

1. Sec 139(2) – Rotation of Auditor

Following companies shall not appoint or re-appoint an **Individual Auditor** for more than **one term of Five consecutive Years** [In case of **Audit Firm**, Companies shall not appoint or reappoint for more than **two terms of five consecutive Years**]:

- Listed Companies; (or)
- All **unlisted public** companies having paid up share capital \geq **10 Crores**; (or)
- all **private limited** companies having paid up share capital \geq **50 Crores**; (or)
- all companies not covered as per above conditions, but having public borrowings from financial institutions, banks or public deposits \geq **50 Crores**.

Note: One Person Company and Small Company need not comply with section 139(2), irrespective of conditions specified above.

2. Sec 138 - Appointment of Internal Auditor

Following class of Companies are required to appoint Internal Auditor,

- **Every Listed Companies**
- Every **Unlisted Public Companies** having-
 - ✓ paid up share capital of **50 Crores or more** during the preceding financial year; or
 - ✓ turnover of **200 Crores or more** during the preceding financial year; or
 - ✓ outstanding loans or borrowings from banks or public financial institutions exceeding **100 Crores or more at any point of time** during the preceding financial year; or
 - ✓ outstanding deposits of **25 Crores or more at any point of time** during the preceding financial year;
- Every **private company** having-
 - ✓ turnover of **200 Crores or more** during the preceding financial year; or
 - ✓ outstanding loans or borrowings from banks or public financial institutions \geq **100 Crores** at any point of time during the preceding financial year.

3. Sec 135 : CSR

Every Company having

- **Net Worth** \geq Rs. 500 Crores, or
- **Turnover** \geq Rs. 1,000 Crores, or
- **Net Profit** \geq Rs. 5 Crores

during immediately preceding financial year shall constitute a CSR Committee and CSR Policy shall indicate the activities to be undertaken by the Company in areas or subject as specified in Schedule VII. Spend – 2% of average NP of last 3 years.

4. Sec 148 – Cost Audit

Every Company which is required to maintain cost records as per section 148(1), shall get its cost records Audited by a Cost Accountant, if the following conditions satisfies:

- In case of **Regulated Sectors**, if the overall annual turnover of the company from all its products and services during the immediately preceding financial year \geq **50 Crores** and the aggregate turnover of the individual product or products or services for which cost records are required to be maintained under section 148(1) is \geq **25 Crores**
- In case of **Un-regulated Sectors**, if the overall annual turnover of the company from all its products and services during the immediately preceding financial year \geq **100 Crores** and the aggregate turnover of the individual product or products or service or services for which cost records are required to be maintained under section 148(1) \geq **35 Crores**.

Note: Description on Regulated Sectors and Non-regulated sectors are given in **Rule-3** of '**The Companies (Cost Records and Audit) Rules, 2014**'

Cost Audit is not applicable in the following cases:

- Revenue from Exports, in Foreign Exchange, $\geq 75\%$ of the Total Revenue
- Company operating from a Special Economic Zone (SEZ)

Company engaged in the generation of electricity for captive consumption through captive generating Plant.

5. Sec 141 – Disqualifications of Auditors

Applicable Limits

- A. Auditor in Shares of Company / Holding / Subsidiary / Associate / Co subsidiary – Nil
- B. Relative can Hold up to 1 lakh FV in the company only
- C. Partner or relative of partner indebted in Company / Holding / Subsidiary / Associate / Co subsidiary – 5 Lakhs

Partner or relative of partner guarantee/security to loans of Company / Holding / Subsidiary / Associate / Co subsidiary – 1 Lakh

6. Applicability of Annual General Meeting

- **All Companies** whether Public or Private, having a Share Capital or not, Limited or Unlimited, must hold AGM.
- However, One Person Company (OPC) is **not** required to hold an AGM.
- Central Government is empowered to **exempt** any class of Companies from holding of AGM.

7. Sec 137 - Financial Statement to be filed in XBRL

Companies to whom E-Form AOC-4 [XBRL] mandatory:

- (a) All **public companies listed in the stock exchange** in India and their Indian subsidiaries.
- (b) All companies with a **turnover ≥ 100 Crores.**
- (c) All companies with a **paid-up capital ≥ 5 Crores.**

All IND AS applicable Companies.

8. Sec 100 Who can call an EGM?

A. Company having share capital

Members holding $\geq 1/10^{\text{th}}$ of **paid up share capital**

B. Company NOT having share capital

Members holding $\geq 1/10^{\text{th}}$ of **total voting power** having right to Vote.

9. 103 – Quorum

A. In case of a Public company

1. Up to 1000 -> 5 members **personally** present
2. More than 1000 up to 5000 -> 15 members **personally** present
3. More than 5000 -> 30 members **personally** present

B. In case of a private company

2 Members **personally** present or Number Specified in AOA, **Whichever is Higher.**

10. Sec 105 Proxy Limits

1. A proxy can act as proxy on behalf of **maximum 50 members**

AND

One proxy can maximum vote up to 10% of Voting power

(i.e., can hold in aggregate a total of 10% of the share capital of the company carrying voting rights)

2. A single member holding more than 10% of share capital of the company can appoint only **ONE PROXY AND** such proxy cannot act as proxy for any other member.

11. Sec 108 - Voting Though Electronic

Following Companies shall provide to its members facility to exercise their right to vote on resolutions proposed to be considered at a general meeting by electronic means:

➤ Every company which has listed its equity shares on a recognised stock exchange
Every company having \geq 1000 Members.

12. Sec 109 Who can demand for Poll?

A. In case of Company having share capital

-Any member (Present in person or proxy) having $1/10^{\text{th}}$ of total voting power (OR)

- Paid up share capital of not less than Rs 5,00,000 or such higher amount as may be prescribed.

B. Any other company

Any member (Present in person or proxy) having $1/10^{\text{th}}$ of total voting power

13. Sec 111 – Circulation of Members Resoln

A. Company having share capital

Members Holding $\geq 1/10^{\text{th}}$ of paid-up equity share capital

B. Company having no share capital

Members Holding $\geq 1/10^{\text{th}}$ of total voting power.

14. Sec 115 – Who can demand a special Notice?

a. Members Holding not less than 1% of total voting power (or)

b. Members Holding shares on which such sum not less than Rs 5,00,000 has been paid up.

15. Sec 92 – Annual Return

Annual Return of the following Companies shall be Certified by the Practicing Company Secretary in **FORM MGT-8**:

- Listed Companies
- company having paid-up share capital \geq 10 Crores
- Turnover \geq 50 Crores

16. Sec 90 – SBO

Following persons are considered as Significant Beneficial Owners (SBO) of the Company and Company shall maintain the SBO register in **FORM BEN-3**.

An individual who acting alone or together, or through one or more persons or trust, possesses one or more of the following rights or entitlements in such reporting company, namely:

- holds indirectly, or together with any direct holdings, \geq 10%, of the shares (or)
- holds indirectly, or together with any direct holdings, \geq 10%, of the voting rights in the shares (or)
- has right to receive or participate in \geq 10%, of the total distributable dividend, or any other distribution, in a financial year through indirect holdings alone, or together with any direct holdings (or)

has right to exercise, or actually exercises, significant influence or control, in any manner other than through direct-holdings alone.

17. Small Company

“small company” means a company, other than a public company, —

- Paid-up share capital \leq 4 Crores (and) such higher amount as prescribed **not exceeding 10 Crores**
- Turnover \leq 40 Crores (and) such higher amount as prescribed **not exceeding 100 Crores**

Crores

18. Foreign Company

Section 379 Where 51% of the paid up share capital (ESC+PSC) of a foreign company is held by an Indian company registered in India or People in India, then such company becomes a company as if it is incorporated in India

19. Government Company

Means a company in which **not less than 51%** of the paid-up share capital is held by the central government or state government or combination of central and state government. Subsidiary of a government company is also a government company.

20. Associate Company

- ➔ In relation to another company, **means** a company in which that other company has a **significant influence**, but which is not a subsidiary company of the other company having such influence and **includes a joint venture**.

-> **Significant influence means** control of **at least 20% of the total Voting Power** (Equity share capital & convertible preference share capital) or of **business decision** under an agreement.

21. Sec 123

Rule 1: Rate shall not exceed average of last 3 years.

Rule 2: The **total amount to be drawn** from such accumulated profits **shall not exceed 10% of its (paid-up share capital and free reserves)**

Note: The amount so drawn shall first be utilized to set off the losses incurred in the financial year in which dividend is declared and only thereafter, any dividend in respect of equity shares shall be declared.

Rule 3: The balance of reserves after such withdrawal shall not fall below 15% of its paid-up Share capital as appearing in the latest audited financial statements.

22. Sec 68 – Buy back

1. BR in BM – Not more than 10% of aggregate paid up equity capital + Free reserves
2. SR in GM – Not more than 25% of PSC + FR
3. D/E Ratio post BB shall not exceed 2:1
4. Free reserves for this section includes securities premium

Note: Total BB in any FY shall not exceed 25% of Paid-up equity share capital

23. Exemption to Private companies

Sec 67 is NOT applicable to a private company if the following conditions are satisfied;

- a) No other body corporate **has invested money** in the share capital of such Company.
- b) The **borrowing** of such private Company from **bank** or **financial institution** or any other body

corporate is **less than twice its paid-up share capital (or) 50 Cr w.e lower**

c) A private Company has **not defaulted in repayment of such borrowings**, subsisting at the time of making any transaction.

d) A private Company has not defaulted to file financial statement (U/s 127) (or) annual return (U/s 92)

24. **Sec 67 Loan to employees**

Loan given by Company to employees **other than directors and KMP** for them to purchase fully paid-up shares of the Company (or) holding Company. ->

Loan should not exceed the salary or wages period of 6 months.

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