

Maintenance and inspection of documents in electronic form (Sec 120)

1. Legislative background

The notes on clauses to the Companies Bill, 2011 read as follows:

“Clause 120. – This is a new clause which seeks to provide that any document, record, register or minute, etc., required to be kept or allowed to be inspected or copies given may be kept or inspected or copies given in the electronic form in the prescribed manner.”

There is no corresponding section(s) in the Companies Act, 1956. However section 610A to 610E of the Companies Act 1956, recognized electronic form for maintaining and filing documents.

2. Maintenance of documents, records etc.

Any document, record, register, minutes, etc. which is required to be kept by a company under the provisions of this Act may be kept in electronic form.

3. Inspection of documents, records etc.

Any document, record, register, minutes, etc. allowed to be inspected or copies to be given to any person by a company under this Act, inspected or copies given, as the case may be, in electronic form.

Following are some of the provisions which deal with inspection of registers or records:

Serial No.	Section/ Rule	Provision
a.	Sub-section (3) of section 25	Contracts for issue of securities to be open for inspection
b.	Sub-section (13) of section 71	Right of member and debenture-holder to inspect trust deed
c.	Sub-section (2) of section 85	Register of charges and instrument of charges to be open for inspection by members, creditors or other person
d.	Sub-section (2) of section 94	Registers mandated in section 88 and copies of annual return as filed in section 92 to be open for inspection by members, debenture-holders, other security holder or beneficial owner.
e.	Sub-section (3) of section 102	Explanatory statement to contain the time and place to inspect the documents which relate to any item of business

Serial No.	Section/ Rule	Provision
f.	Sub-section (8) of section 105	Right to inspect the proxies lodged g. Sub-section (1) of section 119 Right of a member to inspect the books containing the minutes of the general meeting and resolutions passed by postal ballot
h.	Sub-section (3) of section 128	Right of a director to inspect the books of accounts and other books and papers i. Proviso to sub-section (1) of section 136 Copies of financial statements to be made available at the registered office of a listed company when the same are sent in Form AOC-3 to the members and trustees of debenture-holders
j.	Sub-section (1) of section 136	Right of members and trustees of debenture-holders to inspect copies of financial statements, auditor's report and other documents at registered office k. Section 145 Auditor's report to be open to inspection of members
l.	Sub-section (1) of section 171	Register of directors and KMP and their shareholding to be open to inspection by members m. Sub-section (10) of section 186 Register of loans, guarantee, security and acquisition made by the company to be open to inspection
n.	Sub-section (3) of section 187	Register of investments not held in its own name by the company to be open to members and debenture-holders
o.	Sub-section (3) of section 189	Register of contracts with related party and contracts and bodies etc. in which directors are interested to be open for inspection by members
p.	Sub-section (2) of section 190	Copy of contract of service or memorandum of the terms of service of managing director or whole-time director to be open to inspection of members q. Sub-section (3) of section 206 Inspection of books of accounts and other books and papers by the Registrar
r.	Sub-section (5) of section 206	Inspection of books of accounts and other books and papers by the Inspector s. Sub-section (6) of section 206 Inspection of books of accounts and other books and papers by a statutory authority

Serial No.	Section/ Rule	Provision
t.	Sub-section (5) of section 281	Right of creditor or contributory to inspect the reports of company liquidator u. Sub-section (4) of section 287 Right of advisory committee to inspect the books of accounts and other documents of the company
v.	Sub-section (2) of section 293	Right of creditor or contributory to inspect the books maintained by company liquidator w. Sub-section (4) of section 294 Right of creditor, contributory or other interested person to inspect the accounts prepared by company liquidator
x.	Sub-section (4) of section 314	Right of creditor, member or any officer of Central Government to inspect the books of accounts prepared by company liquidator y. Sub-section (1) of section 346 Right of creditor, contributory to inspect the books and papers of the company after an order for winding up
z.	Sub-section (4) of section 348	Right of creditor, contributory to inspect the statement prepared by company liquidator under sub-section (1) of section 348
aa.	Section 384	The provisions regarding debentures, annual return, registration of charges and their inspection to apply to foreign companies.
ab.	Sub-section (1) of section 387	Right to inspect certain documents mentioned in the prospectus
ac.	Clause (5) of part IV of schedule IV	Terms and conditions of appointment of independent director to be open for inspection by members
ad.	Rule 30 (4) of the Companies (Incorporation) Rules, 2014	Any person may inspect the list of creditors maintained at the registered office
ae.	Para 4.1.5 of Secretarial Standard-1	Attendance register of meetings of the board to be open for inspection by company secretary in practice or secretarial auditor or statutory auditor.
af.	Para 7.7.1 of Secretarial Standard-1	Inspection of minutes book by company secretary in practice, secretarial auditor, statutory auditor, cost auditor or internal auditor
ag.	Para 17.6.1 of Secretarial Standard-2	Inspection of minutes book by member, director, company secretary in practice, secretarial auditor, statutory auditor, cost auditor or internal auditor

It should be noted that the section is to operate 'without prejudice to any other provisions'. Hence, it will not operate to create a right to inspect where there is none.

Rule 29 provides for inspection and copies of records maintained in electronic form. Where a company maintains its records in electronic form, the duty to make the records available for inspection or to provide copies of the whole or a part of those records is to be read as a duty to make the records available for inspection in electronic form or to provide copies of those records containing a clear reproduction of the whole or part thereof, as the case may be on payment of not exceeding 10 rupees per page.

Contents of Geeta Saar, as extracted from ICSI Premier on Company Law, is as per notified law as on 30th September, 2016.