

**A. COMPLIANCES UNDER COMPANIES ACT, 2013**

- 1) The Company shall file following Forms and returns with the office of the Registrar of Companies (RoC) under Ministry of Corporate Affairs (MCA) :-
  - i. Form AOC-4 (Filing of Balance Sheet) and Form MGT-7 (Filing of Annual Return) within 30 days and 60 days of Annual General Meeting.
  - ii. Form ADT-1, relating to appointment of Statutory Auditors of the Company within 15 days from the date of Annual General Meeting.
  - iii. PAS-3 for Allotment of Shares, if any, in 30 days from the date of allotment.
  - iv. DIR-12, whenever there is change of Directors, in 30 days from the date of Board Meeting.
  - v. CHG-1 for creation or modification of charges (for loan), in 30 days from the date of such agreement .
  - vi. CHG-4 for satisfaction of charge in 30 days from the date of such satisfaction ( paying back) .
  - vii. Any every Special Resolution passed by the Company in General meeting to be filed in 30 days from the date of passing the resolution .
  
- 2) The Company Shall also maintain following **Statutory Registers** in addition to other compliances:-
  - i. Register of Members
  - ii. Register of Directors/ KMP and their shareholdings
  - iii. Register Charges
  - iv. Register of Transfer
  - v. Registers of Contracts and Arrangements in which Directors/ KMP are interested.
  - vi. Register of Inter Corporate Loans and Investment.
  - vii. and other Statutory Registers as specified under the Act.

**B. Board Process**

**Frequency of Meeting:**

- The First Board Meeting should be held within 30 (Thirty) days from the date of Incorporation of company.
- There should be Minimum four Number of meetings of Board of Director in a calendar year
- Maximum gap between the two meetings should not be more the 120 days.

**Quorum of Board Meeting:**

- 1/3 rd of total strength OR 2 (Two) Director (whichever is higher)
- Where meeting of Board could not be held for want of quorum the meeting shall automatically adjourn to same time, same place at next week (Not being national holiday).

**Vacation of office**

- *Each Director has to be present in at least one Board Meeting either in person or through Video Conference or else he has to vacate his office as Director*

**Participation of Directors in Board Meetings**

- Directors may, apart from attending the meeting physically, participate in the meeting by way of video conferencing & other audio visual means

**Notice of Board Meeting**

- Notice of Board meeting should be given to every director atleast 7 days before meeting at Registered address alongwith detailed note and copy of resolution proposed to be passed ( if need to use it before closure of Minutes in 30 days).

**Notice of an adjourned Board Meeting**

- Notice of an adjourned Meeting shall be given to all Directors including those who did not attend the Meeting on the originally convened date. and unless the date of adjourned Meeting is decided at the Meeting,
- Notice thereof shall also be given not less than seven days before the meeting.

**Attendance at Meetings**

- Every company shall maintain separate attendance registers for recording attendance of the Directors for the Meetings of the Board

**Minutes**

- Every company shall keep Minutes of all Board meetings, General Meetings and various committee meetings in a Minutes Book.
- Within fifteen (15) days from the date of the conclusion of the Meeting of the Board , the draft Minutes thereof shall be circulated
- The Director shall confirm the draft minutes of meeting within Seven (7) days or such days as Board decides about conformity
- Minutes shall be entered in the Minutes Book within thirty (30) days from the date of conclusion of the Meeting
- Minutes, once entered in the Minutes Book, shall not be altered

**Disclosure**

- The Annual Report and Annual Return of a company shall disclose the number and dates of Meetings of the Board and Committees held during the financial year indicating the number of Meetings attended by each Director.

**C. SHAREHOLDERS MEETINGS**

1. The Board has to approve or give authority to any of the director or office to finalise the Notice for convening Shareholders Meeting .
2. General meeting can be conducted after giving notice of 25 clear days to the shareholders. However it can be convened with the approval of 95% of shareholders, at shorter notice
3. Notice of general meeting should be prepared as per Secretarial Standards No. 2 and shall be circulated to all the members, auditors and Directors of the Company.
4. Notice can be served by hand delivery, ordinary post, by speed post and Registered Post or by courier or by e-mail. In case, companies having website, the Notice shall be hosted on the website.
5. General meeting shall commence once the quorum is present. Quorum of the Meeting shall be 2 members physically/ personally present.
6. In case a Body Corporate is member of the Company then they shall authorize any person on their behalf to represent them in general meeting of the Company. The representative of the Body Corporate shall be deemed as member personally present.
7. The Chairman of the Board shall be the Chairman of the Meeting. In case, if chairman is not present, the Directors present shall elect one of themselves to be the Chairman of the meeting.
8. Company has to call Shareholders meeting once in a year which shall be known as Annual General Meeting of the Company where in the Audited Accounts of the Company to be adopted , Dividend recommended by the Board be declared and Auditors appointment be made
9. In case if any other transactions then above is proposed the same shall be considered as Special Business and the explanatory statement giving details of such transaction to be given with such Notice . E Form MGT-14 is required to be filled in respect of the special resolutions and to file it with Ministry of Corporate Affairs within 30days from the date of passing of such Resolution.
10. After conducting general meeting, the Company is required to prepare the minutes of the general meeting. Minutes shall be prepared as per Secretarial Standards No. 2. Minutes shall be entered in minutes books within 30 days from the conclusion of general meeting.

**D. DUTIES OF THE DIRECTORS:-**

1. Director shall **act in accordance with the Articles** of the company.
2. Director shall exercise his duties **with due and reasonable** care, skill and diligence and shall exercise independent judgment.
3. Director shall **act in good faith** in order to promote the object of the company for benefit of members as a whole and in best interest of company, employees, shareholders, community and for protection of environment.
4. Director **shall not involve in a situation in** which he may have a direct or indirect interest that **conflicts, or possibly may conflict**, with the interest of the company.
5. Director shall **not achieve or attempt to achieve any undue gain or advantage** either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.
6. Director shall **not assign his office and any assignment** so made shall be void.

**Penalty for contravention of above duties : INR 1 Lac to INR 5 Lac**

**ADDITIONAL DUTIES OF DIRECTORS**

7. Duty to give declaration of his Interest in other entity / firm in which he is interested directly or indirectly, in form MBP 1 by end of the year and at every change of his interest in the subsequent Board Meeting after such change. Please note that in case of a public limited company, the interested Director cannot participate in the discussion in the meeting for such transaction. When any contracts or arrangement is proposed to be entered into by a company, the directors interest must be notified prior to or in each board meeting where such contract or arrangement is discussed.

**Disclosure by interested Directors:**

Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into:

- a) with a body corporate in which such director or such director in association with any other director, holds more than 2% shareholding of that body corporate, or
- b) with a body corporate in which such director is a promoter, manager, Chief Executive Officer of that body corporate; or

- c) with a firm or other entity in which, such director is a partner, owner or member, as the case may be shall disclose the nature of his concern or interest at the meeting of the Board at which the contract or arrangement is discussed.
8. **Duty to Forward Resignation Letter to ROC:** A copy of the Resignation Letter is required to be forwarded by the concerned Director to the Registrar of the companies within 30 days of the resignation with detailed reason as to the resignation.
9. **Requirement to Stay in India:** At least one director of the company is required to stay in India for total period of not less than 182 days in the previous calendar year. In case you are not likely to be in the country, ensure that you are not the one tasked with being the 'resident director'.
10. A Director must ensure that the company files its financial and annual returns with the registrar of companies and any failure of the company to do so for a period of consecutive three FY years or more will lead to disqualification of the director for a period of five years from all companies. And if the Company fails to repay the deposits and redeems debentures in accordance with its terms, including interest and dividend, for a period of 1 year or more, will lead to disqualification of the director for a period of five years from all companies.
11. Absence of a director from all meetings of the Board in a period of 12 months, with or without seeking leave of the board, will lead to automatic vacation of office. Hence he has to attend at least one Board meeting in 12 months time either personally present or participate through video conference.
12. Any director who is aware of any contravention and who has not objected to the same becomes liable in respect of such acts. **Knowledge or awareness** may be attributable through the board process.
13. **Penalty Imposed on any Loans Advanced to Director:**
- a. Prior to the company extending any loan to a director or any party in which a director is 'interested', ensure that the company is permitted to do so and all applicable formalities have been complied with. Any contravention imposes a penalty on the director himself in addition to the company.
  - b. Thus above mentioned is an Inclusive Checklist of Compliances to be observed by the Company and the Directors of the Company.
14. Assent or Dissent for any Circular Resolution  
The Directors shall give their assent or dissent on circular resolutions passed by the Company and shall ensure that the same is ratified by the Company in subsequent board meeting and ensure that the minutes of subsequent board meeting have taken on record the assent / dissent of directors.

15. The Directors shall necessarily sign the Attendance Slip and this shall be maintained by the Company in order to ensure that Company has in place proper systems to record the presence of Directors in meetings of the Company.
16. As per Section 134 , the Directors Report must contain following statement which is Directors Responsibility Statement, and hence each Director must take care of its compliance by the Company
- (a) in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;
  - (b) the directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period;
  - (c) the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;
  - (d) the directors had prepared the annual accounts on a going concern basis; and
  - (e) the directors, in the case of a ***listed company***, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.
- Explanation.—For the purposes of this clause, the term “internal financial controls” means the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its business, including adherence to company’s policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information;
- (f) the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.
17. The Director need to ensure that in the Directors Report 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 is given and for that purpose Risk Management Policy to be devised by each company;
18. The Board has to ensure that at least One (1) director shall be a person who has stayed in India for atleast 180 days in the previous calendar year. The maximum limit of directors in the Company has been increased to 15 from 12. Beyond 15, the number can be increased by Special Resolution, approval of Central Government has been dispensed with.

19. No company whether public or private can **give any loan** (including loan represented by book debt) or provide any security or guarantee in connection with a loan to a Director or any other person in whom he is interested, except by way of passing a special resolution.
20. A person cannot become directors in more than 20 companies and out of this 20, he cannot be director of more than 10 public companies. Listed Companies may have 1 director elected by Small Shareholder. The amount to be deposited along with notice of nomination of any person to the office of director has been increased from Rs 500 to Rs 100000 or such higher amount as may be prescribed for a public limited company.
21. Appointment of Managing Director, Whole Time Director or Manager to now be approved by special resolution in a General Meeting compared to the earlier provision requiring Ordinary Resolution, if appointment is not in accordance with Schedule V of the Act, then approval of Central Government is also required. Whole Time Director shall not be appointed for a period of more than 5 years .This provisions were applicable to Private Companies as well until 5<sup>th</sup> June 2015. Vide Notification dated 5<sup>th</sup> June 2015, now private limited companies are exempt from the provisions and need to comply its Articles of Association .
22. The appointment of Independent Director (ID) to be approved by the Company in general meeting only and the Board may appoint Additional, Alternate & Nominee Director as the case may be but not the ID.
23. Directors are Officers in Default : The definition of the term “officer in default” includes directors. Various penal provisions in the Companies Act 2013 Act, which seek to penalize a company’s officers would accordingly include company’s directors and charge them for offences committed under the Act
24. Director need to ensure that the Company complies with all its statutory liabilities with respect to Income Tax, VAT, Service Tax, FEMA, Companies Act, Labour Laws, Environment Protection Act, Negotiable Instrument Act, FEMA and other specifically applicable laws to the Company .

Thus, the new Indian Companies Act of 2013 has various clear provisions with respect to the duties and responsibilities of the directors. The law has made the Directors more participative, accountable and transparent.

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