

COMPANANIES ACT 2013

PREPARED BY:

Mr. Vimal K. Shah

(9426159641)

vimalkshah1@gmail.com

Mrs. Kavvita N.Choksi

(9512333666)

kavitachoksi21@gmail.com

Introduction

Companies Act, 2013: A statistical snapshot

Number of schedules : 7

Number of chapters: 29

Number of sections: 470

470
Sections

7
Schedules

29
Chapters

HISTORY OF COMPANIES ACT IN INDIA

- The Indian company law begun with the companies act 1850, modeled on British companies act 1844
- The Indian Companies act of 1913 was based on the British Companies act of 1908
- The Indian Companies act, 1956; April 1, 1956
- The Indian Companies act, 2013

HIGHLIGHTS OF COMPANIES ACT, 2013

- Passed in Lok sabha: December 18, 2012
- Passed in Rajya Sabha: August 08, 2013
- Total number of sections: 470
- Total number of chapters: 29
- Total number of schedules: 7
- Effective from September 12, 2013
- J.J Irani Committee

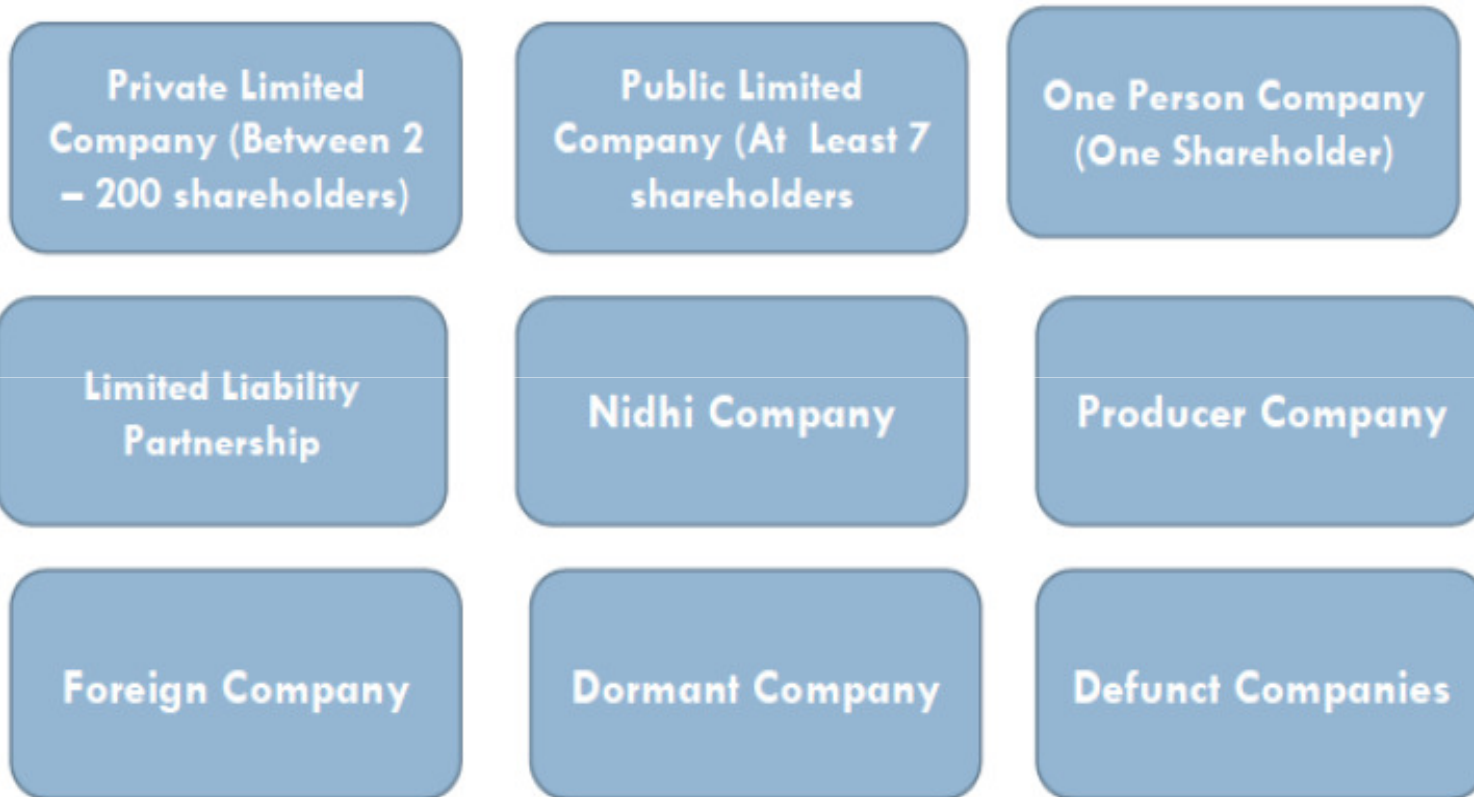
OBJECTIVES OF COMPANIES ACT, 2013

- To promote the development of the economy
- To encourage transparency and accountability
- To promote high standards of corporate governance
- To recognize new concepts and procedures to support business while protecting interests of all the stakeholders
- To set up institutional structure in the form of various authorities, bodies and panels (NCLT and NCLAT)
- To enforce stricter action against fraud and gross non-compliance with company law provisions

THE PROVISIONS OF THIS ACT SHALL APPLY TO

- (a) companies incorporated under this Act or under any previous company law;
- (b) insurance companies, except in so far as the said provisions are inconsistent with the provisions of the Insurance Act, 1938 or the Insurance Regulatory and Development Authority Act, 1999;
- (c) banking companies, except in so far as the said provisions are inconsistent with the provisions of the Banking Regulation Act, 1949;
- (d) companies engaged in the generation or supply of electricity, except in so far as the said provisions are inconsistent with the provisions of the Electricity Act, 2003;
- (e) any other company governed by any special Act for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act; and
- (f) such body corporate, incorporated by any Act for the time being in force, as the Central Government may, by notification, specify in this behalf, subject to such exceptions, modifications or adaptation, as may be specified in the notification.

TYPES OF COMPANIES



PRIVATE COMPANY



“**Private Company**” means a company having a minimum paid-up share capital of one lakh rupees or such higher paid-up share capital as may be prescribed, and which by its articles,—

- (i) Restricts the right to transfer its shares;
- (ii) Except in case of One Person Company, limits the number of its members to 200 (50)

PUBLIC COMPANY



“**Public Company**” means a company which—

(a) is not a private company;

(b) has a minimum paid-up share capital of five lakh rupees or such higher paid-up capital, as may be prescribed

ONE-PERSON COMPANY



One-person company: The 2013 Act introduces a new type of entity to the existing list i.e. apart from forming a public or private limited company, the 2013 Act enables the formation of a new entity a ‘one-person company’ (OPC). An OPC means a company with only one person as its member [section 3(1) of 2013 Act].

One Person Company is a hybrid of Sole-Proprietor and Company form of business, and has been provided with concessional/relaxed requirements under the Act.

FOREIGN COMPANY



“**Foreign Company**” means any company or body corporate incorporated outside India which—

- (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and
- (b) conducts any business activity in India in any other manner.

GOVERNMENT COMPANY

“**Government Company**” means any company in which not less than 51% of the paid-up share capital is held – - by the Central Government, or
-by any State Government or Governments, or
-partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company;

LISTED COMPANY

“**Listed Company**” means a company which has any of its securities listed on any recognised stock exchange

HOLDING COMPANY

“**Holding Company**”, in relation to one or more other companies, means a company of which such companies are subsidiary companies

SUBSIDIARY COMPANY

“**Subsidiary Company**” or “subsidiary”, in relation to any other company (that is to say the holding company), means a company in which the holding company—

- (i) controls the composition of the Board of Directors; or
- (ii) exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies;

Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.

DORMANT COMPANY

Dormant Company: The 2013 Act states that a company can be classified as dormant when it is formed and registered under this 2013 Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction. Such a company or an inactive one may apply to the ROC in such manner as may be prescribed for obtaining the status of a dormant company.[Section 455 of 2013 Act]

NIDHI

“**Nidhi**” means a company which has been incorporated as a Nidhi with the object of cultivating the habit of thrift and savings amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit, and which complies with such rules as are prescribed by the Central Government for regulation of such class of companies.

THE COMPANIES ACT 2013

Concept of Registered Valuer is First Time Introduce in Companies Act,2013. ChapterXVII of the Companies Act, 2013 introduce concept of Valuation by Registered Valuer **(Section247)**.

REGISTERED VALUERS

The 2013 Act has introduced a new concept of registered valuers who are required for providing valuation reports mandated under various sections. These include the following:

- Further issue of share-capital (section 62 of the 2013 Act)
- Restriction on non-cash transactions involving directors (section 192 of the 2013 Act)
- Compromises, arrangements and amalgamations [section 230 of the 2013 Act]
- Purchase of minority share holding (section 236 of the 2013 Act)
- Submission of a report by the company liquidator (section 281 of the 2013 Act)
- Declaration of solvency in case of proposal to wind up voluntarily (section 305 of the 2013 Act)
- Power of the company liquidator to accept shares, etc., as consideration for the sale of property of the company (section 319 of the 2013 Act)]

The qualification, experience as well as the process of registration as a valuer have been prescribed in the draft rules* (section 247 of the 2013 Act).

SECTION 247 OF THE 2013 ACT

- (1) Where a valuation is required to be made in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets (herein referred to as the assets) or networth of a company or its liabilities under the provision of this Act, it shall be valued by a person having such qualifications and experience and registered as a valuer in such manner, on such terms and conditions as may be prescribed and appointed by the audit committee or in its absence by the Board of Directors of that company.
- (2) The valuer appointed under sub-section(1) shall,—
- (a) make an impartial, true and fair valuation of any assets which may be required to be valued;
 - (b) exercise due diligence while performing the functions as valuer;
 - (c) make the valuation in accordance with such rules as may be prescribed; and
 - (d) not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets.

SECTION 247 OF THE 2013 ACT

(3) If a valuer contravenes the provisions of this section or the rules made thereunder, the valuer shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees:

Provided that if the valuer has contravened such provisions with the intention to defraud the company or its members, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(4) Where a valuer has been convicted under sub-section(3), he shall be liable to—

(i) refund the remuneration received by him to the company; and

(ii) Pay for damages to the company or to any other person for loss arising out of incorrect or misleading statements of particulars made in his report.

281 SUBMISSION OF REPORT BY COMPANY LIQUIDATOR

- (1) Where the Tribunal has made a winding up order or appointed a Company Liquidator, such liquidator shall, within 60 days from the order, submit to the Tribunal, a report containing the following particulars, namely:—
 - (a) the nature and details of the assets of the company including their location and value, stating separately the cash balance in hand and in the bank, if any, and the negotiable securities, if any, held by the company: Provided that the valuation of the assets shall be obtained from registered valuers for this purpose;
 - (b) amount of capital issued, subscribed and paid-up;
 - (c) the existing and contingent liabilities of the company including names, addresses and occupations of its creditors, stating separately the amount of secured and unsecured debts, and in the case of secured debts, particulars of the securities given, whether by the company or an officer thereof, their value and the dates on which they were given;
 - (d) the debts due to the company and the names, addresses and occupations of the persons from whom they are due and the amount likely to be realised on account thereof;
 - (e) guarantees, if any, extended by the company;

281 SUBMISSION OF REPORT BY COMPANY LIQUIDATOR

- (f) list of contributories and dues, if any, payable by them and details of any unpaid call;
- (g) details of trade marks and intellectual properties, if any, owned by the company;
- (h) details of subsisting contracts, joint ventures and collaborations, if any;
- (i) details of holding and subsidiary companies, if any;
- (j) details of legal cases filed by or against the company; and
- (k) any other information which the Tribunal may direct or the Company Liquidator may consider necessary to include.

281 SUBMISSION OF REPORT BY COMPANY LIQUIDATOR

- (2) shall include in his report
 - the manner in which the company was promoted or formed
 - any fraud has been committed by any person in its promotion or formation or by any officer of the company in relation to the company
- (3) shall also make a report on the viability of the business of the company or the steps which, in his opinion, are necessary for maximising the value of the assets of the company.
- (4) if he thinks fit, make any further report or reports

Thank

You

