

AUDIT AND AUDITORS (SEC 139- 148)

CHART 1- SEC 139 Appointment of Auditor

<p>APPOINTMENT OF SUBSEQUENT AUDITOR(other than Govt. co)- SEC 139(1)</p> <p>1. Every company shall at the first annual general meeting, appoint an individual or a firm as an auditor.</p> <p>2. He shall hold office from the conclusion of that meeting till the conclusion of its 6th AGM and thereafter till the conclusion of every 6th meeting.</p> <p>3. Such appointment shall be subject to ratification in every AGM till the 6th -AGM by way of passing of an ordinary resolution.</p> <p>If the appointment is not ratified by the members of the company, the Board of Directors shall appoint another individual or firm as its auditor or auditors.</p> <p>*Amendment 1</p> <p>CONDITIONS FOR APPOINTMENT</p> <p>1. Written consent and certificate u/s 141 must be taken from auditor before appointment.</p> <p>2. The Company shall inform the auditor concerned of his or its appointment and also file a notice of such appointment with the Registrar in Form ADT-1 within 15 days of the meeting in which the auditor is appointed.</p>	<p>The manner and procedure of selection</p> <p>Who recommend?</p> <p>In case of a company that is required to constitute an Audit Committee(sec 177), such committee, and in cases where such a committee is not required to be constituted, the Board shall recommended name of auditor.</p> <p>Considerable points</p> <p>a. qualifications and experience of the auditor.</p> <p>b. any pending proceeding relating to professional matters of conduct against the proposed auditor before the ICAI or any competent authority or any Court.</p> <p>Procedure</p> <p>1. Audit committee recommend to BOD</p> <p>2. If BOD agrees, recommend to members</p> <p>3. if BOD not agree, refer back to committee for reconsideration ,along with reasons.</p> <p>4. If committee decides not to reconsider than BOD shall record reasons for its disagreement and send its own recommendation the members.</p> <p>Requirement of Audit committee</p> <p>1. Listed companies</p> <p>2. all public companies with</p> <ul style="list-style-type: none"> • a paid up capital of 10 cr. rupees or more; • turnover of 100 crore rupees or more • having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding 50 crore rupees or more. 	<p>Term of Auditor- sec 139(2)</p> <p>1.</p> <p>a. Listed company or</p> <p>b. all unlisted public companies having paid up share capital of Rs. 10 crore or more,</p> <p>c. all private limited companies having paid up share capital of Rs. 50 crore or more,</p> <p>d. all companies having public borrowings from financial institutions, banks or public deposits of Rs. 50 crore or more,</p> <p>shall not appoint or reappoint-</p> <p>a. an individual as auditor for more than 1 term of 5 consecutive Years; and</p> <p>b. an audit firm as auditor for more than 2 terms of 5 consecutive years.</p> <p>2. Auditor who has completed his term shall not be eligible to for reappointment for 5 years from completion of his term</p>	<p>Other provisions related with sec 139(2)</p> <p>1. Applicability for existing companies- Every company, existing on or before the commencement of this Act, which is covered in this section, shall comply with requirement of this section with in a period which shall not be later than the date of first AGM, after 3 years from the date of commencement of this Act.</p> <p>2. Audit firm having common partner to other firm, whose tenure has expired shall not to be appointed for 5 years.</p> <p style="text-align: right;">Prepared by Jayesh Bhandari</p>
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CHART 2 Sec 139

Sec 139(3) & (4)

- 1. Same network-** The incoming auditor shall not be eligible if he is associated with the outgoing auditor under the same network of audit firms i.e. includes the firms operating / functioning under the same brand name, trade name or common control.
- 2.** If auditor, who certifies the financial statements of the company, retires from the firm and joins another firm, such other firm shall also be ineligible to be appointed for a period of 5 years.
- 3.** Members can resolve to provide that:
 - (a)** In the audit firm, the auditing partner and his team shall be rotated at or
 - (b)** The audit shall be conducted by more than one auditor.
- 4. Holding office prior to the commencement of Act -** the period for which the auditor is holding office prior to the commencement of this act will also be counted in calculating the period of 5 years or 10 years as the case may be.

Sec 139(5) subsequent auditor in Govt.co.

Comptroller & Auditor General shall appoint the auditor within a period of **180 days** from the commencement of the financial year and the auditor shall hold office till the conclusion of AGM.

Sec 139(7) 1st Auditor in Govt.co

It shall be appointed by the C&AG -

- a. within 60 days** from the date of incorporation and
- b.** in case of failure the Board shall appoint auditor **within next 30 days** and
- c.** On failure by BOD, it shall inform the members, who shall appoint the auditor **within 60 days** at an EGM. such auditor shall hold office till conclusion of 1st AGM.

Sec 139(6) Appointment of 1st Auditor (other than Govt co.)

- a.** 1st Auditor of the Company shall be appointed by the Board **within 30 days** of its date of registration and
- b.** in case of failure to do so by Board, the members shall be informed and they shall appoint the same **within 90 days** from incorporation
- c.** he shall hold office till conclusion of first AGM.

Sec 139(9) & (10) Reappointment

- At any annual general meeting, a retiring auditor shall be reappointed as auditor of the company except under the following circumstances:
 - (a)** he is not qualified for re-appointment.
 - (b)** he has given the company a notice of his unwillingness to be reappointed.
 - (c)** a special resolution has been passed at that meeting appointing somebody else instead of him or providing expressly that retiring auditor shall not be re-appointed.
- Where at any AGM, no auditor is appointed or re-appointed, the existing auditor shall continue to be the auditor of the company.

Sec 139(8) Casual vacancy

Other than government co.

(a) The Board shall have power to fill the casual vacancy within 30 days.

(b) If vacancy caused to resignation, appointment should be approved by the company in GM convened within 3 months of the recommendation of the Board and

(c) auditor shall hold the office till the conclusion of the next AGM.

In case of government company-

a. In case of a company whose accounts are subject to audit by an auditor appointed by the CAG, such vacancy should be filled by the CAG within 30 days.

b. In case the CAG does not fill the vacancy within the said period, the Board of Directors shall fill the vacancy within next 30 days.

Sec 139(11) Recommendation of audit committee

In case of existence of Audit Committee, all appointments, including the filling of casual vacancy of an auditor shall be made after taking in to account the recommendation of Audit committee.

Prepared by Jayesh Bhandari

CHART 3 SEC 140 Removal, Resignation of Auditor

<p>REMOVAL OF AUDITOR BEFORE EXPIRY OF TERM- SEC 140(1)</p> <hr/> <p>Provision-</p> <ol style="list-style-type: none"> 1. Obtaining the prior approval of the Central Government by within 30 days of resolution passed by the Board. 2. The company shall hold the general meeting within 60 days of receipt of approval of the Central Government for passing the special resolution. 3. The auditor concerned shall be given a reasonable opportunity of being heard. <p>Prepared by JB</p>	<p>RESIGNATION OF AUDITOR- SEC 140(2)</p> <hr/> <p>Auditor shall file a statement indicating the reasons and other facts relevant with regard to his resignation as follows:</p> <ol style="list-style-type: none"> (i) In case of other than Government Company - within 30 days from the date of resignation, to the company and the registrar. (ii) In case of Government Company or government controlled company- with in 30 days from the resignation, to the company and the Registrar and also file the statement with the CAG. <p>Fine in case of default in compliance with sec 140(3)</p> <hr/> <p>*Amendment 2</p>	<p>APPOINTMENT OF AUDITOR OTHER THAN RETIRING AUDITOR- SEC 140(4)</p> <hr/> <ol style="list-style-type: none"> 1. Requirement- Special notice shall be required from members proposing to move a resolution to appoint a person other than the retiring auditor or to provide that the retiring auditor shall not be re-appointed. 2. Such special notice shall not be required in case where the retiring auditor has completed a consecutive tenure of 5 years or, as the case may be, ten years, as provided under section 139 (2). <p>Procedure-</p> <ol style="list-style-type: none"> (i) copy to auditor- Company, on receipt of such special notice for removing auditor, send a copy of the same to the retiring auditor. (ii) Representation by auditor- Company send Auditor's representation to all the members. if the copy of representation is not so sent , copy thereof should be filed with the Registrar. (iii) such representation should be of a reasonable length and not too long. (iv) For circulation to members, it should not be received by the company too late. (v) Readout the statement, if it is not so notified to members because it was too late or because of company's default. If the Tribunal is satisfied on an application either of the company or of any other aggrieved person that this right is being abused by the auditor, then, the copy of the representation may not be sent and the representation need not be read out at the meeting. 	<p>REMOVAL BY TRIBUNAL- SEC 140(5)</p> <hr/> <ol style="list-style-type: none"> 1. Conditions for removal - NCLT can either – <ul style="list-style-type: none"> ➤ suomoto or ➤ on an application from CG , or ➤ on an application from person concerned, can direct the company to change the auditor if it is satisfied that the Auditor of a Company has, whether directly or indirectly- <ul style="list-style-type: none"> • acted in a fraudulent manner or • abetted or colluded in any fraud, by, or in relation to, the company or its directors or officers. 2. Application by CG- In the case of application being made by the CG and the NCLT being satisfied that change of auditor is required, it shall within 15 days of the receipt of such application, make an order to remove the auditor and the CG may appoint another auditor in his place. 3. Punishment- Where the auditor, whether against whom the final order as aforementioned is passed by the NCLT - <ol style="list-style-type: none"> a. he shall not be eligible to be appointed as an auditor of any company for a period of 5 years from the date of passing of such order. and b. he shall also be liable for action under Section 447 which provides for punishments for frauds.
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CHART 4 SEC 141 – QUALIFICATION AND DISQUALIFICATION OF AUDITOR

<p>ELIGIBILITY OF AUDITOR- SEC 141 (1) & (2)</p> <hr/> <p>a. Only a CA (individual) or a firm where majority of partners practicing in India are CA's can be appointed as auditor.</p> <p>b. Where a firm including a LLP is appointed as an auditor of a company, only the partners who are chartered accountants shall be authorized to act and sign on behalf of the firm.</p>	<p>DISQUALIFICATION OF AUDITOR- SEC 141(3)</p> <p>(a) A body corporate, except LLP;</p> <p>(b) An officer or employee of the company;</p> <p>(c) Any partner/employee of officer or employee of company;</p> <p>(d) A person who himself or his relative/partner-</p> <p style="padding-left: 20px;">(i) is holding any security or interest in the C/A/S/H; or subsidiary of such holding</p> <p style="padding-left: 20px;">Provided that the relative may hold security or interest in the company of face value not exceeding <u>Rs. 1 Lac.</u></p> <p style="padding-left: 20px;">Provided further that in the event of acquiring any security or interest by a relative, above the threshold limit. Rs. 1lakh, the corrective action to maintain the limits shall be taken by the auditor within 60 days of such acquisition or interest;</p> <p style="padding-left: 20px;">(ii) is indebted to the C/A/S/H; or subsidiary of such holding , in excess of <u>rupees 5 lakh</u></p> <p style="padding-left: 20px;">(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the C/A/S/H; or subsidiary of such holding , in excess of <u>1 lakh rupees.</u></p>	<p>(e) A person or a firm who, whether directly or indirectly, has "business relationship" with the C/A/S/H</p> <p>These transactions are not covered in "business relationship"–</p> <p>(i) professional services permitted to be rendered by an auditor under the Act and the Chartered Accountants Act, 1949</p> <p>(ii) 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.</p> <p>(f) A person whose relative is a director or is in the employment of the company as a director or KMP</p> <p>(g) A person who is in full time employment elsewhere or Person who is auditor of more than 20 companies;*</p> <p>*(other than One person company, Dormant company, Small company and Private companies having paid up share capital less than 100 crore rupees.)</p>	<p>(h) A person who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction;</p> <p>(i) a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company.</p> <p>Explanation.—For the purposes of this clause, the term "directly or indirectly" shall have the meaning assigned to it in the Explanation to section 144.</p> <p>Getting disqualification after the appointment Sec 141 (4)</p> <hr/> <p>where a person appointed as an auditor of a company incurs any of the disqualifications mentioned as above after his appointment, <u>he shall vacate his office</u> as such auditor and such vacation <u>shall be deemed to be a casual vacancy</u> in the office of the auditor.</p> <p style="text-align: right;">Prepared By Jayesh Bhandari</p>
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CHART 5

<p>REMUNERATION OF AUDITOR- SEC 142</p> <p>a. shall be fixed in its general meeting or in such manner as may be determined therein.</p> <p>b. Board may fix remuneration of the first auditor appointed by it.</p> <p>c. The remuneration will be in addition to the out of pocket expensed incurred by the auditor in connection with the audit of the company and any remuneration paid to him for any other service rendered by him at the request of the company.</p>	<p>PROHIBITED SERVICES OF AUDITOR- SEC 144</p> <p>1. An auditor shall provide only such other services as are approved by the BOD or the audit committee</p> <p>2. An auditor shall not provide these services to the C/S/H, namely:-</p> <p>(a) accounting and book keeping services;</p> <p>(b) internal audit;</p> <p>(c) design and implementation of any financial information system;</p> <p>(d) actuarial services;</p> <p>(e) investment advisory services;</p> <p>(f) investment banking services;</p> <p>(g) rendering of outsourced financial services;</p> <p>(h) management services; and</p> <p>(i) any other kind of services as may be prescribed.</p>	<p><i>Explanation.</i>— the term “directly or indirectly” shall include rendering of services by the auditor,—</p> <p>(i) in case of auditor being an individual, either himself or through his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual;</p> <p>(ii) in case of auditor being a firm, either itself or through any of its partners or through its parent, subsidiary or associate entity or through any other entity, whatsoever, in which the firm or any partner of the firm has significant influence or control, or whose name or trade mark or brand is used by the firm or any of its partners.</p> <p>Prepared by JB</p>	<p>SIGNING OF AUDIT REPORT- SEC 145</p> <p>a. Auditor shall sign the auditor’s report of the company.</p> <p>b. Any qualifications, observations or comments on financial transactions matters, which have any adverse effect on the functioning of the company mentioned in the auditor’s report shall be read before the company in general meeting and shall be open to inspection by any member of the company.</p>	<p>AUDITOR TO ATTEND GENERAL MEETING- SEC 146</p> <p>a. All notices of any general meeting shall be forwarded to the auditor of the company.</p> <p>b. He must attend any general meeting either by himself or through his authorised representative (qualified to be an auditor).</p> <p>c. He shall have right to be heard at such meeting on any part of the business which concerns him as the auditor.</p>	<p>PUNISHMENT FOR CONTRAVENTION- SEC 147</p> <p>For the Company - Fine Rs. 25,000 to 5,00,000,</p> <p>For every officer in default – fine Rs. 10,000 to Rs. 1,00,000</p> <p>For the Auditor-</p> <p>a. Contravenes any of the provisions of section 139, 143, 144 or section 145- fine Rs. 25,000 to Rs. 5,00,000 or 4 times the remuneration of the auditor, whichever is less and</p> <p>b. if an auditor has contravened such provisions knowingly or willfully with the intention to deceive the company / shareholders creditors/authorities, he shall be punishable with imprisonment for a term which may extend to 1 year and with fine Rs. 1,00,000 to Rs. 25,00,000 or 8 times the remuneration of the auditor, whichever is less</p> <p>c. Refund of remuneration</p> <p>d. Payment of damages</p> <p>* Amendment 3</p>
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CHART 6 - SEC 143 POWER AND DUTIES OF AUDITOR

POWERS OF AUDITOR- SEC 143(1)	DUTY TO AUDIT REPORT 143(2)	Matters included in Audit Report Sec 143(3)	Other matter (Rule 11)
<p>a. Auditor can access books of accounts and vouchers</p> <p>b. seek such information and explanation from the company</p> <p>c. enquire such matters as he considers necessary</p> <p>Matters of enquiry-</p> <p>1. whether <u>loans and advances</u> on the basis of security have been properly secured and the terms are not prejudicial to the interest of the company or its members.</p> <p>2. whether <u>the transactions</u> represented by book entries are not prejudicial to the interests of the company .</p> <p>3. whether the <u>assets of the company</u> (except an investment company or a banking company) like shares, debentures and other securities, have been sold at a price less than that at which they were purchased by the company and if sale, such sale is bona fide and the price realised is considered to be reasonable.</p> <p>4. whether <u>loans and advances</u> made by the company have been shown as deposits or not.</p> <p>5. whether no <u>personal expenses of directors and officers</u> of the company have been charged to revenue account.</p> <p>6. whether cash has actually been received in respect of shares stated to have been <u>allotted for cash</u> and if no cash has actually been so received, whether the position as stated in the account books and balance sheet is correct, regular and not misleading.</p>	<p>1. Prepare report- Auditor shall make a report to the members on the accounts and FS examined by him.</p> <p>2. Consider Provisions and Standards- The Audit report should take into consideration the provisions of this Act, the Accounting and Auditing standards.</p> <p>3. True and fair view- The Audit report should state that to the best of his information and knowledge, the said accounts and financial statements give a true and fair view.</p> <p>Prepared by JB</p>	<p>1. whether he <u>obtained all necessary information</u> and explanations</p> <p>2. <u>Whether proper books of account as have been kept</u> and proper returns have been received from branches not visited by him;</p> <p>3. Whether <u>the branch audit report</u> prepared by a person other than the company's auditor has been sent to him;</p> <p>4. Whether the company's balance sheet and P&L are in <u>agreement</u> with the books of account and returns;</p> <p>5. Whether the FS comply with the AS</p> <p>6. <u>The observations or comments</u> of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company;</p> <p>7. Whether any <u>director is disqualified</u> from being appointed as a director under section 164 (2);</p> <p>8. <u>any qualification, reservation or adverse remark</u> relating to the maintenance of accounts and other matters connected therewith;</p> <p>9. whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls;</p> <p><i>For the financial years commencing on or after 1st April 2015, the report of auditor shall state about existence of adequate internal financial controls system and its operating effectiveness.</i></p>	<p>1. whether the Co. has disclosed the impact, if of <u>pending litigations</u> on its financial position in its FS.</p> <p>2. whether the Co. has made <u>provision, for material foreseeable losses</u></p> <p>3. whether there has been any delay in transferring amounts, , to the <u>Investor Education and Protection Fund</u> .</p> <p>4. whether the Co. had provided <u>disclosures in its FS as to holding as well as dealings in specified bank note</u> (old Rs.500 and Rs.1000 notes)during the period from 8th Nov 2016 to 30th Dec 2016 and if so, whether these are in accordance with the books of accounts maintained by the company.</p>

CHART 7 – SEC 143

Reasons for qualification- Sec 143(4)

The auditor is required to provide the reasons, where any of the matters required to be included in the Audit Report under this Clause is answered in negative or with a qualification.

Sec 143(14)

The provision of section 143 applies mutatis-mutandis to Cost Accountants in practice conducting Cost Audit under section 148 or the CS in practice conducting secretarial audit under section 204.

POWER OF CAG IN CASE OF GOVT. COMPANIES- SEC 143(5), (6) and (7)

1. the Audit Report shall include the directions, issued by the CAG, the action taken and the impact thereof on the Company's accounts and financial statement.
2. The CAG shall have a right to the conduct a supplementary audit of financial statement within 60 days from the date of receipt of the audit report.
3. Any comments given by the CAG upon, or supplement to, the audit report shall be sent by the company to every person entitled to copies of audited FS and also be placed before the AGM .
4. The CAG may, by an order, cause test audit to be conducted of the accounts of company and the provisions of section 19A of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, shall apply to the report of such test audit.

Prepared by Jayesh Bhandari

BRANCH AUDIT- SEC 143(8)

1. Accounts of branch office can be audited by –
 - The company's auditor, or
 - Any other person, qualified to be and appointed as an auditor or
 - In case of foreign branch, by the company's auditor or by an accountant or a competent person appointed in accordance with the prevailing laws of the foreign country.
2. The branch auditor shall prepare a report on the accounts of the branch examined by him and the company's auditor shall deal with such report in his audit report in a manner as he considers necessary.

DUTY TO COMPLYING WITH SA - SEC 143(9), (10) and (11)

1. Every auditor must comply with the SA While the CG prescribes the SA or addendums thereto, it shall consult with and take recommendations of the ICAI and the National Financial Reporting Authority (NFRA).
2. Till such time the SA are notified by the CG, the SA specified by the ICAI are deemed to be the auditing standards.
3. The CG may, in consultation with NFRA direct to auditor to include a statement on specified matters, in audit report, in respect of specified class of companies .

DUTY TO REPORTING OF FRAUDS - SEC 143 (12),(13) and (15)

1. **Report to CG-** If the auditor has reason to believe that an offence involving fraud which involves or is expected to involve individually an amount of rupees 1 crore or above is being or has been committed against the company by officers or employees of the company, he shall report the matter to the CG immediately but not later than 60 days of his knowledge.
2. **Procedure-**
 - a. auditor shall forward his report to the Board or the Audit Committee, immediately after he comes to knowledge of the fraud, seeking their reply within 45 days.
 - b. on receipt of such reply the auditor shall forward his report and such reply along with his comments (on such reply) to the CG within 15 days of receipt of such reply .
 - c. in case the auditor fails to get any reply within of 45 days, he shall forward his report to the CG along with a note containing the details of his report.
 - d. The report shall be on the letter-head of the auditor containing postal address, e-mail address, contact number, Membership Number and be signed & sealed by the auditor and same shall be sent through Registered Post with AD/speed post followed by an e-mail in confirmation to the MCA

CHART 8 – SEC 143 and 148 COST AUDIT

<p>3. Report to Audit committee or Board- In case of a fraud involving lesser than Rs.1 Crore, the auditor shall report the matter to Audit Committee or to the Board immediately but not later than 2 days of his knowledge of the fraud.</p> <p>Matters included in report-</p> <p>(a) Nature of Fraud with description; (b) Approximate amount involved; and (c) Parties involved.</p> <p>4. Included in Board Report - The following details of each of the fraud reported to the Audit Committee or the Board under above during the year shall be disclosed in the Board's Report:-</p> <p>(a) Nature of Fraud with description; (b) Approximate Amount involved; (c) Parties involved, if remedial action not taken; and (d) Remedial actions taken.</p> <p>5. Punishment for non compliance- If any auditor, cost accountant or company secretary in practice fails to comply with the provisions of section 143 (12) for reporting of an offence involving fraud, they will be punished with a fine of minimum Rs. 1 lakh and upto Rs. 25 lakhs.</p> <p>but they will not be punished if Auditor has done such reporting in good faith.</p>	<p style="text-align: center;">COST AUDIT – SEC 148</p> <hr/> <p>1. Maintain cost records</p> <p>a. CG has power to issue direction that such classes of companies, engaged in the production of goods or providing services, required to include cost records in their books of account. These companies include Foreign Companies .</p> <p>b. These companies are divided in 2 parts-</p> <p style="text-align: center;">Regulated Sectors</p> <p><u>Gross turnover</u> of companies covering products and services <u>Rs.35 crore or more-</u></p> <p>(i) Telecommunication services made available to users by means of any transmission or reception of signs, signals, images etc. (other than broadcasting services) and regulated by the Telecom Regulatory Authority of India.</p> <p>(ii) Generation, transmission, distribution and supply of electricity regulated by the relevant regulatory body or authority under the Electricity Act, 2003, other than for captive generation.</p> <p>(iii) Petroleum products regulated by the Petroleum and Natural Gas regulatory Board.</p> <p>(iv) Drugs and Pharmaceutical.</p> <p>(v) Sugar and industrial alcohol.</p>	<p style="text-align: center;">Non-Regulated Sectors</p> <p><u>Gross turnover</u> of companies covering products and services <u>Rs.35 crore or more.</u></p> <p>(i) Machinery and mechanical appliances used in defence, space and atomic energy sectors excluding any ancillary item or items.</p> <p>(ii) Turbo jets and turbo propellers.</p> <p>(iii) Tyres and Tubes.</p> <p>(iv) Steel; Cement.</p> <p>(v) Production, import and supply or trading of following medical devices, such as heart valves; orthopaedic implants; pacemaker (temporary and permanent), etc.</p> <p>The rule excludes the foreign companies having only liaison offices.</p> <p>c. type of records- particulars relating to –</p> <ul style="list-style-type: none"> • the utilization of material or • labour or • to other items of cost as may be prescribed. <p>Prepared by Jayesh Bhandari</p>	<p>2. Cost Audit</p> <p>a. applicability</p> <p>For “Regulated Sectors” -</p> <ul style="list-style-type: none"> ✓ if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is Rs. 50 crore or more and ✓ the aggregate turnover of the individual product(s) or service(s) is Rs.25 crore or more. <p>For “Non-Regulated Sectors”</p> <ul style="list-style-type: none"> ✓ if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is Rs. 100 crore or more and ✓ the aggregate turnover of the individual product(s) or service(s) is Rs. 35 crore or more. <p>b. Non-applicability of Cost Audit-</p> <p>(i) whose revenue from exports, in foreign exchange, exceeds 75% of its total revenue; or</p> <p>(ii) which is operating from a special economic zone.</p> <p>(iii) which is engaged in generation of electricity for captive consumption through Captive Generating Plant.</p>
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CHART 9 -SEC 148 COST AUDIT

3. Appointment of Cost Auditor

- a. the Board shall appoint an individual who is a cost accountant in practice or a firm of cost accountants in practice as cost auditor and the remuneration of such cost auditor shall be ratified by shareholders subsequently.
- b. Cost auditor will be appointed with in 180 days from the commencement of FY
- c. person appointed under section 139 as an auditor of the company shall not be appointed for conducting the audit of cost records.
- d. the auditor conducting the cost audit shall comply with the cost auditing standards.
- e. Company shall inform the cost auditor of his appointment and file a notice to CG with in 30 days of the BM or with in a period of 180 days from the commencement of FY which ever is earlier.
- f. The cost auditor appointed as such shall continue his office till expiry of 180 days from closure of FY or till submission of cost audit report.

4. The qualifications, disqualifications, rights, duties and obligations of cost auditor – same as company Auditor

5. Removal of Cost Auditor

Cost Auditor can be removed by a board resolution after giving reasonable opportunity of being heard and recording the reasons for such removal in writing.

6. Casual Vacancy

Casual vacancy due to resignation, death or removal shall be filed by the BOD with in 30 days and inform to CG about new appointment with in 30 days.

7. Submission of Cost Audit Report

a. to the BOD- Cost Auditor shall submit the cost audit report, along with his reservation or qualification or observation with in 180 days from the closure of FY.

b. To the CG- A company shall within 30 days from the date of receipt of a copy of the cost audit report furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein.

8. Duty to Report on Fraud

The provision of section 143 (12) also apply to cost auditor during performance of his function.

9. Penalty in case of Default

- a. the company and every officer of the company who is in default shall be punishable in section 147(1)
- b. the cost auditor who is in default shall be punishable in the section 147(2) to (4)

Prepared by Jayesh Bhandari

* 1- Provision of Ratification shall be omitted under Companies (Amendment) Act 2017

*2- Penalty for contravention 140(3): If the auditor does not comply with aforesaid provision, he or it shall be liable to a penalty of 50,000 rupees or an amount equal to the remuneration of the auditor, whichever is less, and in case of continuing failure, with a further penalty of 500 rupees for each day after the first during which such failure continues, subject to a maximum of 2 lacs rupees.

*3 Sec 147 "Provided that in case of criminal liability of an audit firm, in respect of liability other than fine, the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable.