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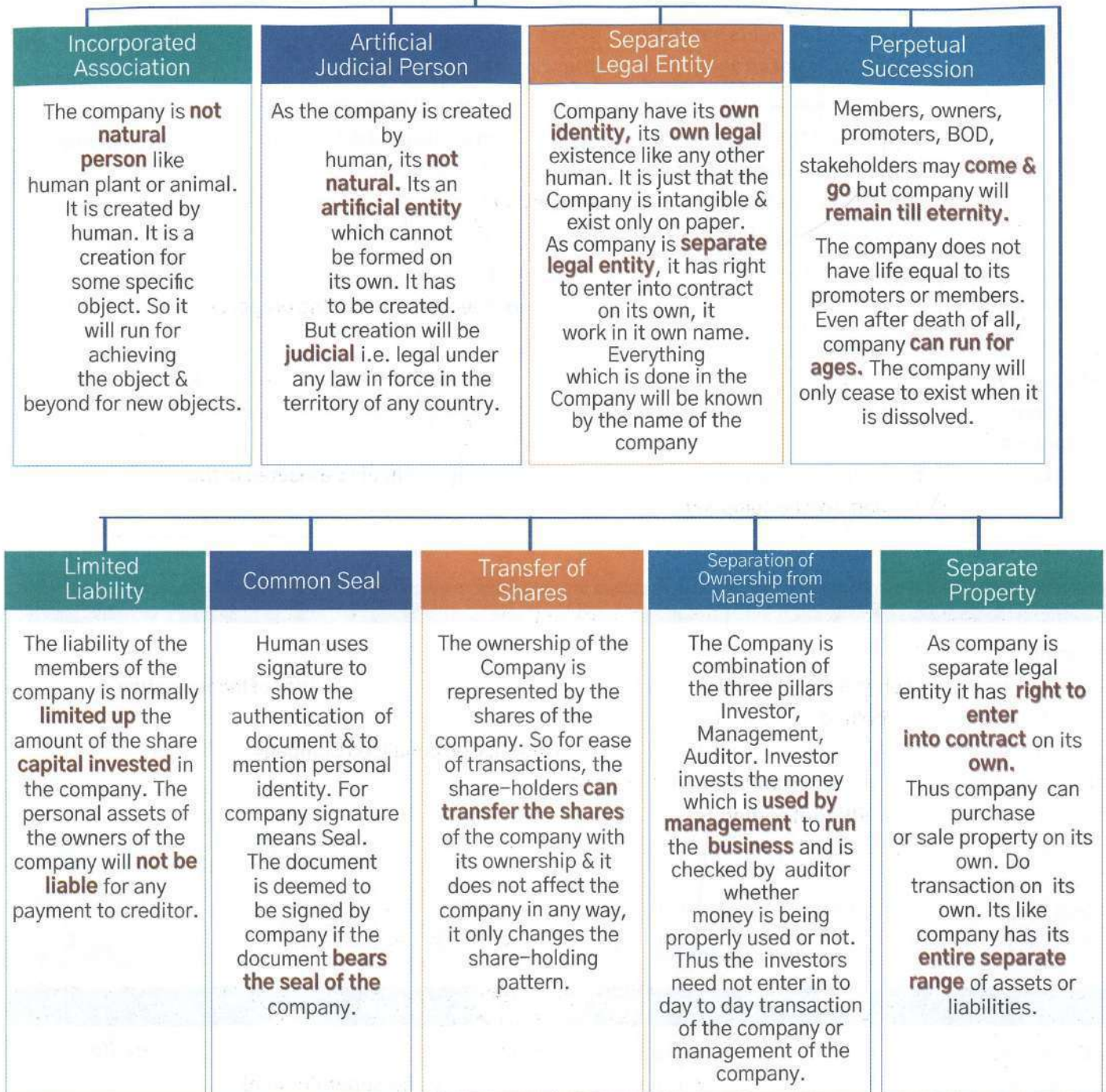
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Characteristics of Company



E-Filing Forms
Companies (Incorporation) Rules, 2014

E-Form	Details	Relevant section	Rule No	SPICE (Integrated Incorporation form)
INC-1	Reservation of name (MOA)	4(4)	9	MOA
INC-2	Nomination by Member of OPC (Formation of Company)	3	3	AOA
INC-3	One Person company nominee's written consent form.	3(1)	4	SPICE (Incorporation form for Company)
INC-4	One person company change in member / Nominee	3(1)	4	E-MOA
INC-5	OPC - Intimation of exceeding threshold	3	6	E-AOA
INC-6	OPC - Application for Conversion	3	7	
INC-7	Application for Incorporation of Company	7	12	
INC-8	Declaration by professionals	7	14	
INC-9	Declaration from subscribers and directors	7	15	
INC-10	Particulars of every subscriber to be filed with the ROC at time of incorporation	7	16	
INC-11	Certificate of Incorporation	7	18	
INC-12	Application for granting license under section 8	8	19	
INC-13	Memorandum of association	8	19	
INC-14	Declaration by professionals to be filed at the time of incorporation of the company with charitable objective with the ROC.	8	19	
INC-15	Declaration by each of the persons making application to the Registrar of Companies for the grant of licence under section.	8	19	
INC-16	License under sec 8(1) of the Companies Act, 2013	8	20	
INC-17	License under sec 8(5) of the Companies Act, 2013	8	20	
INC-18	Application to regional director for conversion of the sec 8 company into company of any other kind.	8	21	
INC-19	Notice by sec 8 company which is seeking for conversion into some other kind of company.	8	22	
INC-20	Intimation to ROC revocation / surrender of license under sec 8.	8	22	
INC-20A	Declaration for commencement of business	10A	23A	
INC-21	Declaration prior to the commencement of business or exercising borrowing powers.	11	24	
INC-22	Notice of situation or changes of situation of registered office.	12	25,27	
INC-23	Application to the regional directors for approval to shift the registered office from one state to another state or from jurisdiction of one ROC to another ROC within same state.	12	28	
INC-24	Application to CG for change in name.	13	29	
INC-25	Certificate of incorporation pursuant to change in name.	13	29	
INC-26	Advertisement to be published in the newspaper for license for existing companies.	8,13	20,30	
INC-27	Conversion of public company in private company or private company in public company.	14	33	
INC-28	Notice of order of court or any other competent authority.	13	31	

Coverage of Chapter

Section	Name of Section
3	Formation of company
3A	Members severally liable in certain cases (members below min.)
4	Memorandum of Association
5	Articles of Association
6	Act to override memorandum, articles, etc.
7	Incorporation of company
8	Formation of companies with charitable objects, etc. (NPO)
9	Effect of registration
10	Effect of memorandum and articles
10A	Commencement of business etc.
11	Commencement of business, etc.—
12	Registered office of company
13	Alteration of memorandum of association
14	Alteration of articles of association
15	Alteration of memorandum or articles to be noted in every copy
16	Rectification of name of company
17	Copies of memorandum, articles, etc., to be given to members
18	Conversion of companies already registered
19	Subsidiary company not to hold shares in its holding company
20	Service of documents
21	Authentication of documents, proceedings and contracts
22	Execution of bills of exchange, etc.

Coverage of Chapter

Section	Name of Section
23	Public offer and private placement
24	Power of Securities & Exchange Board to regulate issue and transfer of securities, etc.
25	Document containing offer of securities for sale to be deemed prospectus
26	Matters to be stated in prospectus
27	Variation in terms of contract or objects in prospectus
28	Offer of sale of shares by certain members of company
29	Public offer of securities to be in dematerialised form
30	Advertisement of prospectus
31	Shelf prospectus
32	Red herring prospectus
33	Issue of application forms for securities
34	Criminal liability for misstatements in prospectus
35	Civil liability for misstatements in prospectus
36	Punishment for fraudulently inducing persons to invest money
37	Action by affected persons
38	Punishment for personation for acquisition, etc., of securities
39	Allotment of securities by company
40	Securities to be dealt with in Stock Exchanges
41	Global Depository Receipt
42	Offer or invitation for subscription of securities on private placement

E-Filing Forms Companies (Prospectus and Allotment of Securities) Rules, 2014

E-Form	Details	Relevant section	Rule No
PAS-1	Advertisement Giving Details Of Notice Of Special Resolution For Verifying The Terms Of Any Contract Referred To In The Prospectus Of Altering The Objects For Which Prospectus Was Issued.	27(1)	7
PAS-2	Information Memorandum	31(2)	10
PAS-3	Return of Allotment	39(4)	12
PAS-4	Private Placement Offer Letter	42(7)	14
PAS-5	Record of Private placement offer to be kept by the company.	42(9)	14

Coverage of Chapter

Section	Name of Section	Section	Name of Section
43	Kinds of share capital	60	Publication of Authorised, Subscribed and Paid-Up Capital. [Deleted by ICAI]
44	Nature of Share or Debentures [Deleted by ICAI]	61	Power of Limited Company to Alter its Share Capital
45	Numbering of Shares [Deleted by ICAI]	62	Further Issue of Share Capital
46	Certificate of Shares	63	Issue of Bonus Shares
47	Voting Rights	64	Notice to be Given to Registrar for Alteration of Share Capital
48	Variation in shareholder's Rights	65	Unlimited Company to Provide for Reserve Share Capital on Conversion into Limited Company. [Deleted by ICAI]
49	Calls on shares of Same Class to be Made on Uniform Basis	66	Reduction of Share Capital.
50	Company to Accept Unpaid share capital although not called up	67	Restrictions on Purchase by Company or Giving of Loans by it for Purchase of its Shares
51	Payment of Dividend in Proportion to Amount paid up	68	Power of Company to Purchase its Own Securities
52	Application of Premiums Received on issue of shares	69	Transfer of Certain Sums to Capital Redemption Reserve Account
53	Prohibition on issue of shares at discount	70	Prohibition for Buy-Back in Certain Circumstances
54	Issue of sweat equity shares	71	Debentures
55	Issue and Redemption of Preference Shares	72	Power to Nominate [Deleted by ICAI]
56	Transfer and Transmission		
57	Punishment for Personation of Shareholder		
58	Refusal of Registration and Appeal against Refusal		
59	Rectification of Register of members		

E-Filing Forms Companies (Share Capital & Debentures) Rules, 2014

E-Form	Details	Relevant section	Rule No
SH-1	Certificate of shares for physical form	46(3)	5
SH-2	Duplicate share certificate for Physical form	46(2)(3)	6
SH-3	Issue of sweat equity shares	54(1)	8
SH-4	Securities Transfer Form	56(1)(3)	11
SH-5	Notice for transfer of partly paid securities	56(1)(3)	11
SH-6	Issue of ESOP / ESOS	62(1)	12
SH-7	Notice to ROC for alteration of share capital	64(1)	15
SH-8	Letter of offer	68	17
SH-9	Declaration of solvency	68	17
SH-10	Register of shares or other securities bought back	68	17
SH-11	Return in respect of buy back of securities	68	17
SH-12	Debentures	71	18
SH-13	Nomination Form	72	19
SH-14	Nomination by security holders	72	19
SH-15	Certificate of compliance in respect of buy-back of securities.	68	17

Coverage of Chapter

Sec.	Name of Section
73	Prohibition on Acceptance of Deposits from Public
74	Repayment of Deposits, etc., Accepted Before Commencement of this Act
75	Damages for Fraud [Deleted by ICAI]
76	Acceptance of Deposits from Public by Certain Companies
76A	Punishment for Contravention of Section 73 or Section

E-Filing Forms
Companies (Acceptance of Deposit) Rules, 2014

E-Form	Details	Relevant section	Rule No
DPT-1	Form and particulars of advertisement or circular	73	4
DPT-2	Appointment of trustee for depositors	76(1)	7
DPT-3	Return of deposit to be filed with ROC	73	16
DPT-4	Statement regarding existing deposit on commencement of Companies Act, 2013.	74	20

Section 75 is being deleted by ICAI from new syllabus.

CERTAIN IMPORTANT TERMS EXPLAINED

A) DEPOSIT

Definition: According to section 2 (31) of the Act, the term '**deposit**' includes any receipt of **money by way of deposit or loan** or in any other form, **by a company**, but does not include such categories of amount as may be prescribed in consultation with the **Reserve bank of India**.

B) DEPOSITOR

Definition: As per Rule 2 (1) (d), the term '**Depositor**' means:

- i) any member of the company who has made a deposit with the company in accordance with the provisions of sub-section (2) of section 73 of the Act, or
- ii) any person who has made a deposit with a public company in accordance with the provisions of section 76 of the Act.








C) ELIGIBLE COMPANY

Definition: As per Rule 2 (1) (e) the term "**eligible company**" means a **public company** as referred to in section 76 (1), having a **net worth of not less than ₹ 100 crore** or a turnover of not less than **₹ 500 crore** and which has obtained the prior consent in general meeting by means of a special resolution and also filed the said resolution with the Registrar of Companies before making any invitation to the public for acceptance of deposits:

However, an eligible company, which is accepting deposits within the limits specified under section 180(1) (c), may accept deposits by means of an ordinary resolution.

A public company is '**eligible**' to **accept deposits** from the public at large only if it meets the above-mentioned criteria.

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E-Filing Forms Companies (Registration of Charges) Rules, 2014

E-Form	Details	Relevant section	Rule No
CHG-1 & CHG-9	Registration of creation or modification of the charge.	77, 78, 79	3
CHG-2 & CHG-3	Certificate of registration.	77	6
CHG-4 & CHG-5	Satisfaction of charge.	82,83	8
CHG-6	Intimation of appointment of receiver or manager	84	9
CHG-7	Company's register of charge.	85	10
CHG-8	Condonation of delay and rectification of register of charge.	87	12

Coverage of Chapter

Sec.	Name of Section
77	Duty to Register Charges, etc.
78	Application for Registration of Charge
79	Section 77 to Apply in Certain Matters
80	Date of Notice of Charge
81	Register of Charges to be kept by Registrar [Deleted by ICAI]
82	Company to Report Satisfaction of Charge
83	Power of Registrar to Make Entries of Satisfaction and Release in Absence of Intimation from Company
84	Intimation of Appointment of Receiver or Manager
85	Company's Register of Charges [Deleted by ICAI]
86	Punishment for Contravention
87	Rectification by Central Government in Register of Charges

Definition and types of charges

Definition :

Section 2(16) of the Companies Act, 2013 defines "**charge**" as an interest or lien created on the property or assets of a company or any of its undertakings or both as security and includes a mortgage.

Distinction between fixed charge and floating charge:

Fixed charge	Floating charge
1) It is a legal charge .	It is an equitable charge.
2) It is a charge on specific, ascertained and existing asset.	It is a charge on present and future assets. No specific assets.
3) Company cannot deal with the assets except with the consent of the charge holder.	Company is free to use or deal with the assets the way it likes until the charge becomes fixed.
4) Registration of fixed charge on movable assets is not compulsory .	Registration of all floating charge on all kinds of assets is compulsory by law.
5) Fixed charge has always priority over floating charge.	It is ambulatory and shifting in character.
6) Fixed Charge holder is a Secured Creditor.	Floating Charge holder is Unsecured Creditor
7) Once fixed charge is always a fixed charge till winding up also	Floating charge crystallizes When the company goes into liquidation or When the company ceases to carry on business

Sec 77: Application for Registration of Charge

Answer Writing Points

- 1) The company shall register the charge within **30 days** with **ROC** in **Form CHG-1**.
- 2) If company fails to do so it can get a further grace period of **30 days** on payment of additional fees i.e. **total 60 days** from creation of charge.

E-Filing Forms			
Companies (Management & Administration) Rules, 2014			
E-Form	Details	Relevant section	Rule No
MGT-1	Register of members	88	3
MGT-2	Register of Debenture Holders or any other security holders	88	4
MGT-3	Foreign register of members, debenture holders, security holders or beneficial owners in foreign.	88	7
MGT-4	Declaration by Registered owner	89	9
MGT-5	Declaration by beneficial owner	89	9
MGT-6	Declaration by company to registrar	89	9
MGT-7	Annual return of normal company	92	11
MGT-7A	Annual return of OPC and Small Company	92	11
MGT-8	Certificate by Company Secretary	92	11
MGT-9	Extract of annual return in board report	92	12
MGT-10	Return of changes in shareholding of promoters and top 10 shareholders. [Deleted by ICAI]	93	13
MGT-11	Proxies form	105	19
MGT-12	Manner in which chairman shall process, scrutinize and report the poll voting.	109	21
MGT-13	Report of Scrutinizer	94	15
MGT-14	Filing of resolution with ROC	94	15
MGT-15	Report on annual general meeting	121	31

Coverage of Chapter	
Section	Name of Section
88	Register of Members, etc.
89	Declaration in Respect of Beneficial Interest in any Share
90	Register of significant beneficial owners in a company
91	Power to Close Register of Members or Debenture-Holders or Other Security Holders
92	Annual Return
93	Return to be Filed with Registrar in Case of Promoters' Stake Changes [Deleted by ICAI]
94	Place of keeping and Inspection of Registers, Returns, etc.
95	Registers, etc., to be Evidence
96	Annual General Meeting
97	Power of Tribunal to Call Annual General Meeting
98	Power of Tribunal to Call Meetings of Members, etc
99	Punishment for Default in Complying with Provisions of Section 96 to 98
100	Calling of Extraordinary General Meeting
101	Notice of Meeting (Ordinary Notice)
102	Statement to be Annexed to Notice (Explanatory Statement)
103	Quorum for Meetings
104	Chairman of Meetings
105	Proxies
106	Restriction on Voting Rights
107	Voting by Show of Hands
108	Voting through Electronic Means
109	Demand for Poll
110	Postal Ballot
111	Circulation of Members' Resolution
112	Representation of President and Governors in Meetings
113	Representation of Corporations at Meeting of Companies & of Creditors
114	Ordinary and Special Resolutions
115	Resolutions Requiring Special Notice
116	Resolutions Passed at Adjourned Meeting
117	Resolutions and Agreements to be Filled
118	Minutes of Proceedings of General Meeting, Meeting of Board of Directors and Other Meeting and Resolutions Passed by Postal Ballot
119	Inspection of Minute-Books of General Meeting
120	Maintenance and Inspection of Documents in Electronic Form
121	Report on Annual General Meeting
122	Applicability of this Chapter to One Person Company

Master Table for Sec. 107 to 110

Section	Sec. 107	Sec. 109	Sec. 108	Sec. 110
Name	Voting by Show of Hands	Voting by Poll	Voting by Electronic	Voting by Postal Ballot
Meaning	When members vote in GM just by raising hands	When members vote in GM by casting their vote	When members vote through mail or through website from home or at GM	When members vote through post from home
Voting in GM / from Home	IN GM	IN GM	from Home	from Home
Primary / Secondary	It's primary method of Voting	It is secondary method of voting	It is in replacement to post	It is in replacement to electronic voting
Number of Shares held relevance?	Irrelevant 1 member = 1 vote	Relevant No. of shares = No of votes	Relevant No. of shares = No of votes	Relevant No. of shares = No of votes
Accuracy of Voting	Less Accurate than Poll	More Accurate than show of Hands	More Accurate than postal ballot	Less Accurate than electronic
Evidence of Resolution	Recording in minutes of meeting	Polling paper & Boxes	Electronic data of voting	Postal dates of voting
Applicability	To All Companies	To All Companies	To listed companies or Companies members \geq 1000	Business as notified by CG
Requirement	Chairman will decide in meeting unless poll is demanded	1) Chairman himself 2) 1/10th of VP or Rs 5L PC Lower can demand poll	Notice of E-Voting shall be given at least 21 day before GM in 2 NP & on website stating a) Login ID, Password b) Date of start-end c) Process to vote d) Cut of date e) Name, Contact, designation of person solving complaint	Notice of Postal Ballot shall be given in 2 NP & on website of company stating : a) Business to consider b) Date of start-end c) Voting in 30 days d) Date of Resposting e) Name, Contact, designation of person solving complaints
Appointment of Scrutiniser	Chairman will calculate votes so no need of scrutiniser	Chairman will appoint to calculate poll	BOD will appoint CA, CS, CMA to evaluate voting (Not on employee)	BOD shall appoint any person to evaluate voting (Not on employee)
Function of Scrutiniser	NA	Scrutiniser should provide a) polling paper (MGT-12) b) Open poll box in 2 witness c) Calculate Votes d) Consult Chairman e) Declare Resolution f) Report on poll (MGT-13)	Scrutiniser shall after e-voting a) Calculate E-Votes in 2 witness b) maintain records & Register of favour & Against c) Declare Resolutions in 3 days of Voting	Scrutiniser shall after Voting. a) Collect all postal ballot & keep safe b) Calculate votes & Declare resolution in 7 days. c) Maintain Register of favour & Against d) Submit Report of Same.

Coverage of Chapter

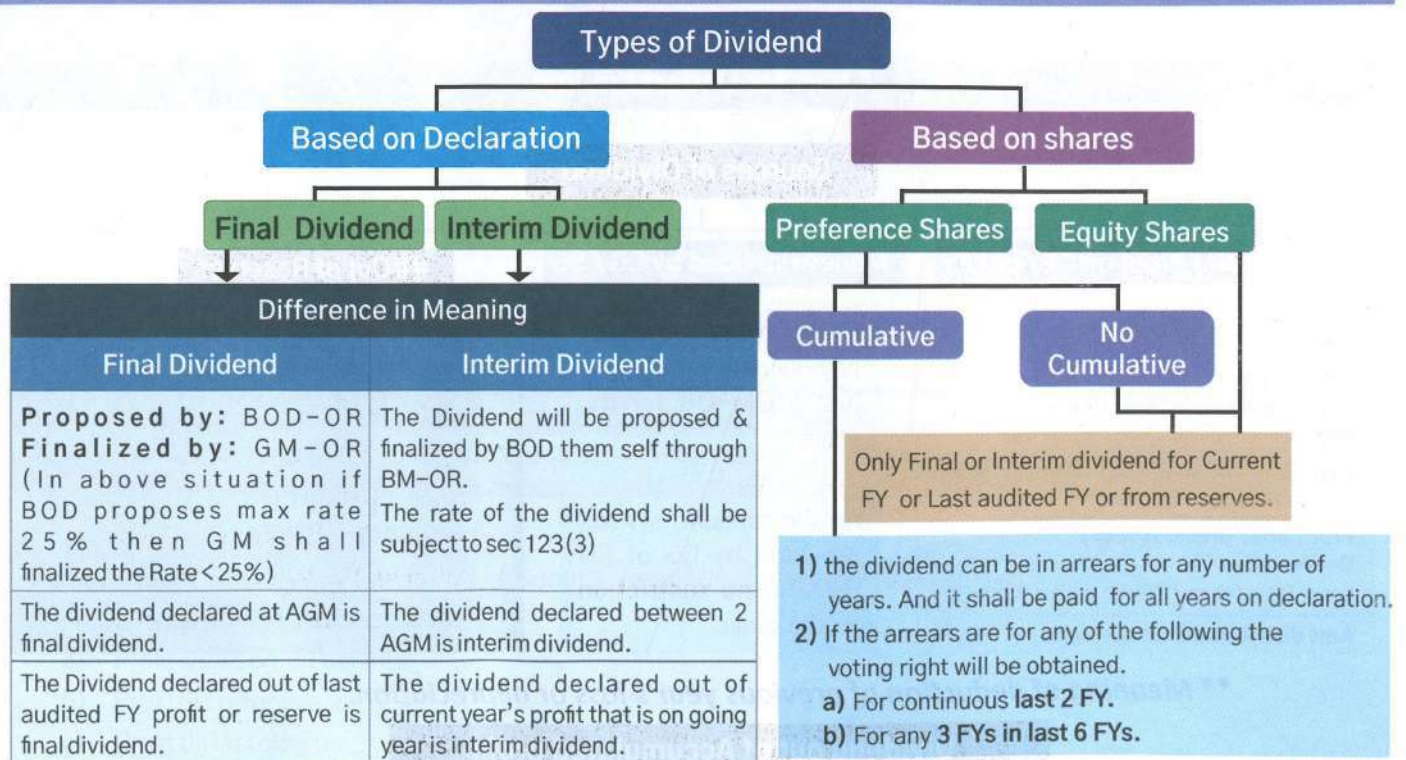
Section	Name of Section
123	Declaration of dividend
124	Unpaid Dividend Account
125	Investor Education and Protection Fund
126	Right to dividend, rights shares and bonus shares to be held in abeyance pending registration of transfer of shares.
127	Punishment for failure to distribute dividends in 30 days.

Meaning and Definition of Dividend

Section 2(35) of the Companies Act, 2013, while defining the term dividend simply states that "dividend" includes any interim dividend.

Types of Dividend & basis concepts

Concept



123(1)-(2): Declaration of Dividend

Answer Writing Points

- 1) The dividend shall be **declared out of** following:
 - a) Current year profit/Audited FY Profit
 - b) Amount provided by **CG/SG**
 - c) Out of Free Reserve
- 2) The company can declare **2 types of dividends**
 - a) Final Dividend - by **GM-OR**
 - b) Interim Dividend - by **BM-OR**

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Coverage of Chapter

Sec.	Name of Section
128	Books of account, etc., to be kept by company
129	Financial statement
130	Re-opening of accounts on Court's or Tribunal's orders
131	Voluntary revision of financial statements or Board's report
132	Constitution of National Financial Reporting Authority
133	Central Government to prescribe accounting standards
134	Financial statement, Board's report, etc.
135	Corporate Social Responsibility
136	Right of member to copies of audited financial statement
137	Copy of financial statement to be filed with Registrar
138	Internal audit

E-Forms Companies (Accounts) Rules, 2014

E-Form	Details	Relevant section	Rule No
AOC-1	Statement containing silent features of subsidiaries / associates / JV	129	5
AOC-2	Form of disclosure of the particulars of contract or arrangement entered into by company with related parties u/s 188	134	8
AOC-3	Statement containing silent features of balance sheet and profit and loss account	136	10
AOC-4	Form of filing financial statement and other documents with ROC	137	12

Definitions

Section 2(12) "Book and paper" and "book or paper" include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form.

Section 2(13) "books of account" includes records maintained in respect of—

- i) **all sums of money received** and expended by a company and matters in relation to which the receipts and expenditure take place;
- ii) **all sales and purchases** of goods and services by the company;
- iii) the **assets and liabilities** of the company; and
- iv) the items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified under that section.

128: Maintenance of Books by Company

Answer Writing Points

- 1) Every Company shall **maintain** Books of accounts, Other books and papers, Financial statements.
- 2) Shall be **maintained** at **RO** in true and fair manner.
- 3) Shall be **maintained** at both **head & branch** office & Shall be maintained on accrual basis.
- 5) For maintaining at any other place comply following.
 - a) Pass BOD-OR
 - b) Filing with ROC in **7 days**
- 6) According to sections 128 and 206 of the Companies Act, 2013, the following persons have the right to carry out the **inspection of the books** of accounts of the company:
 - a) **Directors** of the Company [Section 128(3)]
 - b) **Registrar** of Companies [Section 206]
 - c) **CG or It's Officer** (Section 206).
 - d) Such officers of SFIO [Section 212].
- 7) The following companies shall **maintain the books** of account as per their respective period:
 - a) Company in **existence for 8 years** or more: maintain the books for 8 FY's.
 - b) Company in existence for **less than 8 years**: maintain the books for **all years of existence**.
- 8) In case of contravention, the officer in default will be as follows:

Coverage of Chapter

The following content is covered till now from different chapters of Companies Act, 2013.

Section	Name of Section
139	Declaration of dividend
140	Removal, resignation of auditor and giving of special notice
141	Eligibility, qualifications and disqualifications of auditors
142	Remuneration of auditors
143	Powers and duties of auditors & auditing standards.
144	Auditor not to render certain services
145	Auditor to sign audit reports, etc.
146	Auditors to attend general meeting
147	Punishment for contravention
148	Central Government to specify cost audit of certain companies

E-Forms Companies (Audit & Auditors Rules) Rules, 2014

E-Form	Details	Relevant section	Rule No
ADT-1	Notice of appointment of auditor by company	139	4
ADT-2	Application for removal of auditor before expiry of his term.	140	7
ADT-3	Notice of Resignation by Auditor	140	8
ADT-4	Report to the central Government	143	13

139(1)-(4): Appointment of auditors.

Answer Writing Points

- 1) Every company shall appoint **regular auditor at 1st AGM.**
- 2) The auditor as appointed above shall hold the office till the **conclusion of 6th AGM.**
- 3) The procedure for the selection of the auditors will be as stated in rules. (Rule 3 & 4 of Companies (Audit & Auditors) Rules, 2014 discussed at starting of chapter).
- 4) **The specified companies shall appoint following auditor for following specified terms.**
 - a) Individual auditor can be appointed for **maximum one term of 5 years.**
 - b) The firm of auditors can be appointed for maximum **2 terms of 5 years.** i.e. at max for 10 years.
- 5) **The specified companies in the above case means: (Rule 5)**
 - a) Listed Company;
 - b) Unlisted Public company having Paid Up Capital \geq Rs. 10 Cr.
 - c) Private company having Paid Up Capital \geq Rs. 50 Cr.
 - d) Any company other than above having Public Borrowings from Financial Institution, Banks or Public Deposit \geq Rs. 50 Cr
- 6) **In case of above companies the cooling period for the respective auditors is as follows:**
 - a) Individual auditor will have the **cooling period of 5 years** after completion of his term.
 - b) Auditor in case of firm will have the cooling period of 5 years after completion of its term.
- 7) The Central Government may, by rules, prescribe the manner in which the companies shall rotate their auditors in pursuance of sub-section (2).

11

FOREIGN COMPANY

Overall Section List Under the Chapter

Sec.	Details
379.	Application of Act to Foreign Companies
380.	Documents, etc., to be Delivered to Registrar by Foreign Companies
381.	Accounts of Foreign Company
382.	Display of Name, etc., of Foreign Company
383.	Service on Foreign Company
384.	Debentures, Annual Return, Registration of Charges, Books of Account and Their Inspection
385.	Fee for Registration of Documents
386.	Interpretation
387.	Dating of Prospectus and Particulars to be Contained Therein
388.	Provisions as to Expert's Consent and Allotment
389.	Registration of Prospectus
390.	Offer of Indian Depository Receipts
391.	Application of Sections 34 to 36 and Chapter XX
392.	Punishment for Contravention
393.	Company's Failure to Comply With Provisions of This Chapter Not to Affect Validity of Contracts, etc.
393A.	Exemptions under this Chapter

E-Forms Companies (Registration of Foreign Companies) Rules, 2014

E-Form	Details	Relevant section	Rule No
FC-1	Information to be filed by company with ROC	380	3
FC-2	Return for alteration of information or documents filed with ROC	380	3
FC-3	Filing of annual accounts with list of all Place of Business in India	381	6
FC-4	Annual Return of Foreign Company	384	7
FC-5	Nomination by IDR holder	390	13

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