** accepted or renewed, in which there shall be entered separately in the case of each depositor the following particulars, namely :

- i. name, address and PAN of the depositor/s;

- ii. particulars of guardian, in case of a minor;
- iii. particulars of the nominee;
- iv. deposit receipt number;
- v. date and the amount of each deposit;
- vi. duration of the deposit and the date on which each deposit is repayable;
- vii. rate of interest or such deposits to be payable to the depositor;
- viii. due date for payment of interest;
- ix. mandate and instructions for payment of interest and for non-deduction of tax at source, if any;
- x. date or dates on which the payment of interest shall be made;
- xi. details of deposit insurance including extent of deposit insurance;(omitted)**
- xii. particulars of security or charge created for repayment of deposits;
- xiii. any other relevant particulars;

Charges

Registration of charge (section 77):

This section shall not apply to such charges as may be prescribed in consultation with the Reserve Bank of India.

Application for registration of charge (section 78):

Where a company fails to register the charge **within the period of 30 days as specified in section 77**, 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.

Company to report satisfaction of charge (section 82):

A company shall give intimation to the Registrar in Form CHG 1, of the payment or satisfaction in full of any charge registered within a period of 30 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"** (omitted)

The Registrar may, on an application by the company or the charge holder, allow such intimation of payment or satisfaction to be made within a period of three hundred days of such payment or satisfaction on payment of such additional fees as may be prescribed.

Management and administration;

Section 403 has been omitted so wherever a reference of this section is made the word therein shall be substituted.

Declaration in respect of beneficial interest in any share (section 89):

For the purpose of section 89 and section 90 “beneficial interest” in a share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to—

- i. exercise or cause to be exercised any or all of the rights attached to such share; or
- ii. receive or participate in any dividend or other distribution in respect of such share.

Register of significant beneficial owners in a company (section 90):

1. **Beneficial interest = 25% or such other % as may be prescribed in shares of the company or the right to exercise, or the actual exercising of significant influence or control as defined in clause (27) of section 2.**
2. **Every individual acting**
 - alone or
 - together, or
 - through one or more persons or
 - trust, including a trust and persons resident outside India,**holds beneficial interests shall make a declaration to the company, specifying the nature of his interest and other particulars. T**
3. **The Central Government may prescribe a class or classes of persons who shall not be required to make declaration under this sub-section.**
4. **Every company shall maintain a register (BEN 3) of the interest declared by individuals and changes therein which shall include the name of individual, his date of birth, address, details of ownership in the company and such other details as may be prescribed.**
5. **The register shall be open to inspection by any member of the company on payment of such fees as may be prescribed.**
6. **Every company shall file a return of significant beneficial owners of the company and changes therein with the Registrar containing names, addresses and other details as may be prescribed within such time, in such form and manner as may be prescribed.**
7. **A company shall give notice to any person (whether or not a member of the company) if it knows or has reasonable cause to believe—**

a) to be a significant beneficial owner of the company;
b) to be having knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge; or
c) to have been a significant beneficial owner of the company at any time during the three years immediately preceding the date on which the notice is issued,
and who is not registered as a significant beneficial owner with the company as required under this section. The information must be given by the concerned person within 30 days of the notice.

8. The company shall:

a) where that person fails to give the company the information required by the notice within the time specified therein; or
b) where the information given is not satisfactory,
apply to the Tribunal within a period of fifteen days of the expiry of the period specified in the notice, for an order that such shares be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares and such other matters as may be prescribed.

9. The Tribunal may, after giving an opportunity of being heard to the parties concerned, make such order restricting the rights attached with the shares within a period of sixty days of receipt of application or such other period as may be prescribed.

10. The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed within a period of one year from the date of such order. If no such application is filed within a period of one year such shares shall be transferred, without any restrictions, to the authority constituted under the IEPF.

11. If any person fails to make a declaration 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 ten lakh rupees or with both and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.

12. If a company, required to maintain register and file the information with the registrar or refuses inspection the company and every officer of the company who is in default shall be punishable with fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.

13. If any person wilfully furnishes any false or incorrect information or suppresses any material information of which he is aware in the declaration made under this section, he shall be liable to action under section 447.

Annual return (section 92):

The annual return shall be signed by a director of the company and the company secretary; and in case, there is no company secretary, by a company secretary in practice.

In case of an One Person Company small company and **private company (is such private company is a startup)**, the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.

Return to be filed with registrar in case promoter's stake changes (section 93): (omitted)

Place of keeping and inspection of registers, returns etc. (section 94)

1. 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.
2. 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.Such particulars of the register or index or return as may be prescribed shall not be available for inspection or for taking extracts or copies.
3. **Provided that such particulars of registers or index or return as may be prescribed shall not be available for inspection or taking extracts.**

AGM (Section 96):

In case of a Government company such other place **within the city, town or village in which the registered office of the company is situate or such other place** as the Central Government may approve in this behalf.

In case of an unlisted company AGM may be held at any place in India if consent is given in writing or by electronic mode by all the members in advance.

EGM (section 100):

The extraordinary general meeting of the company shall be held in India. However in case of wholly owned subsidiary of a company incorporated outside India it can also be held outside India.

Notice (section 101):

A meeting may be called after giving **shorter notice if consent**, in writing or by electronic mode, is given by—

- i. in the case of an **annual general meeting**, by **not less than 95% of the members entitled to vote thereat**; and
- ii. in the case of **any other general meeting**, by members of the company
 - a) holding, if the company has a **share capital**, **majority in number of members entitled to vote** and who **represent not less than 95% of such part of the paid-up share capital of the company as gives a right to vote at the meeting**; or
 - b) having, if the company has **no share capital**, **not less than 95% of the total voting power exercisable at that meeting**.

Where any member of a company is entitled to vote only on some resolution and not on the others, the votes of such members shall be taken only for those resolution for which they are entitled to vote.

Postal ballot (section 110):

Where a company is required to give a facility to its members to vote electronically, it may conduct its business to be conducted by postal ballot at the meeting only.

Resolutions and agreements to be filed (section 17):

1. 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, and if it was not agreed the resolution would have been effective only if passed as a special resolution;
 - 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 and if it was not so agreed would have been effective only if it 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. Omitted
 - f. resolutions requiring a company to be wound up voluntarily passed in pursuance of "section 59 of the Insolvency and Bankruptcy Code, 2016"
 - g. resolutions passed in pursuance of sub-section (3) of section 179 ;
Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions;
Provided further that nothing contained in this clause shall apply to a banking company in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business; and.
 - h. any other resolution or agreement as may be prescribed and placed in the public domain.
- 2. 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:
 - 3. The copy of every resolution which has the effect of altering the articles and the copy of every agreement referred above annexed to every copy of the articles issued after passing of the resolution or making of the agreement.
 - 4. If any company fails to file the resolution or the agreement before the expiry of the period specified
 - such company shall be liable to a penalty of **not less than one lakh rupees** and in case of continuing failure, with further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of twenty-five lakh rupees and
 - every officer of the company who is in default including liquidator of the company, if any, shall be liable to a penalty of **fifty thousand rupees** and in case of continuing failure, with further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.

Dividend

Declaration of dividend (section 123):

1. The company may declare dividend out of:
 - a. out of the profits of the company for that year arrived at after providing for depreciation, or
 - b. out of the accumulated profits of the company
 - c. out of both;
Provided that in computing profits any amount representing unrealised gains, notional gains or revaluation of assets and any change in carrying amount of an asset or of a liability on measurement of the asset or the liability at fair value shall be excluded; or
 - d. 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.
2. The 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 **free** reserves of the company.

Interim dividend (section 123):

As per section 123, the Board of Directors of a company may declare interim dividend during

- **any financial year or**
- **at any time during the period from closure of financial year till holding of the annual general meeting**

out of the

- **surplus in the profit and loss account or**
- **out of profits of the financial year for which such interim dividend is sought to be declared or**
- **out of profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend:**

In case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during immediately preceding three financial years.

Accounts

Consolidation of financial statement (section 129):

1. Where a company has one or more subsidiaries, it shall, in addition to its financial statements, prepare a consolidated financial statement of the company and of all the subsidiaries and associate in the same form and manner as that of its own and in accordance with applicable accounting standards and which shall also be laid before the annual general meeting of the company along with the laying of its financial statement.
2. 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 and associates in Form AOC-1 as per the Companies (Accounts) Rules, 2014.
3. The Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed under the Companies (Accounts) Rules, 2014.

In case of Government company - Section 129 shall not apply to the extent of application of Accounting Standard 17 (Segment Reporting) to the companies engaged in defense production.

Re-opening of accounts on court's orders (section 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
 - a) the Central Government,
 - b) the Income-tax authorities,
 - c) the Securities and Exchange Board,
 - d) any other statutory regulatory body or authority or
 - e) **any other person concerned**
 and an order is made by a court of competent jurisdiction or the Tribunal 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:
2. The court or the Tribunal shall give notice to the Central Government, the Income-tax authorities, the Securities and Exchange Board or any other statutory regulatory body, authority or **the other person concerned** and shall take into consideration the representations, if any, made by them before passing an order
3. The accounts so revised or re-cast, shall be final.
4. **An order for re-opening of books of account shall not be made for a period earlier than eight financial years immediately preceding the current financial year. Where a direction has been issued by the Central Government for**

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keeping of books of account for a period longer than eight years, the books of account may be ordered to be re-opened for such longer period.

Constitution of National Financial Reporting Authority (section 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. 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
 - three full time members and nine part time members.

The terms and conditions and the manner of appointment of the chairperson and members shall be such as may be prescribed:

4. 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:
5. 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.
6. 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

- b) 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;
 - c) It shall 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:—
 - 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;
 - summoning and enforcing the attendance of persons and examining them on oath;
 - inspection of any books, registers and other documents of any person referred to in clause (b) at any place;
 - issuing commissions for examination of witnesses or documents;
 - d) where professional or other misconduct is proved, have the power to make order for—
 - imposing penalty of—
 - not less than one lakh rupees, but which may extend to five times of the fees received, in case of individuals; and
 - not less than five lakh rupees, but which may extend to ten times of the fees received, in case of firms;
 - debarring the member or the firm from engaging himself or itself from practice as member of the Institute of Chartered Accountant of India 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.
7. Any person aggrieved by any order of the National Financial Reporting Authority may prefer an appeal before the Appellate Authority
 8. The Central Government may, by notification, constitute, an Appellate Authority consisting of a chairperson and not more than two other members, to be appointed by the Central Government, for hearing appeals arising out of the orders of the National Financial Reporting Authority.
 9. 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.

10. The fee for filing the appeal shall be such as may be prescribed.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.

Financial statement, Board's report etc. (section 134):

The financial statements, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the

- i. chairperson of the company where he is authorized by the Board or

- ii. **by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or**
- iii. **in the case of One Person Company, only by one director, for submission to the auditor for his report thereon.**

The report of the Board shall be attached to the statements laid before a company in general meeting which shall include —

1. **The web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;**
2. Number of meetings of the Board;
3. Directors' Responsibility Statement;
4. Details in respect of frauds reported by auditors under section 143(12) other than those which are reportable to the Central Government.
5. a statement on declaration given by independent directors under sub-section (6) of section 149;
6. 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. This clause is not applicable to the Government Company as per the Notification
7. explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made—
 - by the auditor in his report; and
 - by the company secretary in practice in his secretarial audit report;
8. particulars of loans, guarantees or investments under section 186;
9. particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in **Form AOC-2**;
10. the state of the company's affairs;
11. the amounts, if any, which it proposes to carry to any reserves;
12. the amount, if any, which it recommends should be paid by way of dividend;
13. 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;
14. the conservation of energy, technology absorption, foreign exchange earnings and outgo.
15. 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;
16. the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;

17. Every listed company and every other public company having a paid up share capital of 25 crore rupees or more calculated at the end of the preceding financial year shall include (as prescribed under the Companies (Accounts) Rules, 2014), in the report by its Board of directors, 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.**

This clause shall not apply to the Government Company 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

18. Such other matters as contain as prescribed under the Companies (Accounts) Rules, 2014. According to which the report of the Board shall also contain–
- i. the financial summary or highlights;
 - ii. the change in the nature of business, if any;
 - iii. the details of directors or key managerial personnel who were appointed or have resigned during the year;
 - iv. the names of companies which have become or ceased to be its subsidiaries, joint ventures or associate companies during the year;
 - v. the details relating to deposits like-
 - a. accepted during the year;
 - b. remained unpaid or unclaimed as at the end of the year;
 - c. whether there has been any default in repayment of deposits or payment of interest thereon during the year and if so, number of such cases and the total amount involved- at the beginning of the year; maximum during the year; at the end of the year;
 - vi. the details of deposits which are not in compliance with the requirements of Chapter V of the Act;
 - vii. the details of significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company's operations in future;
 - viii. the details in respect of adequacy of internal financial controls with reference to the Financial Statements.
 - ix. **A disclosure as to whether maintenance of cost records as specified by the Central Government under section 148 of the Companies Act, 2013, is required by the company and accordingly such accounts and records are made and maintained.**
 - x. **A statement that the company has complied with the provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013**

This Rule (18) shall not apply to OPC or small company.

In case of disclosures referred to in this sub-section have been included in the financial statements, such disclosures shall be referred to instead of being repeated in the Board's report

In case of policies referred to in clause (5) or clause (15) is made available on company's website it shall be sufficient compliance of the requirements if the salient features of the policy and any change therein are specified in brief in the Board's report and the web-address is indicated therein at which the complete policy is available.

The Central Government may prescribe an abridged Board's report, for the purpose of compliance with this section by One Person Company or small company.

Corporate social responsibility (section 135):

The Companies (CSR Policy) Rules, 2014 provides the exhaustive definition of CSR which provides that the CSR means and includes but is not limited to:

- i. Projects or programs relating to activities , **areas or subjects** in Schedule VII to the Act; or
- ii. Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declared CSR Policy of the company subject to the condition that such policy will **include activities, areas or subjects** specified in Schedule VII of the Act.

The following companies are required to constitute a CSR committee:

1. Every company including its holding or subsidiary, and a foreign company defined under section 2(42) of the Companies Act, 2013 having its branch office or project office in India, having
 - i. net worth of rupees 500 crore or more, or
 - ii. turnover of rupees 1000 crore or more or
 - iii. a net profit of rupees 5 crore or moreduring the **immediately preceding financial year** shall constitute a Corporate Social Responsibility Committee of the Board.
2. The CSR Committee shall be consisting of three or more directors, out of which at least one director shall be an independent director. **Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors.**

3. The CSR Committee shall,—

- i. formulate and recommend to the Board, a CSR Policy which shall indicate the activities to be undertaken by the company **in areas or subjects, specified in Schedule VII;**
- ii. recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
- iii. monitor the CSR Policy of the company from time to time.

Explanation: for the purpose of this section “net profit” shall not include such sums as may be prescribed and shall be calculated in accordance with the provisions of section 198

Contents of the CSR Policy :

- a) List of CSR projects or programs which a company plans to undertake **areas or subjects specified in** Schedule VII of the Act, specifying modalities of execution of such project or programs and implementation schedules for the same; and
- b) monitoring process of such projects or programs:
- c) However, the CSR activities do not include the activities undertaken in pursuance of normal course of business of a company.
- d) The Board of Directors shall ensure that activities included by a company in its CSR Policy are related **to areas or subjects specified** in Schedule VII of the Act.
- e) The CSR Policy of the company shall specify that the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a company.

Right of members to copies of audited financial statement (section 136):

A copy of the financial statements, which are to be laid before a company in its general meeting, shall be sent to the following:

- i. every member of the company,
 - ii. to every trustee for the debenture-holder of any debentures issued by the company, and
 - iii. to all persons other than such member or trustee, being the person so entitled.
- Consolidated financial statements, if any, auditor's report and every other document required by law to be annexed or attached to the financial statements shall be annexed with financial statements.

These financial statements shall be sent in **not less than 21 days** before the date of the meeting. **If the copies of the documents are sent less than twenty-one days before the date of the meeting, they shall be deemed to have been duly sent if it is so agreed by members—**

- a) holding, if the company has a share capital, majority in number entitled to vote and who represent not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or
- b) having, if the company has no share capital, not less than 95% of the total voting power exercisable at the meeting.

A listed company having a subsidiary or subsidiaries shall place separate audited accounts in respect of each of subsidiary on its website, if any: Provided also that a listed company which has a subsidiary incorporated outside India (herein referred to as "foreign subsidiary")—

- a) where such foreign subsidiary is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, the requirement of this proviso shall be met if consolidated financial statement of such foreign subsidiary is placed on the website of the listed company;
- b) where such foreign subsidiary is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the holding Indian listed company may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website.

Every company shall be under an obligation to allow every member or trustee of the holder of any debentures issued by the company to inspect the financial statements and documents to be attached to it at its registered office during business hours. **Every company having a subsidiary or subsidiaries shall 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.**

The Negotiable Instrument Act, 1881

Power to direct interim compensation (Section 143A)

1. The court taking the offence u/s 138 may order the drawer of the cheque to pay interim compensation to the complainant:
 - i. in a summary trial or a summons case where he pleads not guilty to the accusation made in the complaint; and
 - ii. in any case upon framing of charge.
2. The interim compensation shall not exceed 20% of the amount of the cheque.
3. The interim compensation shall be paid within 60 days from the date of the order. If the drawer shows sufficient cause the court may extend the time not exceeding 30 days.
4. If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year. The repayment shall be within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.
5. The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973.
6. The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.

Power of Appellate Court to order payment pending appeal against conviction (section 148):

1. In an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of 20% of the fine or compensation awarded by the trial Court. The amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A.
2. The amount shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.
3. The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal.

4. If the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year. The payment shall be within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

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Section 447

Any person who is found to be guilty of fraud

- **involving an amount of at least ten lakh rupees or 1% of the turnover of the company, whichever is lower 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:**
- **where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.**
- **where the fraud involves an amount less than ten lakh rupees or 1% of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to twenty lakh rupees or with both.**

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