

The Ministry of Corporate Affairs has notified 183 sections and 6 schedules in the Companies Act, 2013 on 26<sup>th</sup> day of March, 2014 to be effective from 01<sup>st</sup> day of April, 2014 and simultaneously Sections dealing with these issues under the Old Companies Act cease to be effective.

These 183 sections are in addition with earlier notified 99 sections dated 12<sup>th</sup> day of September, 2013 and dated 27<sup>th</sup> February, 2014 respectively.

The important highlights of the notified 183 sections are attached for ready reference.

**SUMMARY OF THE IMPORTANT HIGHLIGHTS OF PROVISIONS OF CERTAIN SECTIONS OF COMPANIES ACT, 2013 AS NOTIFIED BY THE MINISTRY OF CORPORATE AFFAIRS ON MARCH 26, 2014**

Section of Companies Act 2013	Particulars	Corresponding sections of the Companies Act, 1956	Comments
2 (31)	Deposit	58A Explanation	Unlike the 1956 Act, the term "deposit" in the 2013 Act includes receipt of money in any other form by a company (i.e. in any form other than by way of deposit or loan)
2 (41)	Financial Year	2 (17)	<ul style="list-style-type: none"> <li>➤ Every Company will be required to follow the period of April-March as its financial year.</li> <li>➤ The Companies presently following the financial year other than April-March will be required to align its financial year as per new requirement within a period of two years.</li> <li>➤ Approval of NCLT will be required to follow a different financial year.</li> </ul>
2 (42)	Foreign Company	591 (1)	LLP incorporated outside India are also foreign companies.
2 (47)	Independent Director	NA	<b>New Definition</b> Independent Director means a director other than MD/WTD/Nominee Director and who satisfies certain conditions prescribed in the Act.
2 (62)	One Person Company	NA	<ul style="list-style-type: none"> <li>➤ OPC means a Company which has only one person as its member; It can be formed by an individual having Indian Citizenship and who must be resident of India;</li> <li>➤ A foreign Body Corporate or Foreign national cannot form OPC;</li> <li>➤ One person can form only one OPC;</li> <li>➤ Where the paid up share capital of an One Person Company exceeds fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees, it shall cease to be entitled to continue as a One Person Company</li> </ul>

2 (85)	Small Company	NA	<p>A Company shall be treated as Small Company if its satisfies the following conditions:</p> <ul style="list-style-type: none"> <li>➤ It should not be a Public Company;</li> <li>➤ It should not be a holding company or subsidiary company;</li> <li>➤ It should not be a company having been formed for charitable purposes;</li> <li>➤ It should not be governed by any Special Act;</li> <li>➤ Its Paid up capital should not be more than Rs. 50 Lac or its turnover should not be more than Rs. 2 Crore;</li> </ul>
3	Formation of Company	12	<p>Formation of OPC has been introduced. OPC can be formed by one person. The Subscriber to OPC to appoint his nominee at the time of submission of incorporation application</p>
4	Memorandum	13, 14 and 20	<ul style="list-style-type: none"> <li>➤ The 2013 Act has dispensed with classification of objects and also omits provisions of section 149(2A) of 1956 Act since it does not require classification of objects as main objects and other objects.</li> <li>➤ The 2013 Act requires classification of objects as (i) objects for which the company is proposed to be incorporated; and (ii) any matter considered necessary in furtherance thereof.</li> </ul>
5	Articles	26, 27, 28 and 29	<ul style="list-style-type: none"> <li>➤ Unlike the 1956 Act, the 2013 Act provides that articles may contain provisions for entrenchment.</li> <li>➤ The Articles may provide for more restrictive conditions or procedures to be followed for alteration of certain provisions and such provisions need to be informed to ROC separately in prescribed form.</li> </ul>
7	Incorporation of Company [except sub-section 7]	15(c), 26, 33, 34(1) and 35	<p>The 2013 Act requires filing of following additional documents at the time of registration with ROC:</p> <ul style="list-style-type: none"> <li>➤ Declaration in Form No. INC.8 by a CA/CS/CWA/Advocate;</li> <li>➤ Affidavit by each of the subscribers to MOA and each of the first directors named in the articles in Form No. INC.9</li> <li>➤ Address for correspondence till its registered office is established;</li> <li>➤ In case of individual, proof of identity &amp; proof of residential address of subscribers/first directors and in case of a body corporate, such particulars as may be prescribed;</li> </ul>

			<ul style="list-style-type: none"> <li>➤ The particulars of each person mentioned in the articles as first director of the company and his interest in other firms or bodies corporate along with his consent to act as director of the company shall be filed in Form No. DIR.12 along with the fee as provided in the Companies (Registration offices and fees) Rules, 2014.</li> </ul>
8	Formation of Companies with charitable objects, etc.[except sub-section 9]	25	<ul style="list-style-type: none"> <li>➤ The words 'sports', 'education', 'research', 'social welfare', 'protection of environment' has been included in the objects of charitable companies.</li> </ul>
11	Commencement of business, etc.	149	<ul style="list-style-type: none"> <li>➤ Unlike the 1956 Act, the provisions regarding commencement of business shall apply to all companies i.e. public or private.</li> <li>➤ A declaration in Form No. INC.21 need to be filed by a director of the company with the Registrar within 180 days of the date of incorporation of company.</li> <li>➤ The 2013 Act does away with the concept of provisional contracts.</li> </ul>
12	Registered office of company	17A, 146 and 147	<ul style="list-style-type: none"> <li>➤ Every company shall gets its name, address, corporate identity number (CIN) along with telephone number, fax number, if any, e-mail and website addresses, if any, printed in all its business letters, billheads, letter papers and all its notices and other official publications.</li> <li>➤ Former name (s) of the company if changed during the last 2 years shall also need to be mentioned.</li> </ul>
13	Alteration of memorandum	16, 17, 18, 19, 21, 23 and 37	<ul style="list-style-type: none"> <li>➤ The 1956 Act required that shifting registered office from one state to another and alteration of object clause should be for one of the specified purposes. There is no such requirement under the 2013 Act.</li> <li>➤ Unlike the 1956 Act, the 2013 Act is time-bound &amp; the Central Government shall dispose of the company's application for change of registered office from one state to another within 60 days.</li> </ul>
23 (1)(b) & 23 (2)(b)	Public offer and private placement	NA	<ul style="list-style-type: none"> <li>➤ A Public Company may issue securities through Public Offer or Right Issue or bonus issue or private placement;</li> <li>➤ A Listed Company proposing to make right issue or bonus issue shall ensure also comply with the regulations prescribed by SEBI in this respect;</li> <li>➤ A Private Company may issue securities through</li> </ul>

42	Offer or invitation for subscription of securities on private placement	67	<p>Right Issue or bonus issue or private placement;</p> <ul style="list-style-type: none"> <li>➤ Private Placement has been defined to mean offer of securities or invitation to subscribe securities to a select group of persons by a Company through issue of a private placement offer letter and subject to certain prescribed conditions;</li> <li>➤ A Company, Public or Private, has been permitted to raise the funds by way of private placement of securities.</li> <li>➤ The offer of securities or invitation to subscribe securities should not be made to more than 200 persons in aggregate in a financial year;</li> <li>➤ Any offer/invitation made to more than 200 persons in a financial year shall be treated as Public Offer;</li> <li>➤ Allotment of Shares have to be completed within a period of 60 days from the receipt of share application money failing which the Company shall be required to refund the entire share application money within 15 days after completion of 60 days;</li> <li>➤ The Share application money received by the Company shall be kept in a separate bank account in a scheduled bank and shall not be utilized for any purpose other than allotment of shares/refund to the investors.</li> <li>➤ The Proposed Offer/Invitation should be previously approved by the shareholders of the Company by way of passing of Special Resolution;</li> <li>➤ The value of such offer or invitation per person shall be with an investment size of not less than Rs. 20,000/- of face value of securities;</li> <li>➤ Return of allotment shall be filed to ROC within 30 days of allotment of shares;</li> </ul>
46	Certificate of shares	84	The 2013 Act clarifies that record of the depository is the prima facie evidence of the interest of the beneficial owner of shares held in depository form. The 1956 Act was silent on this matter.
47	Voting rights	87	Explanation to section 87 of the 1956 Act clarified when dividend shall be deemed to be due on preference shares in respect of any period. The said explanation is omitted by the 2013 Act. This may give rise to litigation on this issue under the 2013 Act.
53	Prohibition on issue of shares at discount	79	Unlike the 1956 Act, the 2013 Act has prohibited issue of shares (other than sweat equity shares) at a discount.

54	Issue of sweat equity shares	79A	A Company, whether Public or Private, may issue sweat Equity Shares to its directors or employees at a discount or for consideration other than cash subject to fulfillment of certain conditions.
55	Issue and redemption of preference shares [except sub-section 3]	80	Section 55 (3) of the 2013 Act provides for redemption of unredeemed preference shares by issue of further preference shares with consent of holders of 75% in value of such preference shares and the approval of the NCLT.
56	Transfer and transmission of securities	108, 109, 110 and 113	Under the 1956 Act, CLB had powers to extend time-limits for delivery of certificates of shares, debentures and debenture stocks allotted or transferred by maximum 9 months on application made by company to shareholders/debenture holders. Under the 2013 Act, there is no scope for such extension of time-limit.
61	Power of limited company to alter its share capital [except proviso to clause (b) of sub-section 1]	94	As per the proviso of clause (b) of sub-section (1) of section 61 of the 2013 Act, no consolidation and division which results in changes in the voting percentage of shareholders shall take effect unless it is approved by the Tribunal on an application made in prescribed manner.
62	Further issue of share capital [sub-section 4 to 6]	81 and 94A (1)	<ul style="list-style-type: none"> <li>➤ Further shares in case of every company, whether public or private, shall be issued by way of right issue or ESOP or preferential issue ;</li> <li>➤ 'Preferential Offer' means an issue of shares or other securities convertible into equity , by a company to any select person or group of persons on a preferential basis;</li> <li>➤ Price of shares to be issued on preferential basis shall be determined on the basis of valuation report to be given b a registered valuer;</li> <li>➤ Preferential issue should be authorized by a special resolution passed in a general meeting;</li> <li>➤ Preferential issue should also comply with conditions laid down in section 42 of the Act with respect to private placement of securities;</li> </ul>
63	Issue of bonus shares	NA	New provision in the 2013 Act for issue of bonus shares subject to satisfaction of specified conditions.
64	Notice to be given to registrar for alteration of share capital	94A (3), 95 and 97	As per the 2013 Act, if a company redeems any redeemable preference shares, notice has to be given to ROC with an altered MOA. There was no such provision in the 1956 Act.
67	Restrictions on	77	The 2013 Act additionally requires that disclosure in respect

	purchase by company or giving of loans by it for purchase of its shares		of voting rights not exercised directly by employees in respect of shares to which the scheme relates shall be made in the report of the board of directors in such manner as may be prescribed.
71	Debentures [except sub-section 9 to 11]	117, 117A, 117B, 117C, 118, 119 and 122	The 2013 Act seeks to simplify the law by making appointment of debenture trustees compulsory only when prospectus is issued to more than 500 persons for subscription of debentures.
73	Prohibition on acceptance of deposits from public	58A	Some of the major highlights of changes in the Deposit Rules, 2013 are as follows: <ul style="list-style-type: none"> <li>➤ Any amount received from the shareholders of a company (whether public or private) will be treated as deposit;</li> <li>➤ Without prejudice to any other liability or action, if the securities for which application money or advance for such securities was received cannot be allotted within 60 days from the date of receipt of the application money or advance for such securities and such application money or advance is not refunded to the subscribers within 15 days from the date of completion of 60 days, such amount shall be treated as a deposit. Any adjustment of the amount for any other purpose shall not be treated as refund.</li> <li>➤ OCDs will be treated as deposit as exemption is only given to CCDs with certain restrictions.</li> </ul>
76	Acceptance of deposits from public by certain companies	NA	<b>New provisions</b> <ul style="list-style-type: none"> <li>➤ Only public companies having net worth of Rs. 100 cr. or turnover of Rs. 500 cr. may be prescribed may invite, accept or renew deposits from the public in addition to the members.</li> <li>➤ Other companies shall not invite, accept or renew deposits from the public (i.e. persons other than members)</li> </ul>
88	Register of members, etc.	150, 151, 152, 152A, 157 and 158	<ul style="list-style-type: none"> <li>➤ Unlike the 1956 Act, the 2013 Act requires that the register of members shall indicate separately equity and preference shares held by each member and residing in India and outside.</li> <li>➤ The register of member is to be maintained in Form MGT.1.</li> <li>➤ In the case of existing companies, registered under the Companies Act, 1956, particulars shall be</li> </ul>

			compiled within six months from the date of commencement of these rules.
92	Annual Return	159, 160, 161 and 162 Schedule V	<p>1. Every Company shall prepare Annual Return in prescribed format as on the date of closing of financial year and disclose the following additional details:</p> <ul style="list-style-type: none"> <li>➤ Meetings of members, or a class thereof, board and its various committees along with attendance details;</li> <li>➤ Remuneration of directors and KMP;</li> <li>➤ Penalties or punishments imposed on the company, its directors or officers and details of compounding of offences and appeals made against such penalty or punishment;</li> <li>➤ Matters related to certification of compliances, disclosures as may be prescribed;</li> <li>➤ Details as may be prescribed in respect of shares held by or on behalf of FIIs indicating their names, addresses, countries of incorporation, registration and percentage of shareholdings held by them and</li> <li>➤ Such other matters as may be prescribed.</li> </ul> <p>2. The Annual Return shall be signed by a Director and Company Secretary. In case the Company does not have Company Secretary, the Annual Return shall also be signed by a Company Secretary in Practice.</p> <p>3. Certification of annual return of all listed companies and public companies having paid-up capital of Rs. 10 cr. or more OR turnover of Rs. 50 cr. or more shall be done by a Practicing Company Secretary in Form No. MGT. 8.</p> <p>4. The extract of the annual return to be attached with the Board's Report in Form No. MGT.9.</p>
93	Return to be filed with Registrar in case promoters' stake changes	NA	<p><b>New Provision</b></p> <p>Every listed company shall file a return in the prescribed form with the Registrar with respect to change in the number of shares held by promoters and top ten shareholders of such company, within fifteen days of such change.</p>
96	Annual general	166	<ul style="list-style-type: none"> <li>➤ Unlike the 1956 Act, under the 2013 Act, the first</li> </ul>



	meeting		<p>AGM should be held within a period of 9 months from date of closing of first FY.</p> <ul style="list-style-type: none"> <li>➤ Every AGM shall be called during business hours, that is, between 9 A.M. to 6 P.M. held on a day other than National Holiday</li> </ul>
101	Notice of Meeting	171 and 172	Notice of every General Meeting shall be given to members, <b>auditors</b> and every director of the Company.
108	Voting through Electronic Means	NA	<p><b>New Provision</b></p> <ul style="list-style-type: none"> <li>➤ Every listed company or a company having not less than one thousand shareholders, shall provide to its members facility to exercise their right to vote at general meetings by electronic means;</li> <li>➤ A member may exercise his right to vote at any general meeting by electronic means and company may pass any resolution by electronic voting system in accordance with the prescribed provisions</li> </ul>
110	Postal ballot	192A	<p>Every Company other than One Person Company or other companies having not more than 200 members is required to transact the following items through Postal Ballot:</p> <ul style="list-style-type: none"> <li>➤ Alteration of the objects clause of the memorandum of Association;</li> <li>➤ Alteration of articles of association in relation to insertion or removal of provisions relating to definition of Private Company;</li> <li>➤ Change in place of registered office outside the local limits of any city, town or village;</li> <li>➤ Change in objects for which a company has raised money from public through prospectus and still has any unutilized amount out of the money so raised;</li> <li>➤ Issue of shares with differential rights as to voting or dividend or otherwise;</li> <li>➤ Variation in the rights attached to a class of shares or debentures or other securities;</li> <li>➤ Buy-back of shares by a Company;</li> <li>➤ Sale of the whole or substantially the whole of an undertaking of a Company;</li> <li>➤ Giving loans or extending guarantee or providing security in excess of the specified limit;</li> <li>➤ Election of a director by Small Shareholders in case of Listed Company;</li> </ul>
117	Resolutions and agreements to be filed	192	Every Company shall file copies of certain specified resolutions /agreements including the following with the ROC within 30 days of passing of such

			<p>resolutions/execution of agreements:</p> <ul style="list-style-type: none"> <li>➤ Special resolutions;</li> <li>➤ Resolutions which were required to be passed as Special Resolutions but which have been agreed to by all the members;</li> <li>➤ Any Board Resolution or agreement, relating to the appointment, re-appointment or renewal of the appointment, or variation of the terms of appointment, of a managing director;</li> <li>➤ Resolution passed by the members regarding voluntary winding up of the Company;</li> <li>➤ Board Resolutions pertaining to matters specified in Section 179(3) including the matters related to buy-back, approval of financial statements and directors' report; issue of securities, investing the funds of the Company, borrowing of money etc.</li> </ul>
118	Minutes of proceedings of general meeting, meeting of board of directors and other meeting and resolutions passed by postal ballot	193, 194, 195 and 197	<p>Introduces following new requirements :</p> <ul style="list-style-type: none"> <li>➤ Minutes to be kept of meeting of any class of shareholders and creditors;</li> <li>➤ Minutes of every resolution passed by postal ballot;</li> <li>➤ Every company shall comply Secretarial Standard(s) 1, 2, 5 &amp; 7 issued by ICSI &amp; as approved by CG.</li> </ul> <p>Further, the 1956 Act contained no specific penalty for tampering with minutes. The new Act provides that if a person is found guilty of tampering with the minutes of the proceedings of meeting he shall be punishable with imprisonment for a term which may extend to 2 years and with fine which shall not be less than Rs. 25,000 but may extend to Rs. 1,00,000/-</p>
119	Inspection of minute books of general meeting [except sub-section 4]	196	<p>The Minutes book of every general meeting and the resolutions passed by way of circulation shall be kept at the registered office of the Company and shall be open to inspection during the business hours by any member of the Company.</p>
120	Maintenance and inspection of documents in electronic form	NA	<p><b>New Provision</b></p> <ul style="list-style-type: none"> <li>➤ Every listed company or a company having not less than one thousand shareholders, debenture holders and other security holders, shall maintain its records, as required to be maintained under the Act or rules</li> </ul>

			<p>made there under, in electronic form.</p> <ul style="list-style-type: none"> <li>➤ In case of existing companies, data shall be converted from physical mode to electronic mode within six months from the date of notification of provisions of section 120 of the Act.</li> </ul>
121	Report on AGM	NA	<p><b>New Provision</b></p> <p>Every Listed Company shall prepare and file with the ROC a report in prescribed format on each AGM within 30 days of holding of AGM.</p>
123	Declaration of dividend	205, 205A (3) and 206	<ul style="list-style-type: none"> <li>➤ Dividend may be declared by a Company out of the current year profits or previous year profits or the money received from the CG/SG for payment of dividend;</li> <li>➤ No company shall declare/pay dividend if the company is in default of repayment of deposits;</li> <li>➤ Transfer of profits to reserves before declaration of dividend is optional;</li> <li>➤ In the event of inadequacy or absence of profits, a Company may declare the dividend out of the accumulated profits earned by the Company in previous years and transferred to reserves subject to compliance with the applicable rules;</li> <li>➤ Interim Dividend may be declared by the Company out of the surplus of profits &amp; loss account and out of the profits of the concerned financial year;</li> <li>➤ In case the Company has incurred loss in the immediately preceding quarter before the date of declaration of interim dividend, the rate of such dividend shall not exceed the average of the rates of dividend declared by the Company during the immediately preceding three financial years.</li> </ul>
128	Books of account, etc., to be kept by company	209 and 214	<ul style="list-style-type: none"> <li>➤ Company may keep books of accounts or other relevant papers in electronic mode in such manner as may be prescribed;</li> <li>➤ Inspection in respect of any subsidiary of the company shall be done only by any person authorised in this behalf by a resolution of the board of directors;</li> <li>➤ Where an investigation has been ordered in respect of the company, the CG may direct that the books of account may be kept for such longer period as it may deem fit.</li> </ul>
129	Financial	210 and 211	<ul style="list-style-type: none"> <li>➤ The financial statement of every company shall be</li> </ul>

	statement		<p>prepared in accordance with the provisions of Schedule III of the Act;</p> <ul style="list-style-type: none"> <li>➤ Every Company having one or more subsidiary/joint venture company/associate company shall prepare consolidated financial statements which shall be placed before the Annual General Meeting of the Company;</li> <li>➤ The provisions relating to what should be the financial year of subsidiary (section 212 of the 1956 Act) have been omitted from the 2013 Act as the concept of uniform financial year of 1<sup>st</sup> April to 31<sup>st</sup> March has been made mandatory for companies under the 2013 Act.</li> </ul>
134	Financial statement, board's report, etc.	215, 216 and 217	<ul style="list-style-type: none"> <li>➤ The Financial Statement including consolidated financial statements shall be approved by the Board of Directors;</li> <li>➤ The financial statement shall be signed by the chairperson of the company where he is authorized by the Board; or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the company secretary of the company, wherever they are appointed;</li> <li>➤ The Board' Report shall contain such particulars as specified under the Act and rules including the extract of the annual return in prescribed format, directors' responsibility statement, number of Board Meetings, the conservation of energy, technology absorption, foreign exchange earnings and outgo, particulars of related party contract etc.;</li> <li>➤ The Board's Report shall be prepared based on the stand alone financial statements of the company and the report shall contain a separate section wherein a report on the performance and financial position of each of the subsidiaries, associates and joint venture companies included in the consolidated financial statement is presented;</li> <li>➤ The Board's Report shall also contain disclosure regarding CSR policy, if applicable on the Company;</li> </ul>
138	Internal audit	NA	<p><b>New Provisions</b></p> <ol style="list-style-type: none"> <li>1. Internal Auditor shall be a CA/CWA or such other professionals as may be decided by the board;</li> <li>2. The following class of companies are compulsory</li> </ol>

			<p>required to appoint internal auditors:</p> <ul style="list-style-type: none"> <li>➤ Every Listed Company;</li> <li>➤ Every unlisted Public Company having: <ul style="list-style-type: none"> <li>a) paid up share capital of Rs. 50 crore or more during the preceding financial year; or</li> <li>b) turnover of Rs. 200 crore or more during the preceding financial year; or</li> <li>c) outstanding loans or borrowings from banks or public financial institutions exceeding Rs. 100 crore or more at any point of time during preceding financial year; or</li> <li>d) Outstanding deposits of Rs. 25 Crore or more at any point of time during the preceding financial year;</li> </ul> </li> <li>➤ Every private company having: <ul style="list-style-type: none"> <li>a) turnover of Rs. 200 crore or more during the preceding financial year; or</li> <li>b) outstanding loans or borrowings from banks or public financial institutions exceeding Rs. 100 crore or more at any point of time during preceding financial year;</li> </ul> </li> </ul> <p>3. An existing company covered under any of the above criteria shall comply with the requirements of section 138 and rules within six months of commencement of such section.</p>
139	Appointment of auditors	224 and 619	<ol style="list-style-type: none"> <li>1. An auditor other than first auditor shall be appointed in the AGM for a period of five years subject to ratification by the members in every year in AGM;</li> <li>2. Where at AGM, no auditor is appointed or reappointed, the existing auditor shall continue to be the auditor of the company;</li> <li>3. Mandatory Rotation of Auditors in case of every Public Company having paid up share capital of Rs. 10 Crore or more; every Private Company having paid up share capital of Rs. 20 Crore or more; every Company having public borrowing of Rs. 50 Crore or more, <b>other than small company and OPC</b>, after completion of one term / two terms of 5 *consecutive years each for Individual/Firm respectively;</li> </ol>

			<p>4. No re-appointment of Auditors for a further period of 5 years after completion of the prescribed term;</p> <p>5. Transitional period of 3 years has been given to the companies for complying with the requirements of this section.</p> <p><i>*Consecutive years shall mean all the preceding financial years for which the individual/firm has been the auditor until there has been a break by five years or more</i></p>
140	Removal, resignation of auditor and giving of special notice [except second proviso to sub-section 4 and 5]	225	<p>1. The application to the Central Government for removal of auditor shall be made in Form <b>ADT-2</b> within 30 days of the resolution passed by the Board;</p> <p>2. The company shall pass SR within 60 days of receipt of CG approval.</p> <p><i>Under the 1956 Act, only ordinary resolution was required.</i></p>
141	Eligibility, qualifications and disqualifications of auditors	226	<p>1. Only a Chartered Accountant or a firm in which majority of partners are practicing in India as Chartered Accountant(s) can be appointed as Auditor of Company;</p> <p>2. No body-corporate other than LLP can be appointed as Auditor;</p> <p>3. In case of LLP or firm, only the partners who are Chartered Accountants can sign on behalf of the firm/LLP;</p> <p>4. The following are the new disqualifications that were not there in the 1956 Act:</p> <ul style="list-style-type: none"> <li>➤ A person or a firm who has <i>*business relationship</i> with the company or its subsidiary or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed;</li> <li>➤ A person whose relative is in the employment of the company as a director or KMP;</li> <li>➤ A person who has been convicted for an offence involving fraud and not less than 10 years elapsed from the date of conviction;</li> <li>➤ A person whose subsidiary or associate company or any other form of entity is engaged on the date of appointment in consulting and specialized services as</li> </ul>

			<p>provided in section 144 of the 2013 Act;</p> <p>5. Even if relative or partner of a person is indebted to the company or its subsidiary or its holding or associate company or a subsidiary of such holding company, the said person shall be disqualified from being appointed as auditor of a company;</p> <p>6. A person or partner of a firm holding appointment as auditor of more than 20 companies (whether public or private or small company or OPC) shall not be eligible for appointment or reappointment as auditor(s);</p> <p><i>*business relationship shall be construed as any transaction entered into for a commercial purpose, except:</i></p> <ul style="list-style-type: none"> <li>• <i>commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Act and the Chartered Accountants Act, 1949 and the rules or the regulations made under those Acts;</i></li> <li>• <i>commercial transactions which are in the ordinary course of business of the company at arm's length price - like sale of products or services to the auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.</i></li> </ul>
143	Powers and duties of auditors and auditing standards	227, 228 and 619	The Audit Report shall state the reasons for any negative remarks or qualifications as given in the report.
144	Auditor not to render certain services	NA	<p><b>New Provision</b></p> <p>1. The Act imposed absolute prohibitions on Auditors to provide, <i>*directly or indirectly</i> following non-audit services to the Company or its holding company or subsidiary company;</p> <ul style="list-style-type: none"> <li>➤ accounting &amp; book keeping services;</li> <li>➤ internal audit;</li> <li>➤ design &amp; implementation of any financial information system;</li> <li>➤ actuarial services;</li> </ul>

			<ul style="list-style-type: none"> <li>➤ investment banking services;</li> <li>➤ investment advisory services;</li> <li>➤ rendering of outsourced financial services;</li> <li>➤ management services; and</li> <li>➤ any other kind of services as may be prescribed</li> </ul> <p><i>* The term 'directly or indirectly' has been given an extended meaning and shall include rendering of services by the auditor in the following manner also:</i></p> <ul style="list-style-type: none"> <li>• <i>In case of an Individual auditor Either <u>himself</u> or through <u>his relative</u> or any other <u>person connected with such individual</u> or through any <u>other entity</u> in which the individual has <u>significant influence or control</u>, whose <u>name or brand or trademark</u> is used by such individual auditor;</i></li> <li>• <i>In case auditor being a firm Either itself or through any of its partners or through its parent, subsidiary or associate entity or through any <u>other entity</u> in which the firm or any partner of firm has <u>significant influence or control</u>, whose <u>name or brand or trademark</u> is used by <u>the firm or any of its partners</u></i></li> </ul>
145	Auditor to sign audit reports, etc.	229 and 230	Section 230 of the 1956 Act required entire auditors' report to be read at general meeting. The 2013 Act requires only qualifications, observations or comments on financial transactions or matters which have any adverse effect on functioning of the company to be read before the general meeting.
146	Auditors to attend general meeting	231	<ol style="list-style-type: none"> <li>1. The Auditor shall be required to attend general meeting of the Company by himself or through his authorised representative who is qualified to be an auditor unless exempted by the Company;</li> <li>2. The Auditor shall have right to be heard at such General meeting on any part of business which concerns him as the Auditor.</li> </ol>
147	Punishment for contravention	232 and 233	<ol style="list-style-type: none"> <li>1. Where the auditor of a company is an audit firm and it is proved that the audit partner or partners has or have acted in a fraudulent manner or abetted or colluded in any fraud by or in relation to or by the company or its directors or officers, the liability, whether civil or criminal, as provided in the Act or any other law for the time being in force, for such an</li> </ol>



			<p>act would be of the audit partner or partners concerned as well as of the firm jointly or severally.</p> <p>2. In case of criminal liability of any audit firm, the liability other than fine, shall devolve only on the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud.</p>
148	Central government to specify audit items of cost in respect of certain companies	233B	Previous approval of CG is no longer required for the appointment of cost auditor.
149	Company to have board of directors	252 and 253	<ol style="list-style-type: none"> <li>1. Appointment of more than 15 directors on the Board would require passing of Special Resolution in the General Meeting of the shareholders of the Company (no need for CG approval);</li> <li>2. Every Company shall appoint at least one director who has stayed in India for a period of at least 182 days during previous calendar year;</li> <li>3. Every Listed Company shall have at least 1/3rd of total directors as independent directors who must possess the qualifications and shall be subject to the code of conduct specified in the Act;</li> <li>4. Every unlisted Public Company having paid up share capital of Rs 10 Crore or more; or having turnover of Rs. 100 Crore or more; or having in aggregate, outstanding loans, debentures and deposits, exceeding Rs. 50 Crore; shall have at least two independent directors;</li> <li>5. Every Listed Company and every other Public Company having paid up share capital of Rs. 100 Crore or more; or having turnover of Rs. 300 Crore or more shall appoint at least one woman director on their Board.</li> </ol>
150	Manner of selection of independent directors and maintenance of data bank of independent directors	NA	<p><b>New Provision</b></p> <ol style="list-style-type: none"> <li>1. The Companies may select independent directors from the databank maintained by any body or institute which may be notified by the Central Government;</li> <li>2. The appointment of independent directors shall be approved by the members in their General Meeting.</li> </ol>
152	Appointment of	254, 255, 256 and	<ol style="list-style-type: none"> <li>1. Every person proposed to be appointed as a director</li> </ol>

	directors	264	<p>shall furnish his DIN and a declaration that he is not disqualified to become a director;</p> <ol style="list-style-type: none"> <li>2. Every person who has been appointed to hold the office of a director shall on or before the appointment furnish to the company a consent in writing to act as such in Form <b>DIR-2</b>;</li> <li>3. The company shall, within thirty days of the appointment of a director, file such consent with the Registrar in Form <b>DIR-12</b></li> </ol>
157	Company to inform DIN to registrar	266E	Time limit for furnishing DIN to ROC has been extended from 1 week to 15 days.
164	Disqualifications for appointment of director	202, 274 & 283 (2)	<ol style="list-style-type: none"> <li>1. The 2013 Act permanently debars a person from directorship of a company who is convicted of any offence and sentenced to imprisonment of 7 years or more;</li> <li>2. A person is disqualified if he has been convicted of the offence dealing with related party transactions at any time during the last preceding 5 years;</li> <li>3. Directorship in Private Companies as well shall fall under the ambit of disqualification due to non-filing of audited financial statements <i>or</i> annual returns for a period of three years or failure to repay deposit/redeem debentures/pay interest on deposit or debentures/pay dividend once declared and such failure continues for 1 year or more;</li> <li>4. Every director shall inform to the company concerned about his disqualification under sub-section (2) of section 164, if any, in Form <b>DIR-8</b> before he is appointed or re-appointed;</li> <li>5. Whenever a company fails to file the financial statements or annual returns, or fails to repay any deposit, interest, dividend, or fails to redeem its debentures, as specified in sub-section (2) of section 164, the company shall immediately file Form <b>DIR-9</b>, to the Registrar furnishing therein the names and addresses of all the directors of the company during the relevant financial years;</li> <li>6. When a company fails to file the Form <b>DIR-9</b> within a period of thirty days of the failure that would attract the disqualification under sub-section (2) of section 164, officers of the company specified in clause (60) of section 2 of the Act shall be the officers in default;</li> <li>7. Upon receipt of the Form <b>DIR-9</b> under sub-rule (2), the Registrar shall immediately register the</li> </ol>

			document and place it in the document file for public inspection; 8. Any application for removal of disqualification of directors shall be made in Form <b>DIR-10</b> .
165	Number of directorship	275, 276, 278 & 279	1. Maximum number of directorships in that an individual can hold including alternate directorship is 20 companies of which not more than 10 can be public companies; 2. The Private Companies which are holding or subsidiary of Public Companies would also be counted for the purpose of limit of 10 public companies.
167	Vacation of office of director	283	Failure to obtain the share qualification, if any, required by the articles of the company is no longer a ground for vacation of office under the 2013 Act as provisions related to share qualification in section 270 of the 1956 Act are omitted from the 2013 Act.
168	Resignation of director	NA	<b>New Provision</b>  1. The director should resign by written notice to the company; 2. The company shall within thirty days from the date of receipt of notice of resignation from a director, intimate the Registrar in Form <b>DIR-12</b> ; 3. Where a director resigns from his office, he shall within a period of thirty days from the date of resignation, forward to the Registrar a copy of his resignation along with reasons for the resignation in Form <b>DIR-11</b>
170	Register of directors and key managerial personnel and their shareholding	303 & 307	Every Company shall keep the Registers of Directors and KMP, including the details of Securities held by them in the Company, Holding Company, Subsidiary Company, Subsidiary of Company's holding Company and Associate Company.
171	Members' right to inspect	304	1. The registers be kept open for inspection at every AGM and shall be accessible to every person attending the AGM; 2. The 2013 Act also confers a right on members to take extracts from the register and to request copies from the register (requested copies to be provided free of cost within 30 days)
173	Meetings of board	285 286	1. The First Board Meeting shall be held within 30 days from the date of incorporation of the Company; 2. At least 4 Board Meetings shall be held in one year

			<p>with a gap of not more than 120 days between two Board Meetings;</p> <p>3. At least 7 days notice in writing shall be required to call a Board Meeting.</p>
175	Passing of resolution by circulation	289	<p>1. The Board can also pass the resolution by way of circulation subject to the condition that the draft resolution along with all the necessary documents has been circulated to all the directors at their registered address and has been approved by majority of them who are entitled to vote on the resolution;</p> <p>2. If at least 1/3 directors require the resolution to be passed in the meeting, then, the Chairperson shall place the same before the meeting;</p> <p>3. A resolution passed by way of circulation shall be placed in the next Board Meeting and shall be recorded in the minutes.</p>
177 & 178	Audit committee & Nomination and remuneration committee and stakeholders relationship committee	292A (no corresponding provision for 178)	<p>1. Following class of Companies are required to constitute Audit Committee as well as Nomination and Remuneration Committee of the Board:</p> <ul style="list-style-type: none"> <li>a) Every Listed Company;</li> <li>b) Every Public Company having paid up share capital of Rs. 10 Crore or more;</li> <li>c) Every Public Company having turnover of Rs. 100 Crore or more;</li> <li>d) Every Public Company having, in aggregate, outstanding loans or borrowings or debentures or deposits exceeding 50 crore rupees or more;</li> </ul> <p>2. The Audit Committee shall consist of minimum of three directors with Independent Directors forming majority;</p> <p>3. The functions of Committee(s) have also been laid down in the Act.</p>
184	Disclosure of interest by director	299 & 305	Every Director shall compulsorily disclose his concern or interest in any Company or Companies or body corporate or other associations of individuals, including his shareholding, whether or not the Company enters into any contract/arrangement with such entity.

186	Loan and investment by company	372A	<ol style="list-style-type: none"> <li>1. The provisions of this section is applicable to all companies i.e. both public &amp; private;</li> <li>2. A company shall unless otherwise prescribed, make investment through not more than 2 layers of investment companies;</li> <li>3. The company shall disclose to the members in the financial statements the full particulars of the loans given, investment made or guarantee given or security provided and the purpose for which the loan is proposed to be utilized by the recipient of the loan or guarantee or security ;</li> <li>4. No company registered under section 12 of the Securities and Exchange Board of India Act, 1992 and also covered under such class or classes of companies which may be notified by the Central Government in consultation with the Securities and Exchange Board, shall take any inter-corporate loan or deposits, in excess of the limits specified under the regulations applicable to such company, pursuant to which it has obtained certificate of registration from the Securities and Exchange Board of India; such a company shall furnish in its financial statement the details of the inter-corporate loan or deposits;</li> </ol>
188	Related party transactions	294, 294A, 297 & 314	<ul style="list-style-type: none"> <li>➤ Related Party Transactions are permitted with the approval of Board;</li> <li>➤ Approval of shareholders will be required for related party transactions if the paid up share capital of the Company exceeds Rs. 10 Crore or if the size of transaction exceeds the prescribed limit.</li> </ul>
190	Contract of employment with MD or WTD	302	Every Company other than Private Company shall keep at its registered office a contract of terms of service of MD or WTD. In case there is no such written contract, a memorandum setting out the terms of service shall be kept at the registered office.
193	Contract by OPC	NA	<p><b>New Provision</b></p> <p>This new section provides for the manner in which certain transactions or contracts are entered between a OPC and its sole member.</p>
196	Appointment of MD, WTD or manager	197A, 267, 317, 384, 385 & 388	<ul style="list-style-type: none"> <li>➤ No MD/WTD/Manager shall be appointed or re-appointed for a term exceeding 5 years and no company shall re-appoint MD/WTD/Manager earlier than 1 year before the expiry of his term;</li> <li>➤ The terms and conditions of appointment shall be</li> </ul>

			<p>subject to approval by the shareholders of the Company;</p> <ul style="list-style-type: none"> <li>➤ If the conditions relating to appointment specified in the Part I of Schedule V are not met, then, approval of Central Government will also be required.</li> </ul>
197	Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits	198, 201, 309, 310 & 387	<p>Every listed company shall disclose in the board's report the ratio of remuneration of each director to the median employee's remuneration and such other details as may be prescribed.</p> <p><b>Explanation.-</b> <i>the expression "median" means</i></p> <ul style="list-style-type: none"> <li>(i) <i>the numerical value separating the higher half of a population from the lower half and the median of a finite list of numbers may be found by arranging all the observations from lowest value to highest value and picking the middle one;</i></li> <li>(ii) <i>if there is an even number of observations, the median shall be the average of the two middle values.</i></li> </ul>
203	Appointment of KMP	269, 316 & 386	<ol style="list-style-type: none"> <li>1. Every Listed Company and every other Public Company having paid up share capital of Rs. 10 Crore or more shall be required to appoint the following whole time Key Managerial Personnel: <ul style="list-style-type: none"> <li>➤ CEO or MD or Manager and in their absence, Whole time Director;</li> <li>➤ Company Secretary; and</li> <li>➤ CFO;</li> </ul> </li> <li>2. The appointment of every KMP shall be made via Board Resolution setting out the terms and conditions of his appointment including his remuneration;</li> <li>3. A whole-time KMP shall not hold office in more than 1 company except in its subsidiary company at the same time;</li> <li>4. In case of existing company if any KMP is holding office in more than 1 company at the same time then such KMP shall have to chose 1 company to hold office of KMP within 6 months of the commencement of this Act i.e. 01<sup>st</sup> April, 2014;</li> <li>5. With approval of board a person may hold the</li> </ol>

			position of MD/Manager in maximum 2 companies.
204	Secretarial audit for bigger companies	NA	<p><b>New Provision</b></p> <ol style="list-style-type: none"> <li>1. Every Listed Company and every other public company having paid up share capital of Rs. 50 Crore or more; or having a turnover of Rs. 250 Crore or more shall be required to obtain a Secretarial Audit Report in Form No. MR.3 from a Company Secretary in Practice;</li> <li>2. The Secretarial Audit Report shall be annexed with the Board's Report which is required to be placed before AGM along with audited financial statements;</li> <li>3. Any qualification/observation mentioned in the Secretarial Audit Report shall be addressed by the Directors in the Board's Report.</li> </ol>
205	Functions of company secretary	NA	<p><b>New Provision</b></p> <p>The functions of the Company Secretary have been specified in the Act which includes reporting to Board about status of compliance of the applicable laws, ensuring compliance with applicable secretarial standards &amp; discharging such other duties as may be specified.</p>
206	Power to call for information, inspect books and conduct inquiries	234	<ol style="list-style-type: none"> <li>1. Where the business of the company is being or has been carried on for a fraudulent or unlawful purpose, every officer of the company who is in default shall be punished for fraud as provided in section 447 of the 2013 Act;</li> <li>2. The CG may, if it is satisfied that circumstances so warrant, direct inspection of books and papers of a company by an inspector appointed by it for the purpose;</li> <li>3. The CG may having regard to the circumstance by general or special order, authorize any statutory authority to carry out the inspection of books of account of a company or class of companies.</li> </ol>
209	Search and seizure	234A	This section empowers the Registrar or inspector to call again the seized books and papers which were returned for a further period of 180 days by an order in writing if they are needed again. This power was not available under the 1956 Act.

212	Investigation into affairs of company by serious fraud investigation office [except References of sub-section (10) of section 66, sub-section (5) of section 140, section 213, sub-section (1) of section 251 and sub-section (3) of section 339 made in sub-section (6) and also sub-sections (8) to (10)]	NA	<ol style="list-style-type: none"> <li>1. The CG reserves the right to order/assign the Investigation into the affairs of the Company to Serious Fraud Investigation Office (SFIO);</li> <li>2. SFIO shall submit its report to CG within the prescribed time period;</li> <li>3. The SFIO shall have the power to arrest the person accused under the prescribed sections of the Act, and the offences under those sections shall be non – bailable</li> </ol>
228	Investigation, etc., of foreign companies	NA	<p><b>New Provision</b></p> <p>The provisions related to investigations applicable mutatis mutandis to foreign companies.</p>
391 (1)	Application of sections 34 to 36 and chapter XX		<p>The provisions of the Act relating to winding up of the Companies shall also apply to the closure of place of business in India of Foreign Company.</p>

- ❖ “Executive Director” means a whole time director as defined in clause (94) of section 2 of the Act.
- ❖ “Total Share Capital” means the aggregate of the paid-up equity share capital and convertible preference share capital.



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