

## NEW CONCEPTS UNDER the COMPANIES ACT, 2013

S. No.	Section	Particular of Section	Content of Section
1.	2(6)	Associate Company	<p>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 that Company having such influence and includes a joint venture company.</p> <p>Explanation.—For the purposes of this Section, “significant influence” means control of at least twenty per cent of total share capital, or of business decisions under an agreement.</p>
2.	2(41)	Financial Year	<p>“Financial Year”, in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up.</p> <p>Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year. Provided further that a Company or body corporate existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause.</p>
3.	2(62)	One Person Company (OPC)	<p>“One Person Company” means a company which has only one person as a member.</p> <p>Only natural person who is Indian citizen and resident of India is eligible to incorporate an OPC. Nomination is mandatory at the time of incorporation. No person shall be eligible to incorporate more than a One Person Company or become nominee in more than one such Company. OPC can't perform objects as section 8 Company or NBFC.</p>

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			In case the paid up capital exceeds Rs. 50 Lacs or average annual turnover during proceeding three consecutive financial year exceeds Rs. 2 Crores, the OPC is required to be converted into public or private Company mandatorily.
4.	2(69)	Promoter	<p>“promoter” means a person-</p> <p>(a) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or</p> <p>(b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or</p> <p>(c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act:</p> <p>Provided that nothing in sub-clause (c) shall apply to a person who is acting merely in a professional capacity;</p>
5.	2 (85)	Small Company	<p>The concept of “Small Company” has been introduced for the first time by the Companies Act, 2013. The Act identifies some companies as small companies based on their capital and turnover for the purpose of providing certain relief/exemptions to these companies.</p> <p>“small company” means a company, other than a public company,—</p> <ul style="list-style-type: none"> <li>• Paid-Up Share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed and</li> <li>• Turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed: Provided that nothing in this Section shall apply to—</li> <li>• a holding company or a subsidiary company;</li> <li>• a company registered under Section 8; or</li> <li>• a company or body corporate governed by any special Act</li> </ul>

S. No.	Section	Particular of Section	Content of Section
6.	42	Private Placement of Shares	<p>Private Placement is any offer of securities or invitation to a selected group of persons by a company (other than by way of public offer) through issue of a private placement offer letter and which satisfies the conditions specified in section 42. Section 42 of the Companies Act, 2013 allows any company, whether private or public, to make private placement of securities through issue of a “Private Placement Offer Letter”.</p> <p>‘Private Placement’ can be said in consonance with the interpretation of the Supreme Court as “any offer of securities or invitation to subscribe securities to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer letter and which satisfies the conditions specified in section 42 including the condition that the offer or invitation is made to not more than 200 persons (excluding QIB’s and employees offered securities under ESOP) in a financial year</p>
7.	135	Corporate Social Responsibility	<p>Ministry of Corporate Affairs issued the Corporate Social Responsibility Voluntary Guidelines, 2009. The voluntary guidelines, inter-alia, required to provide for roadmap for CSR initiative by business entities. After enactment of Section 135 of Companies Act 2013 CSR is made mandatory for certain type of Companies.</p> <p>As per the section, every company with <b>net worth of Rs 500 crore or more, or turnover of Rs 1,000 crore or more or a net profit of Rs 5 crore or more</b> during any financial year <i>[Any financial year implies any of the three preceding financial years [circular number 21/2014, dated 18.06.2014]</i> is required to constitute a CSR Committee of the Board consisting of three or more directors, of which at least one director shall be an independent director.</p> <p>Also, the Board of the Companies are required to ensure that the company spends at least two percent of the average net profit of the company made during the three immediately preceding financial years.</p>

S. No.	Section	Particular of Section	Content of Section
8.	118(10) & 205(1)(b)	Secretarial Standard	<p>Section 118(10) prescribed that every company shall observe secretarial standards with respect to general and Board meetings specified by the Institute of Company Secretaries of India (ICSI) and approved by the central government.</p> <p>Further, section 205(1) (b) also prescribed that the functions of the company secretary shall, inter-alia, include to ensure that the company complies with the applicable secretarial standards.</p> <p>As of now two secretarial standards have been specified by the ICSI and approved by the Ministry of Corporate Affairs.</p>
9.	Sec. 132 [Not yet notified]	National Financial Reporting Authority (NFRA)	<p>The National Financial Reporting Authority is a quasi – judicial body proposed to be constituted to investigate the matters of professional misconduct committed by any member or firm of chartered accountants. It shall have all the powers of the civil court. It also has power to impose penalty and debar.</p>
10.	139	Rotation of Auditor	<p>The rotation of auditor is made applicable to the following companies</p> <ul style="list-style-type: none"> <li>• All Listed Companies</li> <li>• Every Public Company having Paid-Up Share Capital of Rs. 10 Crore (Ten crore rupees) or more.</li> <li>• Every Private Limited Company having Paid-up Share Capital of Rs. 20 Crore (Twenty crore rupees) or more.</li> <li>• All Companies having public borrowings from Financial Institutions, banks or public deposits of Rs. 50 Crore (Rupees Fifty Crore only) or more</li> </ul> <p>The above companies shall not appoint or reappoint: An individual as auditor for more than one term of five consecutive years; and</p> <p>An audit firm as auditor for more than two terms of five consecutive years.</p>

S. No.	Section	Particular of Section	Content of Section
11.	149(1)	Women Director	<p>It is mandatory to have at least one woman director on the Board of following class of companies.</p> <ul style="list-style-type: none"> <li>• every listed company;</li> <li>• every other public company having –</li> <li>• paid-up share capital of one hundred crore rupees or more; or</li> <li>• turnover of three hundred crore rupees or more</li> </ul>
12.	177(9)	Vigilance Mechanism	<ul style="list-style-type: none"> <li>• Every listed company and the companies belonging to the following class or classes shall establish a vigil mechanism for their directors and employees to report their genuine concerns or grievances :-</li> <li>• Companies which accept deposits from the public; and</li> <li>• Companies which have borrowed money from banks and public financial institutions in excess of Rs 50 crore</li> </ul> <p>Operation of the vigil mechanism</p> <ul style="list-style-type: none"> <li>• The Audit Committee to oversee the operation of the mechanism</li> <li>• For companies that do not need an audit committee, a director to be nominated by the Board to oversee</li> <li>• Companies may consider developing a fraud response plan and obtaining Audit Committee's approval</li> </ul>
13.	166	Duties of Directors	<p>The duties of directors have now been codified under section 166. The provisions of this Section apply to all categories of directors, including independent directors</p>

S. No.	Section	Particular of Section	Content of Section
14.	203	Key Managerial Personnel	<p>“Key Managerial Personnel”, in relation to a company, means—</p> <ul style="list-style-type: none"> <li>(i). the Chief Executive Officer or the managing director or the manager;</li> <li>(ii). the company secretary;</li> <li>(iii). the whole-time director;</li> <li>(iv). the Chief Financial Officer; and</li> <li>(v). such other officer as may be prescribed</li> </ul> <p>The prescribed class of companies is required to mandatorily have Key Managerial Personnel.</p>
15.	204	Secretarial Audit	<p>It is now a requirement that every Listed Company and a Company belonging to other class of companies shall annex with its Board’s Report, a secretarial audit report given by a Company Secretary in Practice, in Form MR-3. In this regard, it shall be the duty of the company to give all assistance and facilities to the Company Secretary in Practice for auditing the secretarial and related records of the Company.</p> <p>The following class of companies shall be required to Annex Secretarial Audit Report with Director Report, namely:-</p> <ul style="list-style-type: none"> <li>a) All Listed Companies</li> <li>b) Every Public Company having a Paid-Up Share Capital of Rs. 50 Crore (fifty crore rupees) or more</li> <li>c) Every Public Company having a Turnover of Rs. 250 Crore (two hundred fifty crore rupees) or more</li> </ul>
16.	205	Function of Company Secretary	<p>The following functions have been codified for the company secretary in employment:</p> <ul style="list-style-type: none"> <li>• To report to the Board about the compliance with the provisions of this Act.</li> <li>• To ensure that the company complies with the applicable secretarial standards.</li> </ul>

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			<ul style="list-style-type: none"> <li>To provide to the directors of the company the guidance they require in discharging their duties, responsibilities and powers.</li> <li>To facilitate the convening of meetings and attend Board, committee and general meetings and maintain the minutes of these meetings.</li> <li>To obtain approvals from the Board, general meeting, the government and such other authorities as required under the provisions of the Act.</li> <li>To assist the Board in the conduct of the affairs of the company.</li> <li>To assist and advise the Board in ensuring good corporate governance and in complying with the corporate governance requirements and best practices</li> </ul>
17.	Sec. 2(83) & 211	Serious Fraud Investigation Office (SFIO)	<ul style="list-style-type: none"> <li>The SFIO is a multi-disciplinary organization under Ministry of Corporate Affairs, consisting of experts in the field of accountancy, forensic auditing, law, information technology, investigation, company law, capital market and taxation for detecting and prosecuting or recommending for prosecution white-collar crimes/frauds. The SFIO will normally take up for investigation only such cases, which are characterized by:               <ul style="list-style-type: none"> <li>complexity and having inter-departmental and multi-disciplinary ramifications;</li> <li>substantial involvement of public interest to be judged by size, either in terms of monetary misappropriation or in terms of persons affected, and;</li> <li>the possibility of investigation leading to or contributing towards a clear improvement in systems, laws or procedures. The SFIO shall investigate serious cases of fraud received from Ministry of company Affairs.</li> </ul> </li> </ul>



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18.	245	Class Action Suits	<p>Member or members, depositor or depositors or any class of them, as the case may be, as are indicated in the section may, if they are of the opinion that the management or conduct of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors, file class action suit before the Tribunal.</p> <p>Meaning of Class Action Suits:</p> <ul style="list-style-type: none"> <li>• A class action suit is a lawsuit where a group of people representing a common interest may approach the Tribunal to sue or be sued.</li> <li>• It is a procedural instrument that enables one or more plaintiffs to file and prosecute litigation on behalf of a larger group or class having common rights and grievances</li> </ul>
19.	247	Registered Valuer	<p>The Companies Act, 2013 has introduced the concept of 'Registered Valuer' to cover valuation in respect of any property, stock, shares, debentures, securities, goodwill or any other assets of the company including its net worth and liabilities.</p>
20.	408 & 434	National Company Law Tribunal	<ul style="list-style-type: none"> <li>• National Company Law Tribunal (NCLT) is a proposed quasi-judicial body in India that will govern the companies in India. It established under the Companies Act, 2013 w.e.f. 01.06.2016 and is a successor body of the Company Law Board.</li> </ul> <p>NCLT and its appellate Tribunal will have power of the:</p> <ul style="list-style-type: none"> <li>• Company Law Board under the Companies Act, 1956.</li> <li>• BIFR and AAIFR under the Sick Industrial Companies (Special Provisions) Act, 1985,</li> <li>• Jurisdiction and powers relating to winding up, companies and arrangement and other such provisions, vested in the various High Courts in India</li> </ul>



S. No.	Section	Particular of Section	Content of Section
21.	435	Special Courts	<p>Section 435 of the Companies Act, 2013 provides for the speedy trial of offences by empowering Central Government, to establish or designate by notification as many Special Courts as may be necessary.</p> <p>A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.</p>
22.	455	Dormant Company	<p>Where a company is formed and registered under this 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 company may make an application to the Registrar for obtaining the status of a dormant company.</p>