

Article

Companies Bill: From the Rule of Law to the Law of Rules



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Article

Parliament makes legislation, and the executive, that is, the Central government or any other statutory authority, is primarily concerned with the implementation of the law, but is quite often given powers to make rules. The power of rule-making commonly comes by words such as “as may be prescribed” in the law.

The Companies Bill 2012 goes a little overboard in liberally setting aside matters which may be prescribed by the Central Government. The word “prescribed” occurs 416 times in the Bill. Though at lots of instances where the said word is used, the idea may be the prescription of the form/e-form whereby filing is to be done, there is an enormous extent of law that is reserved for prescription by the executive in form of rules. This would mean, besides the law with 470 sections and 5 schedules, subjects will have to keep in mind the massive body of rules to be framed under the law.

Rule-making has its own advantage – rules are flexible, and may be amended from time to time without going to the Parliament. Rules may contain matters of details, for example, the procedural rules, which may be parked into rules to keep the body of the law light.

However, there is a curious balance between what needs to be in the law and what may be parked into the rules. There are certain matters which relate to the very core, the vey policy of the regulation. For instance, whether a particular regulation will apply to a private limited company or not cannot be left for the executive to decide. Given the nature of the curb being imposed, it may be wholly inappropriate for the Parliament to apply the law in general, and then give a scope for the executive to relax it for a class of companies.

Liberties of Private companies, small companies and one person companies

One may notice that exemptions in case of private companies, unlike the existing Act, are not a part of the law in the Bill – these are to be notified by the Central Government. However, the liberties enjoyed by private companies are not a matter of magnanimity on the part of the executive. Given the nature of a private company, it is a closed group of persons with strictly private fund raising, and hence, there is no question of certain regulatory concerns for such companies. It is not sufficient in such cases to say, the executive may exempt such companies from certain provisions.

One good example is the provisions applicable to private placements. Every issue of securities, in case of a private company, is a private placement. If the placement is a private affair, there is no reason for the intervention of the law. There is large restrictive set of rules applying to private placements under the Bill¹. There is no good reason for such rules to be applicable to private companies. This is something which is an integrated part of the philosophy of the law, and cannot be left for the rules to lay down.

Principles of excessive delegation: Balancing between subordinate law and Parliamentary law:

The balance between Parliamentary law and subordinate law has been one of the key features of our Constitution and our legislative set up. Unlike England, the principle of subordinate legislation in India is inspired by the US constitution.

¹ See Vinod Kothari and Nidhi Ladha: <http://www.moneylife.in/article/fallout-of-the-sahara-case-companies-bill-2012-too-strict-on-private-placement-provisions/30344.html>



Article

A leading US case on the point is *Panama Refining Co v. Ryans*² wherein it was held that the Congress can delegate legislative powers to the Executive subject to the condition that it lays down the policies and establishes standards while leaving to the administrative authorities the making of subordinate rules within the prescribed limits.

In India, courts have taken a more liberal attitude on the principle of excessive delegation. The Constitution of India does not contain specific provisions for delegated legislations. It imposes restrictions based on general theories and principles of constitutional law and judicial precedents. The purpose for introducing the principle for delegated legislation is that the legislature being over burdened and the needs of the modern day society being complex it cannot possibly foresee every administrative difficulty that may arise after the Statute has begun to operate³. Delegated legislation fills those needs and comes to aid during situations of emergency. However, this does not imply that the doctrine of delegated legislation can be used arbitrarily or unreasonably. The Parliament can only delegate to the executive the power to make ancillary or sub-ordinate legislations to the principal legislation and not the principal legislation itself.

Where the vires of section 6(2) of the Bombay Tenancy and Agricultural Lands Act, 1948 was challenged on the ground of excessive delegation⁴, the Hon'ble Supreme Court held that a statute challenged on the ground of excessive delegation should be subjected to two tests i.e.:

- a. whether it delegates essential legislative function or power; and
- b. whether the legislature has enunciated its policy and principle for the guidance of the delegate.

In the same case⁵, Subba Rao J. observing that there is a danger inherent in the process of delegation, also opined that:

"It may not lay down any policy at all; it may declare its policy in vague and general terms; it may not set down any standard for the guidance of the executive, it may confer an arbitrary power on the executive to change or modify the policy laid down by it without reserving for itself any control over subordinate legislation. This self effacement of legislative power in favour of another agency either in whole or in part is beyond the permissible limits of delegation. It is for a Court to hold on a fair, generous and liberal construction of an impugned statute whether the legislature exceeded such limits. But the said liberal construction should not be carried by the courts to the extent

² (1935) 79 L. Ed- 446. 438

³ *St. Johns Teachers Training Institute v. Regional Director, National Council for Teacher Education & Anr.*, <http://indiankanoon.org/doc/633712/>

⁴ *Vasantlal Maganbhai Sanjanwala v. The State of Bombay & Ors.* https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CDEQFjAA&url=http://indiankanoon.org/doc/1340429/&ei=AiXcUJjyA8bjrAf_xYGYBA&usq=AFQjCNH4WytvCzrXSOJcm3sG6p - YdULGA&bvm=bv.1355534169,d.bmk

⁵ *Ibid.*



Article

of always trying to discover a dormant or latent legislative policy to sustain an arbitrary power conferred on executive authorities.”

The proposed Companies Bill, 2012 confers wide powers to the Central Government to prescribe the applicability or non-applicability of some provisions to a certain class of companies’ which might in the long run lead to arbitrary exercise of powers and hence excessive. Earlier also, there have been many statutes where the provisions were made applicable to a certain class or certain area and simultaneously, the government was authorized to make those provisions applicable to the excluded classes or areas as well, as the case may be.

In the landmark case of *In re Delhi Laws Act*⁶ (“**Delhi Laws Act case**”), Fazl Ali J. rightly quoted what was laid down by the American Judges as an exception to the general rule of delegated legislation, that

“The legislature cannot delegate its power to make a law; but it can make a law to delegate a power to determine some fact or state of things upon which the law makes, or intends to make, its own action depend - To deny this would be to stop the wheels of government.”

In the same case, Justice Fazl Ali, also observed that:

“No legislative body can delegate to another department of the government, or to any other authority, the power, either generally or specially, to enact laws. The reason is found in the very existence of its own powers. This high prerogative has been entrusted to its own wisdom, judgment, and patriotism, and not to those of other persons, and it will act ultra vires if it undertakes to delegate the trust, instead of executing it.”

Despite the above observations, the Hon’ble Supreme Court admitted the necessity of a delegated legislation and formulated the general limit of delegation on the broad formula that “*what cannot be delegated is its essential functions.*”

Further, the case of *Raj Narain v. Chairman, Patna Administration*⁷ subtly summed up the limitations laid down in Delhi Laws Act case as:

- a. Parliament may not destroy its legislative power by delegation;
- b. It may not abandon its control over the delegate; and
- c. It may not create a new legislative power not contemplated in the Constitution.

It is noteworthy, that along with the power of delegated legislation, also comes hand to hand the power of discretion conferred on the administration. ‘Rule-making power’ and ‘discretionary power’ can be said to constitute two sides of the same coin i.e. delegated legislation. It implies that subordinate legislation is a medium for administrative authorities to

⁶ <http://www.indiankanoon.org/doc/306099/>

⁷ AIR 1954 SC 569



Article

further confer discretionary powers upon themselves by formulating rules to that effect. In spite of conferral of such arbitrary powers of rule-making and exercise of discretion by the administrative authorities, the courts have taken a backseat and hardly rendered any statute or legislation invalid on grounds of excessive delegation unless the same appears widely to be so, on the face of the provision. Even when the courts have found the delegated legislation to confer wide powers on the administration, availability of safeguards have been held to be sufficient against the abuse of power. This only shows that the standard accepted as sufficient has been so general and vague that it raises a doubt on whether it solves the purpose of controlling administrative discretion⁸.

Nevertheless, in the present epoch, both the legislative as well as the judicial authorities have very conveniently overlooked the restrictions applicable in case of delegated legislation and adopted a more lenient approach towards the doctrine of delegated legislation such that the legislature lays down the general provisions of law leaving the specification to be filled in by the executives. Sometimes, the executive authority is also conferred with the power of modifying the existing statute before its application which is in essence a drastic power resulting in an amendment to the statute itself, essentially the same being a function of the legislature.

The Companies Bill, 2012, is also an example of excessive delegation as major areas have been left open for the government to make rules on the same, as is evident from a bare reading of the provisions. Moreover essential provisions required to be incorporated in the Bill, for instance, in the case of a private company, small company or a one person company, the legislature has completely failed to provide that the law will be applicable to companies involving public interest.

The doctrine of delegated legislation has become an integral part in the legislative process. Nevertheless, it should not be used excessively so as to defeat the purpose which legislation seeks to achieve and to render it ineffective. It is the primary and most essential duty of the legislature to frame the laws of a country and it should not try to escape from its duty under the garb of subordinate legislation. Proper checks and balances should be imposed to ensure that the doctrine of delegated legislation is adopted reasonably. The legislature alone cannot be held responsible for the arbitrary exercise of authority under delegated legislation and the judiciary has an equally important role to play in ensuring the same.

Conclusion

The Companies Bill, 2012 is a significant step taken by the legislature to effectively regulate corporate affairs in India and to improvise the present Companies Act, 1956 according to the current requisitions of the corporate world. However, leaving such major areas in the Bill open to the discretion of the administration shall prove to be a hindrance in meeting the true intent and purpose of the statute in the future. It is necessary to bear in mind that the statute should not be drafted to fulfil the short-term goals of the society but be sufficient to meet the

⁸ <http://upendrabaxi.net/documents%5CDevelopments%20in%20indian%20administrative%20law.pdf>, Public Law in India, Developments in Indian Administrative Law, Page 141-142.



Article

requirements of the present as well as the future. The true intention to a statute can be accorded only by the law-makers of the society i.e. the legislature and not the executive. The executive can only be delegated enough powers to 'fill in the gaps' where necessary and nothing in excess of the same. In the backdrop of such considerations, there is a need to review the statute and eliminate any possibility of excessive delegation.



Article

Annexure I:	
List of Clauses where Central Government needs to “prescribe” Rules	
Chapter/ Part/ Clause	What will the Government prescribe?
CHAPTER I: Preliminary	
2(31)	Categories of amount not to be included in the definition of “deposit”, as may be prescribed in consultation with RBI
2(51)(v)	Definition of KMP: Other officers to be included in the definition of KMP
2(68)	Minimum share capital for private companies (higher than Rs. 1 lakh)
2(71)	Minimum share capital for public companies (higher than Rs. 5 lakh)
2(76)(ix)	Related Party: Such other officer as may be prescribed
2(77)(iii)	Relative: Manner in which one person may be “related” to other person
2(85)	<ul style="list-style-type: none"> • Paid up share capital of small companies (Max. Rs. 5 crores can be prescribed) • Turnover as well (Max. Rs. 20 crores can be prescribed)
2(87)	Definition of subsidiary: Class or classes of holding companies not to have layers of subsidiaries beyond such numbers as may be prescribed.
CHAPTER II: Incorporation Of Company and Matters Incidental thereto	
Provisos to 3(1)	OPCs: <ul style="list-style-type: none"> • Form for prior written consent of the nominee Form for withdrawal of consent by the nominee • Manner of giving notice by the member to withdraw name of the nominee • Time and manner of indicating in the memorandum and intimating the Registrar of the change, if any, in the name of the other person nominated



Article

4(3)	Word or expression not to be included in the name of a company to be registered
4(4)	Fees for application for reservation of name
5(5)	Form and manner of notice by the company to the Registrar of provisions for entrenchment in the articles
7(1)	<p>Documents for incorporation:</p> <ul style="list-style-type: none"> • The memorandum and articles of the company duly signed by all the subscribers to the memorandum in such manner as may be prescribed • A declaration in the prescribed form by an advocate, a chartered accountant, cost accountant or company secretary in practice, who is engaged in the formation of the company, and by a person named in the articles as a director, manager or secretary of the company • The particulars of name, including surname or family name, residential address, nationality and such other particulars of every subscriber to the memorandum along with proof of identity, as may be prescribed, and in the case of a subscriber being a body corporate, such particulars as may be prescribed • The particulars of the persons mentioned in the articles as the first directors of the company, their names, including surnames or family names, the Director Identification Number, residential address, nationality and such other particulars including proof of identity as may be prescribed • The particulars of the interests of the persons mentioned in the articles as the first directors of the company in other firms or bodies corporate along with their consent to act as directors of the company in such form and manner as may be prescribed
7(2)	Form for issuance of Certificate of Incorporation by the Registrar
8(1) & (4), (6)	<ul style="list-style-type: none"> • CG to issue licence in the prescribed form to Cos. having objects as the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other Object • Registrar to register the person or AoP as limited Co. on issuance of such licence, on an application being made in the prescribed form. • A company registered under this section may convert itself into company of any other kind only after complying with such conditions as may be prescribed • Revocation of licence by CG and registration by the registrar on application in the prescribed form for name amendment
11(1)	<p>Commencement of business by a Co. having share capital:</p> <p>A declaration is filed by a director in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the</p>



Article

	memorandum has paid the value of the shares agreed to be taken by him and the paid-up share capital is as stipulated under the Act
12(2)	The company shall furnish to the Registrar verification of its registered office within a period of thirty days of its incorporation in such manner as may be prescribed.
12(3)	Documents on which the company should have its name printed.
12(4)	Notice of every change of the situation of the registered office, to be verified in the manner prescribed
Proviso to 12(5)	Application in the prescribed manner to RD for confirmation of change in the place of its registered office from the jurisdiction of one Registrar to the jurisdiction of another Registrar within the same State
13(4) & 7	<ul style="list-style-type: none"> • Application to CG for approval for the alteration of the memorandum relating to the place of the registered office from one State to another • Certified copy of CG's order shall be filed by the company with the Registrar of each of the States within such time and in such manner as may be prescribed
13(8)	The details, as may be prescribed, in respect of Special resolution (change its objects for which the Co. raised the money through prospectus) shall also be published in the newspapers
14(2)	Alteration of articles to be filed with the Registrar s in such manner as may be prescribed
17(1)	Fees for Copies of memorandum, articles, etc., to be given to members
20(1)	Mode of service of documents on the Co. or an officer thereof, other than those prescribed under the Act
20(2)	Mode of service of documents on the Registrar, other than those prescribed under the Act
<p>CHAPTER III: Prospectus and Allotment of Securities</p> <p>PART I.—Public offer</p>	
26(1)	Regarding various matters to be stated in the prospectus
27(1)	The details, as may be prescribed, of the notice in respect of Special resolution (for variation in terms of contract or objects in prospectus) to shareholders, shall also be published in the newspapers
28(1)	Procedure for offer of sale of shares by certain members of company



Article

29(1)	Public offer of securities to be in dematerialized form such other class or classes of public companies (i.e. other than those making a public offer) as may be prescribed
31(1)	Changes to be specified in the Information Memorandum where a Shelf Prospectus has been issued and filing of the same with the Registrar in the prescribed manner.
39(3)	Return of allotment money within such time and manner as may be prescribed
39(4)	Return of allotment to be filed with the Registrar in the prescribed manner.
40(6)	A company may pay commission to any person in connection with the subscription to its securities subject to such conditions as may be prescribed.
41	Conditions and manner for issue of GDRs
CHAPTER III: Prospectus and Allotment of Securities	
PART II.—Private placement	
42(2)	<ul style="list-style-type: none"> • Maximum no. of persons for private placement • Conditions, form and manner of private placement
42(7) & (9)	<ul style="list-style-type: none"> • Manner of keeping complete records of the offers made to persons for private placement • Return of allotment in the prescribed manner (for private placement)
CHAPTER IV: Share Capital and Debentures	
43	Rules for issue of shares with differential rights
46(3)	Issue of share certificate or duplicate: manner, form, particulars to be entered in the Register of members
52(3)	Application of securities premium A/c: power to prescribe class of companies
54(1)(d)	Sweat equity shares: power to issue rules for issuance by unlisted companies
55(2) and proviso	<ul style="list-style-type: none"> • Conditions for issue of preference shares redeemable within a maximum period of 20 years • Percentage of preference shares to be redeemed on annual basis (where the same are for a period exceeding 20 years) • Class of companies for which premium payable on redemption of preference shares to be provided out of the profits of the company, before the shares are



Article

	redeemed
56(1) and proviso	<ul style="list-style-type: none"> • Form of proper instrument of transfer of securities • Period within which the instrument of transfer has to be delivered
56(3)	Form of notice given by the company to the transferee, where the application has been made by the transferor alone relating to partly paid shares
59(1)	Rectification of register of members: form of appeal by any aggrieved member or the company
61(1) proviso	<p>Consolidation and division which results in changes in the voting percentage of shareholders:</p> <p>Manner of application to NCLT for approval</p>
62(1)	<ul style="list-style-type: none"> • Further issue of share capital to employees (ESO): power to prescribe conditions • Further issue of share capital to any other persons in case price of such shares is determined by the valuation report of a registered valuer: power to prescribe conditions
63(2)	<p>Issue of bonus shares:</p> <p>Conditions for capitalization of profits/reserves</p>
64(1)	Form of notice to be given to Registrar for alteration of share capital
67(1)	<p>Restrictions on purchase by company or giving of loans by it for purchase of its shares:</p> <ul style="list-style-type: none"> • Requirements to be met for provision of money by a company for the inapplicability of restrictions on giving of loans by it for purchase of its shares • Manner in which disclosures in respect of voting rights not exercised directly by the employees in respect of shares to which the scheme relates shall be made in the Board's report
68(2)	Rules for buy back of shares by unlisted companies
68(6)	Form for declaration of solvency for buy back of securities
68(9)	Contents for register of the shares or securities bought back
68(10)	Form of return containing particulars relating to the buy-back
71(3)	Terms and conditions for issuance of secured debentures
71(5)	Conditions governing the appointment of debenture trustees
71(6)	Rules for redressal of grievances of debentureholders by the debenture trustees.
71(13)	The procedure, for securing the issue of debentures, the form of debenture trust



Article

	deed, the procedure for the debenture-holders to inspect the trust deed and to obtain copies thereof, quantum of debenture redemption reserve required to be created and such other matters.
72(1) & (2)	<ul style="list-style-type: none"> • Manner of nomination by a security-holder/joint-holders of any person to whom the securities will vest in the event of his death • Cancellation or variation of the nomination • Various other matters, e.g. in case where the nominee is a minor
CHAPTER V: Acceptance of Deposits by Companies	
73(2)	<ul style="list-style-type: none"> • Rules for acceptance of deposits from public in consultation with RBI • Form and manner of issuance of circular to the members • Manner and extent of deposit insurance
76(1)	<ul style="list-style-type: none"> • Acceptance of deposits from public by certain companies: Rules in consultation with RBI; net worth or turnover of such public companies • Rules for creation of charge in favour of deposit holders
CHAPTER VI: Registration of Charges	
77	<ul style="list-style-type: none"> • Form, fees and manner • Additional fees for registration during extended period • Form and manner of issuance of Certificate of registration • Form and manner of application by the chargeholder, and fees
81(1) and (2)	<ul style="list-style-type: none"> • Form and manner of keeping register of charges registered, (kept by the Registrar) • Fees for inspection of such register
82(1)	Form for intimation of full satisfaction of charge to the Registrar
84(1)	Intimation of appointment of receiver or manager: fees for registration of such details in the register of charges
85	<ul style="list-style-type: none"> • Register of charges to be kept by the company: form, manner and particulars • Fees for inspection by person other than member/creditor
CHAPTER VII: Management and Administration	
88	<ul style="list-style-type: none"> • Register of members; debentureholders, other security holders: form, manner • Manner of keeping foreign register
89	<ul style="list-style-type: none"> • Form of declaration in respect of beneficial interest in any share or any change in the beneficial interest



Article

	<ul style="list-style-type: none"> • Rules to provide for the manner of holding and disclosing beneficial interest and beneficial ownership under this section • Form for filing return by the company to the Registrar on receipt of declaration and fees/additional fees therefor
91	Period of notice to close register of members or debentureholders or other security holders, the companies which intend to get their securities listed
92	<ul style="list-style-type: none"> • Form for annual return; disclosures in the annual return; details in respect of shares held by or on behalf of FIIs or other matters • Paid-up capital or turnover of companies for which annual return is to be certified by a PCS; the form for such certification • Form of extract of the annual return that is to form a part of the Board's Report • Fees/additional fees for filing annual return with the Registrar
93	Form of return to be filed with Registrar in case promoters' stake changes. (in case of listed cos.)
94	<ul style="list-style-type: none"> • Period for which the registers, returns and records are required to be kept • Fees for inspection of registers and their indices • Fees for taking copies of register or entries therein
101	Manner of giving notice of general meeting through electronic mode
105	<ul style="list-style-type: none"> • class or classes of companies whose members shall not be entitled to appoint another person as a proxy • maximum no. of shares against which the proxy can act • form of instrument appointing a proxy
108	The class or classes of companies and manner in which a member may exercise his right to vote by the electronic means
109	<p>Demand for poll:</p> <ul style="list-style-type: none"> • aggregate shareholding of the members for being eligible (prescribed amount should be higher than Rs. 5 lakhs) • Manner of report on the poll process and votes given
110	Postal ballot: manner of transacting business
115	<p>Resolutions requiring special notice:</p> <ul style="list-style-type: none"> • aggregate sum of shareholding of the members required to give such notice to the company • Manner in which the company shall give the notice of resolution to its members
117	Manner and fees for filing resolutions and agreements with the Registrar



Article

118	Manner of preparation and signing of minutes
119	Fees for getting copies of minutes of general meeting
120	Maintenance and inspection of documents in electronic form: form and manner of copies to be given
121	<ul style="list-style-type: none"> • Manner of preparation of report on annual general meeting • Fees/additional fees for filing copy of the report with the Registrar
CHAPTER VIII: Declaration and Payment of Dividend	
123	Rules for declaration of profits out of accumulated profits/reserves in the absence/inadequacy of profits
124	<ul style="list-style-type: none"> • Statement containing details of unpaid dividend to be posted on company's website or other website: form, manner and other particulars • Form of the statement containing details of transfer of unpaid dividend to IEPF • Details pertaining to shares transferred to IEPF (i.e. the shares in respect of which unpaid/unclaimed dividend has been transferred to IEPF) • Procedure and documents to claim the shares so transferred
125	<ul style="list-style-type: none"> • Amounts to be credited to IEPF, other than those specified under the Act • Rules for utilization of IEPF • The manner of administration of the Fund, appointment of chairperson, members and chief executive officer, holding of meetings of the authority • Provision by Central Government to the authority administering IEPF offices, officers, employees and other resources • Administration of the Fund and maintenance of separate accounts and form of other relevant records in relation to the Fund [to be prescribed in consultation with CAG] • Time and form of preparation of annual report by the authority
CHAPTER IX: Accounts of Companies	
128	<ul style="list-style-type: none"> • Manner of keeping books of account or other relevant papers in electronic mode • Conditions subject to which copies of financial information shall be maintained and produced for inspection by any director
129	<ul style="list-style-type: none"> • Form of the statement containing the salient features of the financial statement of its subsidiary or subsidiaries • Consolidation of accounts of companies
131	<ul style="list-style-type: none"> • Form and manner of application to Tribunal for obtaining approval to prepare revised financial statement or revised report



Article

	<ul style="list-style-type: none"> • Rules as to the application of the provisions of this Act in relation to revised financial statement or a revised director's report, making different provisions
132	<ul style="list-style-type: none"> • Manner in which National Financial Reporting Authority will monitor and enforce the compliance with accounting standards and auditing standards; and other related matters • Other functions of NaFRA. • Members of NaFRA • Terms and conditions and the manner of appointment of the chairperson and members • Form for declaration by chairperson and members to the CG regarding no conflict of interest • Manner of investigation by NaFRA into the matters of professional misconduct by member/firm of CAs. • Manner of appeal before the Appellate Authority against the orders of NaFRA; fee for filing appeal • Appellate Authority: qualifications of members, chairperson, manner of selection, terms and conditions of service, etc. • Time and form for preparation of annual report of the Appellate Authority. • Meetings of NaFRA, procedure in regard to transacting business • The terms and conditions of service of the secretary and employees of NaFRA. • Form and manner of books of accounts, etc. of NaFRA (in consultation with CAG) • Time and form for preparation of annual report of NaFRA
133	standards of accounting or any addendum thereto in consultation with and after examination of the recommendations made by NaFRA
134	<p>Manner of reporting on (Board's Report):</p> <ul style="list-style-type: none"> • particulars of contracts or arrangements with related parties • the conservation of energy, technology absorption, foreign exchange earnings and outgo <p>Paid-up share capital of companies that will need to include the statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance; other matters</p>
135	Manner in which contents of CSR Policy is to be disclosed
136	<ul style="list-style-type: none"> • Form of statement containing salient features of the audited financial statements to be sent to every member • The manner of circulation of financial statements of companies having such net worth and turnover as may be prescribed
137	Fees/additional fees for filing copy of financial statement with Registrar; fees for filing financial statements adopted in adjourned general meeting; or in case where AGM has not been held



Article

138	<ul style="list-style-type: none"> • Class(es) of companies required to appoint internal auditor • The manner and the intervals in which the internal audit shall be conducted and reported to the Board
CHAPTER X: Audit and Auditors	
139	<ul style="list-style-type: none"> • The manner and procedure of selection of auditors by the members of the company at the 1st AGM • Conditions for the appointment of auditors • Class (es) of companies that cannot appoint/re-appoint an individual/audit firm for one/two term(s) of 5 consecutive years • Manner of rotation of auditors
140	<ul style="list-style-type: none"> • Manner of obtaining previous approval of CG for removing auditor before expiry of the term • Form of statement to be filed by the resigning auditor to the company and the registrar.
141	<ul style="list-style-type: none"> • Eligibility, qualifications and disqualifications of auditors: extent to which a relative may hold security and interest in the company • Extent of indebtedness of the relative/guarantee, security in connection with the indebtedness of the third person, that makes him ineligible to be appointed as auditor • Nature of business relationship of a person or firm to be ineligible to be appointed as auditor
143	<ul style="list-style-type: none"> • Matters other than those under the Act, to be reported by the auditor to the members of the company • Duties and powers of the company's auditor with reference to the audit of the branch and the branch auditor, if any • The standards of auditing or any addendum thereto • Time and manner in which the auditor is to report the matter of an offence involving fraud by the officers/employees of the company against the company; to the CG.
144	Services not be rendered by the auditor
148	<ul style="list-style-type: none"> • Class(es) of companies to keep cost records • Class of companies (on the basis of net worth or turnover) for which cost audit shall be conducted; manner of audit. • Manner of determination of remuneration of cost auditor by the members
CHAPTER XI: Appointment and Qualifications of Directors	
149	<ul style="list-style-type: none"> • Class or classes of companies to have at least one woman director. • The minimum number of independent directors in case of any class or classes



Article

	<p>of public companies</p> <ul style="list-style-type: none"> • Certain criteria in respect of relatives of director, in which case the director will not qualify as independent director • Other qualifications that renders a director ineligible to be an independent director.
150	<ul style="list-style-type: none"> • Rules for creation and maintenance of databank of independent directors • The manner and procedure of selection of independent directors
151	<ul style="list-style-type: none"> • Manner, terms and conditions for appointment of director elected by small shareholders • Amount of nominal value of shares for being eligible as small shareholder (Act prescribes max. Rs. 20000)
152	Manner of filing consent by an appointed director.
153	Form, manner, fees for application for allocation of DIN
154	Manner of allotment of DIN by CG to the director
157	Form, manner and fees/additional fees for intimation of DIN of directors to the Registrar or any other officer/authority
160	<ul style="list-style-type: none"> • Persons other than retiring directors to stand for directorship: deposit amount for notice of candidature (not less than Rs. 1 lakh) • Manner in which the company is to inform its members of the candidature of a person for the office of director
168	<p>Resignation of director:</p> <ul style="list-style-type: none"> • Time, manner and form in which company is to intimate the Registrar. • Manner in which the director is to forward a copy of the resignation to the Registrar
170	<ul style="list-style-type: none"> • Particulars of register of directors and key managerial personnel • Particulars of the return of directors and key managerial personnel to be filed with the Registrar.
CHAPTER XII: Meetings of Board and its Powers	
173	Audio-visual means for recording participation of directors in a meeting of BoD.
175	Electronic means to circulate draft resolution to be passed by circulation.
177	<ul style="list-style-type: none"> • Class(es) of companies required to constitute an Audit Committee • Class(es) of companies required to establish a vigil mechanism for directors and employees to report genuine concerns in the prescribed manner
178	<ul style="list-style-type: none"> • Class(es) of companies required to constitute the Nomination and



Article

	Remuneration Committee
179	Other matters in regard to which powers of the Board can be exercised in a meeting only
184	Disclosure of interest by director: manner of disclosure
186	<ul style="list-style-type: none"> • Loan and investment by company • Cases where a company can make investment through more than two layers of investment companies • Class(es) of companies not allowed take inter-corporate loan or deposits exceeding the prescribed limit • Register of inter-corporate loan/guarantee/acquisition of shares: particulars and manner of keeping the Register • Fees for taking extracts/copies from the Register by the members
187	Register of investments not held in the name of the company
188	<ul style="list-style-type: none"> • Conditions subject to which a company can enter into any contract or arrangement with a related party • Classes of companies (in terms of paid-up capital or sum of transactions) which will require prior approval by means of SR for entering into any contracts/arrangements
189	<ul style="list-style-type: none"> • Register of contracts or arrangements in which directors are interested: particulars and manner of keeping the Register • Information to be furnished by the director or KMP relating to his concern or interest • Copies/extracts/fees
191	Particulars of payment to director for loss of office, etc., in connection with transfer of undertaking, property or shares to be disclosed to the members of the company
CHAPTER XIII: Appointment and Remuneration of Managerial Personnel	
196	Appointment of managing director, whole-time director or manager: form of return to be filed with the Registrar
197	<ul style="list-style-type: none"> • Maximum amount of sitting fees • Different fees for different classes of companies and fees in respect of independent director • Details regarding managerial remuneration to be disclosed in the Board's Report by a listed company
200	Matters to be given regard to while fixing limit with regard to remuneration
201	Form for making application to CG under Chapter XIII



Article

203	Class(es) of companies required to have whole time KMPs
204	<ul style="list-style-type: none"> • Class(es) of companies required to annex Secretarial audit report with the Board's Report • Form of the Secretarial Audit Report
205	Duties of CS
CHAPTER XIV: Inspection, Inquiry and Investigation	
211	<ul style="list-style-type: none"> • Fields in which the officers of Serious Fraud Investigation Office need to have experience in. • The terms and conditions of service of Director, experts, and other officers and employees of the Serious Fraud Investigation Office
212	<ul style="list-style-type: none"> • Manner in which the Director, Additional Director or Assistant Director of Serious Fraud Investigation Office is to forward a copy of the CG's order, along with the material in his possession to the Serious Fraud Investigation Office in a sealed envelope. • Period for which the order is to be kept by Serious Fraud Investigation Office
214	Security for payment of costs and expenses of investigation.
218	Protection of employees during investigation: Fees for appeal to Appellate Tribunal against the objection raised by the NCLT
CHAPTER XV: Compromises, Arrangements and Amalgamations	
230	<ul style="list-style-type: none"> • Form of creditor's responsibility statement • Matters to be included in the notice of the meeting for compromise or arrangement • Manner of publishing the notice and documents in newspapers • Form of sending the notice to the CG, the income-tax authorities, the RBI, the SEBI, the Registrar, the respective stock exchanges, the Official Liquidator, the CCI, etc. • Manner of including takeover offer in the compromise/arrangement • Manner of application to Tribunal in the event of any grievances with respect to the takeover offer of companies other than listed companies
232	Merger and amalgamation of companies: time limit and form for filing statement with the Registrar until the completion of the Scheme.
233	<ul style="list-style-type: none"> • Merger or amalgamation of certain companies: • Class(es) of companies to which the conditions under the Section will apply. • Form for declaration of solvency • Manner of filing the scheme approved with the CG, Registrar and the Official Liquidator



Article

	<ul style="list-style-type: none"> • Fees due on revised capital • Manner for merger or amalgamation of companies
234	Rules in connection with merger and amalgamation of a company with a foreign company (in consultation with RBI)
235	<ul style="list-style-type: none"> • Manner of giving notice to shareholders dissenting from scheme or contract approved by majority for acquiring shares. • Rules for making offer to minority shareholders; price to be offered determined on the basis of valuation by a registered valuer. • Rules for determination of price at which the minority can issue shares to majority
237	Amalgamation of companies in public interest: Prescribe the Authority to assess compensation to members/ creditors for diminution of interest
238	Offer of schemes involving transfer of shares: Information to be contained in the circular to the members by the directors
CHAPTER XVI: Prevention of Oppression and Mismanagement	
245	Class action: <ul style="list-style-type: none"> • minimum % of requisite number of members, or minimum % of shareholding • minimum % of depositors • manner of serving public notice to members, depositors of the class
CHAPTER XVII: Registered Valuers	
247	Valuation by Registered Valuer: <ul style="list-style-type: none"> • Qualifications, experience, manner of registration, terms and conditions of registration of valuers • Rules according to which valuation is to be made
CHAPTER XVIII: Removal of Names of Companies from the Register of Companies	
248	<ul style="list-style-type: none"> • Manner of filing application to the Registrar • Manner of issuing public notice by the Registrar on receipt of application • Manner of giving notice by the Registrar expressing intention to remove the name
CHAPTER XIX: Revival and Rehabilitation of Sick Companies	



Article

253	Manner of filing application to the Tribunal by any secured creditor
254	<ul style="list-style-type: none"> • Particulars and documents to accompany application for revival and rehabilitation; fees therefor • Draft scheme of revival and rehabilitation of the company
259	Manner of maintaining databank of administrators
269	Manner of appointment of administrator of Rehabilitation and Insolvency Fund, by CG
<p>CHAPTER XX : Winding Up</p> <p>PART I.— Winding up by the Tribunal</p>	
272	Form and manner of Statement of Affairs to accompany the petition by the company for winding up before the Tribunal
274	Form and manner of filing objections and statement of affairs in case the winding up petition is filed by a person other than a company
275	Appointment of provisional liquidator/company liquidator: <ul style="list-style-type: none"> • Power to prescribe professionals in a firm /body corporate • Form for declaration in respect of conflict of interest, etc.
281	Fees for inspection/taking copies, extract from the report of the liquidator, by creditor or contributory
287	Advisory committee appointed by the Tribunal: The provisions relating to the convening of the meetings, the procedure to be followed thereat and other matters relating to conduct of business
288	Form and manner of preparing periodical/quarterly reports by the liquidator for submission to the Tribunal
291	Professional assistance to Company Liquidator: Form for declaration in respect of conflict of interest, etc.
293	Manner of keeping books by the liquidator; matters to be entered therein
294	<ul style="list-style-type: none"> • Form and manner of maintaining proper and regular books of account including accounts of receipts and payments made by the liquidator • Frequency and form of presenting an account of the receipts and payments by the Liquidator to the Tribunal • Form and manner of declaration verifying the account submitted



Article

CHAPTER XX : Winding Up	
PART II.—Voluntary winding up	
310	Form of declaration to be filed by Company liquidator (voluntary winding up) disclosing conflict of interest, lack of independence, etc.
314	<ul style="list-style-type: none"> • Form and manner of maintaining proper and regular books of account by the liquidator (voluntary winding up) • Form and manner of preparing quarterly statement of accounts by the liquidator for filing with the Registrar.
316	<ul style="list-style-type: none"> • Form and manner of quarterly report on progress of winding up to be submitted by the Company Liquidator • Form and manner of apprising creditors and members of the progress of winding up
318	<ul style="list-style-type: none"> • Form and manner of calling final meeting after winding up, by the company liquidator • Manner of filing application by the company liquidator to the Tribunal for passing an order of dissolution of the company
322	Person (otherwise than a company) to forward copy of the order staying the proceedings in the winding up to the Registrar.
CHAPTER XX : Winding Up	
PART III.—Provisions applicable to every mode of winding up	
326	Overriding preferential payments: <ul style="list-style-type: none"> • Duration for which wages/salaries have become payable • Charge over the security of secured creditors, to which the wage/salary payments are subjected
327	Preferential Payments: Cases where formal proof of the priority of certain debts may be required
343	<ul style="list-style-type: none"> • Power to make rules to provide that the Company Liquidator may, under such circumstances, if any, and subject to such conditions, restrictions and limitations, if any, as may be prescribed, exercise certain powers without the sanction of the Tribunal. • Manner of application to the Tribunal by creditor/contributory with respect to any exercise or proposed exercise of powers by the Company Liquidator
346	Rules for inspection of books and papers by creditors and contributories after order for the winding up of a company by



Article

	the Tribunal
347	Disposal of books and papers of company: prevention of such disposal
348	<ul style="list-style-type: none"> • Intervals for filing information as to pending liquidations; form of the statement; particulars therein • Fee for inspection/taking copies, extracts of/from the statement
349	Official Liquidator to make payments into public account of India: manner and frequency thereof.
350	Company Liquidator to deposit monies into scheduled bank: manner and frequency of deposit
352	Form of Statement to be furnished by the liquidator to the Registrar in respect of moneys deposited into Company Liquidation Dividend and Undistributed Assets Account maintained in a scheduled bank; particulars to be entered therein.
<p>CHAPTER XX : Winding Up</p> <p>PART IV.—Official Liquidators</p>	
360	Powers and functions of Official Liquidator
361	Summary procedure for liquidation: <ul style="list-style-type: none"> • Class(es) of companies for which CG may order Summary procedure for liquidation • Form and manner of report to be submitted by the official liquidator to the CG
363	Settlement of claims of creditors by Official Liquidator: <ul style="list-style-type: none"> • Manner in which claims are to be proved • Manner in which the list of claims of creditors is to be prepared
<p>CHAPTER XXI</p> <p>PART I.— Companies Authorised to Register under this Act</p>	
366	Manner in which the company can register itself under the Act
374	Obligations of companies registering under this Part: <ul style="list-style-type: none"> • Form of publishing notice about registration under the Act • Other conditions to be complied with by the company



Article

CHAPTER XXI	
PART II.—Winding up of unregistered companies	
375	Manner of winding up of unregistered companies
CHAPTER XXII: Companies Incorporated Outside India	
379	Provisions of the Act to be complied with by foreign companies
380	Documents, etc., to be delivered to Registrar by foreign companies: <ul style="list-style-type: none"> • Particulars to be furnished to the Registrar in the list of the directors and secretary of the company • Other information • Form of the return containing the particulars of the alteration in the documents delivered
381	<ul style="list-style-type: none"> • Form, particulars, annexures of accounts of foreign company • Form of the list of all places of business established by the company in India to be delivered to the Registrar
384	Exceptions, modifications and adaptations to provisions of Section 92 for its application to a foreign company
385	Fee for registration of documents by the Registrar
386	Manner of certification under the Chapter
389	Documents to be attached to the Prospectus for registration
390	Offer of IDRs <ul style="list-style-type: none"> • The offer • Disclosures in prospectus • Manner to be dealt with in the depository mode; by custodian; by underwriters • Manner of sale, transfer, transmission, etc.
CHAPTER XXIV: Registration Offices and Fees	
396	Registrars, Additional, Joint, Deputy and Assistant Registrars: <ul style="list-style-type: none"> • Powers and duties that may be exercisable • The terms and conditions of service, including the salaries payable
397	Admissibility of certain documents as evidence: Manner of authentication by the Registrar or any other officer empowered by the Central Government



Article

398	<p>Requirement of filing of applications, documents, inspection, etc., in electronic form; manner of their authentication, etc. or paying fees.</p> <p>Explanation clarifies that the rules made under this section shall not relate to imposition of fines or other pecuniary penalties or demand or payment of fees or contravention of any of the provisions of this Act or punishment therefor.</p>
399	<ul style="list-style-type: none"> • Fees for inspection by electronic means • Advance fees for certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document to be certified by the Registrar
401	Provision of value added services through electronic form by CG and fees thereon
403	<ul style="list-style-type: none"> • Fee for submission, filing, registration, or recording of documents, etc. • Additional fee for filing during extended time
CHAPTER XXVI: Nidhis	
406	Rules for regulation of Nidhis
CHAPTER XXVII: National Company Law Tribunal and Appellate Tribunal	
414	The salary, allowances and other terms and conditions of service of the Members of the Tribunal and the Appellate Tribunal.
417	The procedure for the inquiry on the ground of proved misbehaviour or incapacity of the President, Chairman or Member (in consultation with Supreme Court).
418	The salaries and allowances and other conditions of service of the officers and other employees of the Tribunal and the Appellate Tribunal.
421	Form and fees for filing appeal to the Appellate Tribunal against an order of the Tribunal.
424	Powers of the Tribunal and the Appellate Tribunal: matters other than those given under the Act.
434	Transfer of certain pending proceedings: Rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the court, to the Tribunal.
CHAPTER XXVIII: Special Courts	
442	Mediation and Conciliation Panel:



Article

	<ul style="list-style-type: none"> • Number of experts and their qualifications • Form and fees to apply for referring the matter pertaining to the proceedings to the Mediation and Conciliation Panel • The fee and other terms and conditions of experts of the Panel • Procedure to be followed by the Panel
CHAPTER XXIX: Miscellaneous	
454	<p>Adjudication of penalties:</p> <ul style="list-style-type: none"> • Manner for adjudging penalties by adjudicating officers • Form, manner and fees for filing appeal to the Regional Director against the order made by the adjudicating officer.
455	<p>Dormant Company:</p> <ul style="list-style-type: none"> • Manner of application to obtain the status of dormant company • Issuance of certificate by the Registrar to allow the status of dormant company • Form of maintaining register of dormant companies by the Registrar. • Minimum no. of directors • Documents to be filed • Annual fees to be paid to the Registrar • Documents and fees for application to become an active company
459	Fees for application which may be, or is required to be, made to the Central Government or the Tribunal under any provision of this Act (different fees may be prescribed for different matters/class of companies)
464	Prohibition of association or partnership of persons exceeding certain number: Power to prescribe the maximum number (not to exceed 100)
466	Manner in which the monies that stand transferred to and vest in, the Tribunal or the Appellate Tribunal from the Company Law Board be dealt with by the Tribunal or the Appellate Tribunal
468	Rules consistent with the Code of Civil Procedure, 1908 providing for all matters relating to the winding up of companies, which by this Act, are to be prescribed, and may make rules providing for all such matters, as may be prescribed.
SCHEDULE II (section 123) Useful Lives to Compute Depreciation	Class of companies for which the useful life of an asset shall not normally be different from the useful life and the residual value shall not be different from that as indicated in Part C of the Schedule



Article

SCCHEDULE VI (sections 55 and 186)	Other facility service to be included in the term “infrastructural projects” or “infrastructural facilities”
SCCHEDULE VII (sections 135)	Activities which may be included by companies in their Corporate Social Responsibility Policies: matters other than specifically stated in the Schedule