

**PAPER – 2: CORPORATE AND OTHER LAWS**

**PART – I: ANNOUNCEMENTS STATING APPLICABILITY  
FOR MAY, 2019 EXAMINATIONS**

**Applicability for May, 2019 examinations**

The Study Material (July 2017 edition) is updated for all amendments till 30<sup>th</sup> April, 2017. Further, all relevant amendments/ circulars/ notifications etc. in the Company law part for the period 1<sup>st</sup> May 2017 to 31<sup>st</sup> October, 2018 are mentioned below:

<b>Relevant Legislative amendments from 1<sup>st</sup> of May 2017 to 31<sup>st</sup> October, 2018</b>				
<b>The Companies Act, 2013/ Corporate Laws</b>				
<b>Sl. No.</b>	<b>Amendments related to</b>	<b>Relevant Amendments</b>	<b>Pg no.*</b>	<b>Earlier Law</b>
I.	Enforcement of the Companies (Acceptance of Deposits) Amendment Rules, 2017 Vide Notification G.S.R. 454 (E) dated 11 <sup>th</sup> May, 2017 in exercise of powers conferred by section 73 and 73 read with 469(1) and 469(2).	In the Companies (Acceptance of Deposits) Rules, 2014, In rule 2, in sub-rule (1), in clause (c), in sub-clause (xviii), after the words “Domestic Venture Capital Funds” the words “Infrastructure Investment Trusts” shall be inserted.	5.4	- (The words have been newly inserted in the said sub-clause) (xviii) any amount received by a company from Alternate Investment Funds, Domestic Venture Capital Funds and Mutual Funds registered with the Securities and Exchange Board of India in accordance with regulations made by it.
II.	Exemptions to Government Companies Vide Notification G.S.R. 582(E)	The Central Government amends the Notification G.S.R. 463(E), dated 5 <sup>th</sup> June 2015, whereby Exceptions, Modifications and Adaptations were provided in case	7.51	Such other place as the Central Government may approve in this behalf.

	Dated 13 <sup>th</sup> June, 2017	of Government companies. Following is the amendments: In sub-section (2) of section 96, for the words "such other place as the Central Government may approve in this behalf", the words "such other place within the city, town or village in which the registered office of the company is situate or such other place as the Central Government may approve in this behalf" shall be substituted."		
		Insertion of Paragraph 2A in the principal notification G.S.R. 463(E), dated 5 <sup>th</sup> June 2015: The aforesaid exceptions, modifications and adaptations (i.e. as given in Notification G.S.R. 463(E), dated 5 <sup>th</sup> June 2015 and Notification G.S.R. 582(E) Dated 13 <sup>th</sup> June, 2017) shall be applicable to a Government company which has not committed a default in filing of its financial statements under section 137 of the Companies Act or annual return under section 92 of the said Act with the Registrar.		
III.	Exemptions to Private Companies Vide Notification G.S.R. 583(E) Dated 13 <sup>th</sup> June, 2017	The Central Government amends the Notification G.S.R. 464(E), dated 5 <sup>th</sup> June 2015 whereby Exceptions, Modifications and Adaptations were provided in case of Private companies. Following are the amendments:		
		(1) In Chapter I, <b>Clause (40) of section 2.</b> For the proviso, the following shall be substituted, namely:- Provided that the financial statement, with respect to one person company, small company, dormant company and private company (if such private company is a start-up) may not include the cash flow statement; Explanation. - For the purposes of this Act, the term "start-up" or	1.9	Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement

		“start-up company” means a private company incorporated under the Companies Act, 2013 or the Companies Act, 1956 and recognised as start-up in accordance with the notification issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry.		
		<p>(2) In Chapter V, clauses (a) to (e) of sub-section (2) of section 73, shall not apply to a private company-</p> <p>(A) which accepts from its members monies not exceeding one hundred per cent. of aggregate of the paid up share capital, free reserves and securities premium account; or</p> <p>(B) which is a start-up, for five years from the date of its incorporation; or</p> <p>(C) which fulfils all of the following conditions, namely:-</p> <p>(a) which is not an associate or a subsidiary company of any other company;</p> <p>(b) if the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and</p> <p>(c) such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under this section:</p> <p>Provided that the company referred to in clauses (A), (B) or (C) shall file the details of monies accepted to</p>	5.6	<p>Clause (a) to (e) of Section 73 provides conditions for acceptance of deposits from members.</p> <p>Notification dated 5th June, 2015, provided that Clause (a) to (e) of Sub-section 2 of Section 73 shall not apply to private Companies which accepts from its members monies not exceeding one hundred per cent, of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as</p>

		the Registrar in such manner as may be specified.		may be specified.
		(3) In Chapter VII, clause (g) of sub-section (1) of section 92, shall apply to private companies which are small companies, namely:- “(g) aggregate amount of remuneration drawn by directors;”	7.11	clause (g) of sub-section (1) of section 92 is read as “remuneration of directors and key managerial personnel”
		(4) In Chapter VII, proviso to <b>sub-section (1) of section 92</b> , For the proviso, the following proviso shall be substituted, namely:- “Provided that in relation to One Person Company, small company and private company (if such private company is a start-up), the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.”.	7.12	(4) However, in relation to One Person Company and small company, the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.
		(5) <b>Section 143(3)(i)</b> , shall not apply to a private company:- (i) which is a one person company or a small company; or (ii) which has turnover less than rupees fifty crores as per latest audited financial <b>statement or#</b> which has aggregate borrowings from banks or financial institutions or anybody corporate at any point of time during the financial year less than rupees twenty five crore.”	10.24	(5) Section 143(3)(i) provides- whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls;
		Insertion of Paragraph 2A in the principal notification G.S.R. 464(E), dated 5 <sup>th</sup> June 2015: The aforesaid exceptions, modifications and adaptations shall be applicable to a Private company which has not committed a default in		

		<p>filing of its financial statements under section 137 or annual return under section 92 of the said Act with the Registrar.</p>		
<b>#IV</b>	<p>Corrigendum vide Notification S.O. 2218(E) dated 13<sup>th</sup> July 2017 with respect to the Notification G.S.R. 583(E) Dated 13<sup>TH</sup> June, 2017</p>	<p>Ministry of Corporate Affairs vide corrigendum stated that for the words “statement or” to read as “statement and” under section 143(3)(i).</p>	<p>Refer point 3 above</p>	<p>In Section 143(3)(i)(ii) there were the words “statement or” which has been replaced with the word “statement and” through this notification.</p>
<b>V</b>	<p>Enforcement of the Companies (Audit and Auditors) Second Amendment Rules, 2017 Vide Notification G.S.R. 621(E) dated 22<sup>nd</sup> June 2017 in exercise of powers conferred by section 139.</p>	<p>The Central Government hereby amends the Companies (Audit and Auditors) Rules, 2014.</p> <p>Through this amendment rule, in Rule 5(b), for the word “twenty”, the word “fifty” shall be substituted.</p>	<p>10.6</p>	<p>Earlier Rule 5(b) stated that -all private limited companies having paid up share capital of rupees 20 crore or more;</p>
<b>VI</b>	<p>Clarification regarding applicability of exemption given to certain private companies under section 143(3)(i) vide circular no. 08/2017 dated 25<sup>th</sup> July 2017</p>	<p>Notification No. G.S.R. 583(E) dated 13<sup>th</sup> June, 2017 stated that requirements of reporting under section 143(3)(i) read Rule 10 A of the Companies (Audit and Auditors) Rules, 2014 of the Companies Act 2013 shall not apply to certain private companies. Through issue of this circular, it is hereby clarified that the exemption shall be applicable for those audit reports in respect of financial</p>	<p>-</p>	<p>For the purposes of clause (i) of sub-section (3) of section 143, for the financial years commencing on or after 1st April, 2015, the report of the auditor shall state about existence of</p>

		statements pertaining to financial year, commencing on or after 1st April, 2016, which are made on or after the date of the said notification.		adequate internal financial controls system and its operating effectiveness:  Provided that auditor of a company may voluntarily include the statement referred to in this rule for the financial year commencing on or after 1st April, 2014 and ending on or before 31st March, 2015.
<b>VII</b>	Clarification regarding applicability of exemption given to certain private companies under section 143(3)(i) vide circular no. 08/2017 dated 25 <sup>th</sup> July 2017	Notification No. G.S.R. 583(E) dated 13th June, 2017 stated that requirements of reporting under section 143(3)(i) read Rule 10 A of the Companies(Audit and Auditors) Rules, 2014 of the Companies Act 2013 shall not apply to certain private companies. Through issue of this circular, it is hereby clarified that the exemption shall be applicable for those audit reports in respect of financial statements pertaining to financial year, commencing on or after 1st April, 2016, which are made on or after the date of the said notification.	-	For the purposes of clause (i) of sub-section (3) of section 143, for the financial years commencing on or after 1st April, 2015, the report of the auditor shall state about existence of adequate internal financial controls system and its operating effectiveness:  Provided that auditor of a company may voluntarily include the

				statement referred to in this rule for the financial year commencing on or after 1st April, 2014 and ending on or before 31st March, 2015.
<b>VIII</b>	Enforcement of the Companies (Acceptance of Deposits) Second Amendment Rules, 2017 Vide Notification G.S.R. 1172(E) dated 19 <sup>th</sup> September, 2017 in exercise of powers conferred by section 73 and 73 read with 469(1) and 469(2).	In the Companies (Acceptance of Deposits) Rules, 2014, in rule 3, in sub-rule (3), for the proviso, the following shall be substituted, namely:- “Provided that a Specified IFSC Public company and a private company may accept from its members monies not exceeding one hundred per cent. of aggregate of the paid up share capital, free reserves and securities premium account and such company shall file the details of monies so accepted to the Registrar in Form DPT-3. <i>Explanation.</i> —For the purpose of this rule, a Specified IFSC Public company means an unlisted public company which is licensed to operate by the Reserve Bank of India or the Securities and Exchange Board of India or the Insurance Regulatory and Development Authority of India from the International Financial Services Centre located in an approved multi services Special Economic Zone set-up under the Special Economic Zones Act, 2005 read with the Special Economic Zones Rules, 2006:	5.8	Provided that a private company may accept from its members monies not exceeding one hundred per cent of aggregate of the paid up share capital, free reserves and securities premium account and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.

		<p>Provided further that the maximum limit in respect of deposits to be accepted from members shall not apply to following classes of private companies, namely:—</p> <p>(i) a private company which is a start-up, for five years from the date of its incorporation;</p> <p>(ii) a private company which fulfils all of the following conditions, namely:—</p> <p>(a) which is not an associate or a subsidiary company of any other company;</p> <p>(b) the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is less; and</p> <p>(c) such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under section 73:</p> <p>Provided also that all the companies accepting deposits shall file the details of monies so accepted to the Registrar in Form DPT-3.”.</p>		
<b>IX</b>	Vide notification S.O. 3086(E) dated 20 <sup>th</sup> September 2017	<p>The Central Government hereby appoints the 20<sup>th</sup> September, 2017 as the date on which proviso to clause (87) of section 2 of the said Act shall come into force.</p> <p>The proviso to section 2(87) shall be read as, “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.”</p>	1.20	- (The proviso is newly notified)



X	Companies (Amendment) Act, 2017	Following sections of the Companies Act, 2013 (hereinafter referred to as the principal Act) have been amended by the Companies (Amendment) Act, 2017 via Notification S.O. 351 (E) dated 26 <sup>th</sup> January, 2018; Notification S.O. 630 (E) dated 9 <sup>th</sup> February, 2018, Notifications: S.O. 1833 (E) dated 7 <sup>th</sup> May, 2018; S.O. 2422(E) dated 13 <sup>th</sup> June, 2018; SO. 3299(E) dated 5 <sup>th</sup> July, 2018; S.O. 3300(E) dated 5 <sup>th</sup> July, 2018; S.O. 3684(E) dated 27 <sup>th</sup> July, 2018; S.O. 3838(E) dated 31 <sup>st</sup> July, 2018; S.O. 3921(E) dated 7 <sup>th</sup> August, 2018 and S.O. 4907(E) dated 19 <sup>th</sup> September, 2018.		
		1. In <b>section 2</b> of the Companies Act, 2013 (hereinafter referred to as the principal Act)-		
		<p>(i) in <b>clause (6)</b>, for the Explanation, the following Explanation shall be substituted, namely:—</p> <p><i>Explanation.</i>—For the purpose of this clause,—</p> <p>(a) the expression "significant influence" means control of at least twenty per cent. of total voting power, or control of or participation in business decisions under an agreement;</p> <p>(b) the expression "joint venture" means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement;</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	1.4	<p><b>Explanation.—</b>  <b>For the purposes of this clause, "significant influence" means control of at least twenty per cent of total share capital, or of business decisions under an agreement</b></p>

		(i) for <b>clause (28)</b> , the following clause shall be substituted, namely:— '(28) "Cost Accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;	1.7	<b>Cost accountant means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959.</b>
		(ii) in <b>clause (30)</b> , the following proviso shall be inserted, namely: "Provided that- (a) the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and (b) such other instrument, as may be prescribed by the Central Government in consultation with the Reserve Bank of India, issued by a company, shall not be treated as debenture;"	1.8	— (The proviso is newly inserted)
		(iii) in <b>clause (41)</b> , in the first proviso, after the word "subsidiary", the words "or associate company" shall be inserted;	1.9	- (The words are newly inserted) which is a holding company or a subsidiary of a company incorporated outside India
		(iv) in <b>clause (46)</b> , the following Explanation shall be inserted, namely:- 'Explanation.—For the purposes of this clause, the expression "company" includes any body corporate;"	1.11	- (The Explanation is newly inserted)

		(v) clause (49) shall be omitted	1.11	<p>(49) Interested director means a director who is in any way, whether by himself or through any of his relatives or firm, body corporate or other association of individuals in which he or any of his relatives is a partner, director or a member, interested in a contract or arrangement, or proposed contract or arrangement, entered into or to be entered into by or on behalf of a company;</p> <p>This definition is relevant for section 174 relating to quorum for meetings of the Board of Directors, for section 184 relating to disclosure of interest by directors and also for section</p>
--	--	----------------------------------	------	--

				<b>188 relating to related party transactions of the Companies Act, 2013.</b>
		<p><b>(vi) in clause (51),-</b></p> <p>(a) in sub-clause (iv), the word "and" shall be omitted;</p> <p>(b) for sub-clause (v), the following sub-clauses shall be substituted, namely:-</p> <p>"(v) such other officer, not more than one level below the directors who is in whole-time employment, designated as key managerial personnel by the Board; and</p> <p>(vi) such other officer as may be prescribed;"</p>	1.11	<p>(iii) the whole-time director;</p> <p>(iv) the Chief Financial Officer; <b>and</b></p> <p><b>(v) such other officer as may be prescribed;</b></p>
		<p><b>(vii) in clause (57),</b> for the words "and securities premium account", the words ", securities premium account and debit or credit balance of profit and loss account," shall be substituted</p>	1.12	<p>.....the aggregate value of the paid-up share capital and all reserves created out of the profits <b>and securities premium account</b>, after deducting the aggregate.....</p>
		<p><b>(viii) in clause (71),</b> in sub-clause (a), after the word "company," the word "and" shall be inserted;</p>	1.15	<p>-</p> <p>(The word is newly inserted)</p>
		<p><b>(ix) in clause (72),</b> in the proviso, in clause (A), after the words "State Act", the words "other than this Act or the previous company law" shall be inserted;</p>	1.16	<p>-</p> <p>(The words are newly inserted)</p>

	<p><b>(x)</b> in <b>clause (76)</b>, for sub-clause (viii), the following sub-clause shall be substituted, namely:—</p> <p>"(viii) any body corporate which is— (A) a holding, subsidiary or an associate company of such company; (B) a subsidiary of a holding company to which it is also a subsidiary; or (C) an investing company or the venturer of the company;"</p> <p><i>Explanation.</i>—For the purpose of this clause, "the investing company or the venturer of a company" means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.</p>	1.17	<p><b>(viii) any company which is—</b> <b>(A) a holding, subsidiary or an associate company of such company; or</b> <b>(B) a subsidiary of a holding company to which it is also a subsidiary;</b></p>
	<p><b>(xi) in clause (85)-</b> <b>(a)</b> in sub-clause (i), for the words "five crore rupees", the words "ten crore rupees" shall be substituted;</p>	1.20	<p>For <b>(a)</b> paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than <b>five crore rupees</b>; or</p>
	<p><b>(b)</b> in sub-clause (ii),- (A) for the words "as per its last profit and loss account", the words "as per profit and loss account for the immediately preceding financial year" shall be substituted;</p>		<p>For <b>(b)</b> turnover of which <b>as per its last profit and loss account</b> does not exceed two crore rupees</p>

		(B) for the words "twenty crore rupees", the words "one hundred crore rupees" shall be substituted;		or such higher amount as may be prescribed which shall not be more than <b>twenty crore rupees</b> :
		(ii) in <b>clause (87)</b> , in sub-clause (ii), for the words "total share capital", the words "total voting power" shall be substituted;  <b>Enforcement Date: 7<sup>th</sup> May, 2018</b>	1.20	(ii) exercises or controls more than one-half of the <b>total share capital</b> either at its own or together with one or more of its subsidiary companies:
		(xii) for <b>clause (91)</b> , the following clause shall be substituted, namely:- '(91) "turnover" means the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year.';	1.21	<b>(91) Turnover means the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial year;</b> <b>Note: There is in ambiguity in definition. So, there is a need for amendment in this</b>

				definition. Further, the change in definition is pending in the Companies (Amendment) Bill, 2016.
		<p>2. After section 3 of the principal Act, the following section shall be inserted, namely:-</p> <p><b>"3A.</b> If at any time the number of members of a company is reduced, in the case of a public company, below seven, in the case of a private company, below two, and the company carries on business for more than six months while the number of members is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with less than seven members or two members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor."</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	2.4	- (The section is newly inserted)
		<p>3. In <b>section 4</b> of the principal Act, in sub-section (5), for clause (i), the following shall be substituted, namely:-</p> <p>"(i) Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the</p>	2.11	Upon receipt of an application, the Registrar may, on the basis of information and documents furnished along with the

		name for a period of twenty days from the date of approval or such other period as may be prescribed: Provided that in case of an application for reservation of name or for change of its name by an existing company, the Registrar may reserve the name for a period of sixty days from the date of approval." <b>Enforcement Date: 26<sup>th</sup> January, 2018</b>		<b>application, reserve the name for a period of sixty days from the date of the application.</b>
		<b>4.</b> In <b>section 7</b> of the principal Act, in sub-section (1), in item (c), for the words "an affidavit", the words "a declaration" shall be substituted.  <b>Enforcement Date: 27<sup>th</sup> July, 2018</b>	2.18	<b>an affidavit</b> from each of the subscribers to the memorandum and from persons named as the first directors, if any, in the articles stating that
		<b>5.</b> In <b>section 12</b> of the principal Act,— <b>(i)</b> in <b>sub-section (1)</b> , for the words "on and from the fifteenth day of its incorporation", the words "within thirty days of its incorporation" shall be substituted;  <b>Enforcement Date: 27<sup>th</sup> July, 2018</b>	2.22	(1) Registered office: <b>From the 15<sup>th</sup> day of its incorporation</b> and at all times thereafter a company shall .....be addressed to it.
		<b>5.</b> In <b>section 12</b> of the principal Act,— <b>(ii)</b> in <b>sub-section (4)</b> , for the words "within fifteen days", the words "within thirty days" shall be substituted.  <b>Enforcement Date: 27<sup>th</sup> July, 2018</b>	2.23	(6) Notice of change to registrar: Notice of every change ..... Registrar <b>within 15 days</b> of the change,



				who shall record the same.
		6. In <b>section 21</b> of the principal Act, for the words "an officer of the company", the words "an officer or employee of the company" shall be substituted <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	2.35	(ii) <b>an officer of the company</b> duly authorised by the Board in this behalf.
		7. In <b>section 26</b> of the principal Act, in sub-section (1),— (i) after the words "signed and shall", the following shall be inserted, namely:— "state such information and set out such reports on financial information as may be specified by the Securities and Exchange Board in consultation with the Central Government: Provided that until the Securities and Exchange Board specifies the information and reports on financial information under this sub-section, the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992, in respect of such financial information or reports on financial information shall apply." <b>Enforcement Date: 7<sup>th</sup> May, 2018</b>	3.7	- (The words have been newly inserted)
		7. In <b>section 26</b> of the principal Act, in sub-section (1),-  (ii) clauses (a), (b) and (d) shall be omitted.	3.7, 3.8, 3.9	(a) <b>Firstly, under the general information, the prospectus shall contained the following</b>

		Enforcement Date: 7 <sup>th</sup> May, 2018		<p>information, namely —</p> <p>(i) names and addresses of the ..... of promoter's contribution;</p> <p>(b) Secondly, under the Financial informations, ..... applied directly or indirectly;</p> <p>(d) state such other matters and set out such other reports, as may be prescribed.</p>
		<p>8. In section 35 of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely:-</p> <p>"(c) that, as regards every misleading statement purported to be made by an expert or contained in what purports to be a copy of or an extract from a report or valuation of an expert, it was a correct and fair representation of the statement, or a correct copy of, or a correct and fair extract from, the report or valuation; and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the</p>	3.22	<p>-</p> <p>(The clause is newly inserted)</p> <p>To be inserted in Point (2) after point (b)</p>

		<p>said person had given the consent required by sub-section (5) of section 26 to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder."</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>		
		<p><b>9.</b> For <b>section 42</b> of the principal Act, the following section shall be substituted, namely:—</p> <p>'42. (1) A company may, subject to the provisions of this section, make a private placement of securities.</p> <p>(2) A private placement shall be made only to a select group of persons who have been identified by the Board (herein referred to as "identified persons"), whose number shall not exceed fifty or such higher number as may be prescribed [excluding the qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option in terms of provisions of clause (b) of sub-section (1) of section 62], in a financial year subject to such conditions as may be prescribed.</p> <p>(3) A company making private placement shall issue private placement offer and application in such form and manner as may be prescribed to identified persons, whose names and addresses are recorded by the company in such manner as may be prescribed:</p>	3.28 to 3.32	The content related to section 42 is to be deleted

		<p>Provided that the private placement offer and application shall not carry any right of renunciation.</p> <p>Explanation I.—"private placement" means any offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in this section.</p> <p>Explanation II.—"qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, as amended from time to time, made under the Securities and Exchange Board of India Act, 1992.</p> <p><i>Explanation III.</i>—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter.</p> <p>(4) Every identified person willing to subscribe to the private placement issue shall apply in the private placement and application issued to such person alongwith</p>		
--	--	--	--	--

		<p>subscription money paid either by cheque or demand draft or other banking channel and not by cash:          Provided that a company shall not utilise monies raised through private placement unless allotment is made and the return of allotment is filed with the Registrar in accordance with sub-section (8).</p> <p>(5) No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company.          Provided that, subject to the maximum number of identified persons under sub-section (2), a company may, at any time, make more than one issue of securities to such class of identified persons as may be prescribed.</p> <p>(6) A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the expiry of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per cent. per annum from the expiry of the sixtieth day.          Provided that monies received on application under this section shall</p>		
--	--	---	--	--

		<p>be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—</p> <p>(a) for adjustment against allotment of securities; or</p> <p>(b) for the repayment of monies where the company is unable to allot securities.</p> <p>(7) No company issuing securities under this section shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an issue.</p> <p>(8) A company making any allotment of securities under this section, shall file with the Registrar a return of allotment within fifteen days from the date of the allotment in such manner as may be prescribed, including a complete list of all allottees, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.</p> <p>(9) If a company defaults in filing the return of allotment within the period prescribed under sub-section (8), the company, its promoters and directors shall be liable to a penalty for each default of one thousand rupees for each day during which such default continues but not exceeding twenty-five lakh rupees.</p> <p>(10) Subject to sub-section (11), if a company makes an offer or accepts monies in contravention of this section, the company, its</p>		
--	--	--	--	--

		<p>promoters and directors shall be liable for a penalty which may extend to the amount raised through the private placement or two crore rupees, whichever is lower, and the company shall also refund all monies with interest as specified in sub-section (6) to subscribers within a period of thirty days of the order imposing the penalty.</p> <p>(11) Notwithstanding anything contained in sub-section (9) and sub-section (10), any private placement issue not made in compliance of the provisions of sub-section (2) shall be deemed to be a public offer and all the provisions of this Act and the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 shall be applicable.’</p> <p><b>Enforcement Date: 7<sup>th</sup> August, 2018</b></p>		
		<p><b>10.</b> In <b>section 47</b>, in sub-section (1), for the words, figures and brackets "provisions of section 43 and sub-section (2) of section 50", the words, figures and brackets "provisions of section 43, sub-section (2) of section 50 and sub-section (1) of section 188" shall be substituted.</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	4.6	<p>In Point (i), the following may be added,</p> <p>“Subject to the provisions of section 43, sub-section (2) of section 50 and sub-section (1) of section 188,”</p>
		<p><b>11.</b> In <b>section 53</b> of the principal Act,-</p> <p>(i) in sub-section (2), for the words "discounted price", the word "discount" shall be substituted;</p>	4.10	<p><b>For (i)</b></p> <p>Any share issued by a company at a <b>discounted</b></p>

		<b>Enforcement Date: 9<sup>th</sup> February, 2018</b>		price shall be void.
		<p>11. In <b>section 53</b> of the principal Act,-</p> <p>(ii) after sub-section (2), the following sub-section shall be inserted, namely:-</p> <p>"(2A) Notwithstanding anything contained in sub-sections (1) and (2), a company may issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by the Reserve Bank of India under the Reserve Bank of India Act, 1934 or the Banking (Regulation) Act, 1949."</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	4.10	<b>For (ii): -</b> (The sub-section is newly inserted)
		<p>12. In <b>section 54</b>, in sub-section (1), clause (c) shall be omitted.</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	4.11	<b>(c) not less than one year has, at the date of such issue, elapsed since the date on which the company had commenced business; and</b>
		<p>13. In <b>section 62</b> of the principal Act,-</p> <p>(i) in sub-section (1), in clause (c), for the words "of a registered valuer subject to such conditions as may be prescribed", the words and figures "of a registered valuer, subject to the compliance with the applicable provisions of Chapter III</p>	4.22	For (i) (c) to any persons, if it is authorised by a special resolution, ..... is determined by the valuation report <b>of a</b>



		and any other conditions as may be prescribed" shall be substituted;  <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>		<b>registered valuer</b> subject to such conditions as prescribed .....
		<b>13.</b> In <b>section 62</b> of the principal Act,-  <b>(ii)</b> for sub-section (2), the following sub-section shall be substituted, namely:- "(2) The notice referred to in sub-clause (i) of clause (a) of sub-section (1) shall be dispatched through registered post or speed post or through electronic mode or courier or any other mode having proof of delivery to all the existing shareholders at least three days before the opening of the issue."  <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	4.22	For <b>(ii)</b> <b>The notice of offer of shares shall be despatched through registered post or speed post or through electronic mode to all the existing shareholders at least three days before the opening of the issue.</b>
		<b>14.</b> In <b>section 73</b> of the principal Act, in sub-section (2),— <b>(i)</b> for clause (c), the following clause shall be substituted, namely:— "(c) depositing, on or before the thirtieth day of April each year, such sum which shall not be less than twenty per cent. of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account;"  <b>Enforcement Date: 15<sup>th</sup> August, 2018</b>	5.6	<b>(c) depositing such sum which shall not be less than fifteen per cent. of the amount of its deposits maturing during a financial year and the financial year next following, and kept in a scheduled bank in a separate bank</b>

				account to be called as deposit repayment reserve account
		<p>14. In <b>section 73</b> of the principal Act, in sub-section (2),— (ii) clause (d) shall be omitted;</p> <p><b>Enforcement Date: 15<sup>th</sup> August, 2018</b></p>	5.6	(d) providing such deposit insurance in such manner and to such extent as may be prescribed
		<p>14. In <b>section 73</b> of the principal Act, in sub-section (2),— (iii) in clause (e), for the words "such deposits;", the following shall be substituted, namely:— "such deposits and where a default had occurred, the company made good the default and a period of five years had lapsed since the date of making good the default;"</p> <p><b>Enforcement Date: 15<sup>th</sup> August, 2018</b></p>	5.6	(e) certifying that the ..... Act or payment of interest on such deposits
		<p>15. In <b>section 74</b>, in sub-section (1), for clause (b), the following clause shall be substituted, namely:— "(b) repay within three years from such commencement or on or before expiry of the period for which the deposits were accepted, whichever is earlier: Provided that renewal of any such deposits shall be done in accordance with the provisions of Chapter V and the rules made thereunder."</p> <p><b>Enforcement Date: 15<sup>th</sup> August, 2018</b></p>	5.13	repay within one year from such commencement or from the date on which such payments are due, whichever is earlier

	<p><b>16.</b> In <b>section 76A</b> of the principal Act,-</p> <p><b>(a)</b> in clause (a), for the words, "one crore rupees", the words "one crore rupees or twice the amount of deposit accepted by the company, whichever is lower" shall be substituted;</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	(a) 5.14	<p>For <b>(a)</b> the company .....shall not be less than <b>one crore rupees</b> but which may extend to ten crore rupees; and</p>
	<p><b>16.</b> In <b>section 76A</b> of the principal Act,-</p> <p><b>(b)</b> in clause (b),-</p> <p>(i) for the words "seven years or with fine", the words "seven years and with fine" shall be substituted;</p> <p>(ii) the words "or with both" shall be omitted</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	5.15	<p>For <b>(b)</b> every officer .....with imprisonment which may extend to <b>seven years or with fine</b> which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, <b>or with both</b></p>
	<p><b>17.</b> In <b>section 77</b> of the principal Act, in sub-section (1), after the third proviso, the following proviso shall be inserted, namely:—</p> <p>"Provided also that this section shall not apply to such charges as may be prescribed in consultation with the Reserve Bank of India."</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	6.3	<p>-</p> <p>(The proviso is newly inserted)</p>
	<p><b>18.</b> In <b>section 78</b> of the principal Act, for the words and figures "register the charge within the period specified in section 77", the words, brackets and figures</p>	6.4	<p>As per section 78 ..... to <b>register the charge within the period 30</b></p>

		<p>"register the charge within the period of thirty days referred to in sub-section (1) of section 77" shall be substituted.</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>		<p><b>days</b>, the person in whose favour the charge is created may apply</p>
		<p><b>19.</b> In <b>section 82</b> of the principal Act, in sub-section (1),—</p> <p>(i) the words, brackets and figures "and the provisions of sub-section (1) of section 77 shall, as far as may be, apply to an intimation given under this section" shall be omitted;</p> <p><b>Enforcement Date: 5<sup>th</sup> July, 2018</b></p>	6.7	<p>According to section 82 of the Companies Act, 2013, ..... from the date of such payment or satisfaction <b>and the provisions of section 77(1) shall, as far as may be, apply to an intimation given under this section.</b></p>
		<p><b>19.</b> In <b>section 82</b> of the principal Act, in sub-section (1),—</p> <p>(ii) the following proviso shall be inserted, namely:—</p> <p>"Provided that the Registrar may, on an application by the company or the charge holder, allow such intimation of payment or satisfaction to be made within a period of three hundred days of such payment or satisfaction on payment of such additional fees as may be prescribed."</p> <p><b>Enforcement Date: 5<sup>th</sup> July, 2018</b></p>	6.8	<p>- (The proviso is newly inserted)</p>

	<p>20. In <b>section 89</b> of the principal Act,—</p> <p>(i) in <b>sub-section (6)</b>, the words and figures, "within the time specified under section 403" shall be omitted;</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	7.9	For (i), the said words are omitted. (however, the study material does not contain reference of section 403)
	<p>20. In <b>section 89</b> of the principal Act,—</p> <p>(ii) in <b>sub-section (7)</b>, for the words and figures, "under the first proviso to sub-section (1) of section 403", the word "therein", shall be substituted;</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	7.9	the said words have been substituted (however, the study material does not contain reference of section 403)
	<p>20. In <b>section 89</b> of the principal Act,—</p> <p>(iii) after sub-section (9), the following sub-section shall be inserted, namely:—</p> <p>"(10) For the purposes of this section and section 90, beneficial interest in a share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to—</p> <p>(i) exercise or cause to be exercised any or all of the rights attached to such share; or</p> <p>(ii) receive or participate in any dividend or other distribution in respect of such share."</p> <p><b>Enforcement Date: 13<sup>th</sup> June, 2018</b></p>	7.9	The sub- section is newly inserted.

	<p><b>21.</b> For <b>section 90</b> of the principal Act, the following section shall be substituted, namely:—  ‘REGISTER OF SIGNIFICANT BENEFICIAL OWNERS IN A COMPANY  (1) Every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of not less than twenty-five per cent. or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as defined in clause (27) of section 2, over the company (herein referred to as "significant beneficial owner"), shall make a declaration to the company, specifying the nature of his interest and other particulars, in such manner and within such period of acquisition of the beneficial interest or rights and any change thereof, as may be prescribed:  Provided that the Central Government may prescribe a class or classes of persons who shall not be required to make declaration under this sub-section.  (2) Every company shall maintain a register of the interest declared by individuals under sub-section (1) and changes therein which shall include the name of individual, his date of birth, address, details of ownership in the company and such other details as may be prescribed.</p>	7.10	<p><b>INVESTIGATION OF BENEFICIAL OWNERSHIP OF SHARES IN CERTAIN CASES</b>  The section simply enables the Central  .....  <b>investigation ordered under that section.</b></p>
--	--	------	---

	<p>(3) The register maintained under sub-section (2) shall be open to inspection by any member of the company on payment of such fees as may be prescribed.</p> <p>(4) Every company shall file a return of significant beneficial owners of the company and changes therein with the Registrar containing names, addresses and other details as may be prescribed within such time, in such form and manner as may be prescribed.</p> <p>(5) A company shall give notice, in the prescribed manner, to any person (whether or not a member of the company) whom the company knows or has reasonable cause to believe—</p> <p>(a) to be a significant beneficial owner of the company;</p> <p>(b) to be having knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge; or</p> <p>(c) to have been a significant beneficial owner of the company at any time during the three years immediately preceding the date on which the notice is issued, and who is not registered as a significant beneficial owner with the company as required under this section.</p> <p>(6) The information required by the notice under sub-section (5) shall be given by the concerned person within a period not exceeding thirty days of the date of the notice.</p> <p>(7) The company shall,—</p> <p>(a) where that person fails to give the company the information</p>	
--	--	--

		<p>required by the notice within the time specified therein; or</p> <p>(b) where the information given is not satisfactory, apply to the Tribunal within a period of fifteen days of the expiry of the period specified in the notice, for an order directing that the shares in question be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares and such other matters as may be prescribed.</p> <p>(8) On any application made under sub-section (7), the Tribunal may, after giving an opportunity of being heard to the parties concerned, make such order restricting the rights attached with the shares within a period of sixty days of receipt of application or such other period as may be prescribed.</p> <p>(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8).</p> <p>(10) If any person fails to make a declaration as required under sub-section (1), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.</p> <p>(11) If a company, required to maintain register under sub-section (2) and file the information under</p>		
--	--	---	--	--



	<p>sub-section (4), fails to do so or denies inspection as provided therein, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.</p> <p>(12) If any person wilfully furnishes any false or incorrect information or suppresses any material information of which he is aware in the declaration made under this section, he shall be liable to action under section 447.'</p> <p><b>Enforcement Date: 13<sup>th</sup> June, 2018</b></p>		
	<p>22. In <b>section 92</b> of the principal Act,—</p> <p>(i) in <b>sub-section (4)</b>, the words and figures, "within the time as specified, under section 403" shall be omitted;</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	7.12	A copy of annual return shall be file with the RoC within 60 days ..... holding the AGM <b>within the time specified under section 403</b>
	<p>22. In <b>section 92</b> of the principal Act,—</p> <p>(ii) in <b>sub-section (5)</b>, for the words and figures, "under section 403 with additional fees" the word "therein" shall be substituted.</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	7.12	the said words have been substituted (however, the study material does not contain reference of section 403)

		<p><b>23. Section 93</b> of the principal Act shall be omitted.</p> <p><b>Enforcement Date: 13<sup>th</sup> June, 2018</b></p>	7.13	<b>SECTION 93 – RETURN ..... company in each case</b>
		<p><b>24.</b> In <b>section 94</b> of the principal Act,—</p> <p>(i) in sub-section (1), in the first proviso, the words "and the Registrar has been given a copy of the proposed special resolution in advance" shall be omitted;</p> <p><b>Enforcement Date: 13<sup>th</sup> June, 2018</b></p>	7.14	the change has to be made in the diagram given on page 7.14
		<p><b>24.</b> In <b>section 94</b> of the principal Act,—</p> <p>(ii) in sub-section (3), the following proviso shall be inserted, namely:—</p> <p>"Provided that such particulars of the register or index or return as may be prescribed shall not be available for inspection under sub-section (2) or for taking extracts or copies under this sub-section."</p> <p><b>Enforcement Date: 13<sup>th</sup> June, 2018</b></p>	7.14	- (The proviso is newly inserted)
		<p><b>25.</b> In <b>section 96</b> of the principal Act, in sub-section (2), in the proviso, for the words "Provided that", the following shall be substituted, namely:—</p> <p>"Provided that annual general meeting of an unlisted company may be held at any place in India if consent is given in writing or by</p>	7.51	- (The proviso is newly inserted)

		<p>electronic mode by all the members in advance:          Provided further that".  <b>Enforcement Date: 13<sup>th</sup> June, 2018</b></p>		
		<p><b>26.</b> In <b>section 100</b> of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:-          "Provided that an extraordinary general meeting of the company, other than of the wholly owned subsidiary of a company incorporated outside India, shall be held at a place within India."  <b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	7.52	- (The proviso is newly inserted)
		<p><b>27.</b> In <b>section 101</b> of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:-          "Provided that a general meeting may be called after giving shorter notice than that specified in this sub-section if consent, in writing or by electronic mode, is accorded thereto-          (i) in the case of an annual general meeting, by not less than ninety-five per cent. of the members entitled to vote thereat; and          (ii) in the case of any other general meeting, by members of the company-          (a) holding, if the company has a share capital, majority in number of members entitled to vote and who represent not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or</p>	7.19	<b>The proviso to section 101(1) also states that a shorter notice may also be given with the consent of 95 per cent of the members entitled to vote. Generally meetings need to be called by giving a notice of 21 clear days. However, they can be called on a shorter notice if, 95 per cent of the members entitled to vote in that meeting give their consent in writing or by</b>

		<p>(b) having, if the company has no share capital, not less than ninety-five per cent. of the total voting power exercisable at that meeting:</p> <p>Provided further that where any member of a company is entitled to vote only on some resolution or resolutions to be moved at a meeting and not on the others, those members shall be taken into account for the purposes of this sub-section in respect of the former resolution or resolutions and not in respect of the latter."</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>		<p><b>electronic mode.</b></p> <p><b>It is also important to note that only the requirement as regards the length of the notice being 21 days, is dispensed with by such consent of not less than 95 per cent of the members entitled to vote at such meeting and not the necessity to call and hold such meeting.</b></p>
		<p><b>28.</b> In <b>section 110</b> of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:- "Provided that any item of business required to be transacted by means of postal ballot under clause (a), may be transacted at a general meeting by a company which is required to provide the facility to members to vote by electronic means under section 108, in the manner provided in that section." <b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	7.34	- (The proviso is newly inserted)
		<p><b>29.</b> In <b>section 117</b> of the principal Act,— <b>(i)</b> in sub-section (1), the words and figures "within the time specified</p>	7.45	the said words have been omitted (however, the

		under section 403" shall be omitted; <b>Enforcement Date: 7<sup>th</sup> May, 2018</b>		study material does not contain reference of section 403)
		<b>29.</b> In <b>section 117</b> of the principal Act,—  <b>(ii)</b> in sub-section (2),— (a) for the words and figures "under section 403 with additional fees", the word "therein" shall be substituted; (b) for the words "not be less than five lakh rupees", the words "not be less than one lakh rupees" shall be substituted; (c) for the words "one lakh rupees", the words "fifty thousand rupees" shall be substituted;  <b>Enforcement Date: 7<sup>th</sup> May, 2018</b>	7.46	Section 117(2) sets out ..... to ..... the specified time <b>under section 403</b> and ..... which shall <b>not be less than ₹ 5,00,000</b> but which may extend to ₹ 25,00,000 and every officer ..... with fine which shall not be less than <b>₹ 1,00,000</b> but which may extend to ₹ 5,00,000
		<b>29.</b> In <b>section 117</b> of the principal Act,—  <b>(iii)</b> in sub-section (3),— (a) clause (e) shall be omitted; (b) in clause (g), in the proviso, the word "and" shall be omitted and the following proviso shall be inserted, namely:— "Provided further that nothing contained in this clause shall apply to a banking company in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of	7.45	For (a) <b>resolutions passed by a ..... of any of the powers under ...(1)(c)</b>  For (b)- (The proviso is newly inserted)

		section 179 in the ordinary course of its business; and.".		
		<b>Enforcement Date: 7<sup>th</sup> May, 2018</b>		
		<p><b>30.</b> In <b>section 121</b> of the principal Act,—</p> <p>(i) in sub-section (2), the words and figures "within the time as specified, under section 403" shall be omitted;</p> <p>(ii) in sub-section (3), for the words and figures "under section 403 with additional fees", the word "therein" shall be substituted.</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	7.52	the said words have been omitted/ substituted (however, the study material does not contain reference of section 403)
		<p><b>31.</b> In <b>section 123</b> of the principal Act,-</p> <p>(a) in sub-section (1)-</p> <p>(i) in clause (a),-</p> <p>(A) for the words "both; or", the word "both;" shall be substituted;</p> <p>(B) the following proviso shall be inserted, namely:-</p> <p>"Provided that in computing profits any amount representing unrealised gains, notional gains or revaluation of assets and any change in carrying amount of an asset or of a liability on measurement of the asset or the liability at fair value shall be excluded; or";</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	8.4	<p>(i) For point (A) (c) out of <b>both (a) and (b); or</b></p> <p>For point (B): - (The proviso is newly inserted)</p>

	<p>31. In <b>section 123</b> of the principal Act,-</p> <p>(ii) in the second proviso, for the words "transferred by the company to the reserves", the words "transferred by the company to the free reserves" shall be substituted;</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	8.4	<p>For (ii)</p> <p>Where a company, ..... it in previous years and <b>transferred by the company</b> to the reserves, such declaration of dividend ..... with prescribed rules. [Second Proviso to section 123(1)]</p>
	<p>31. In <b>section 123</b> of the principal Act,-</p> <p>(b) for sub-section (3), the following sub-section shall be substituted, namely:-</p> <p>"(3) The Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend:</p> <p>Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate</p>	8.6	<p>According to section 123(3), <b>the Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.</b></p> <p>However, in case the company has incurred loss during the current financial year up to the end of the quarter</p>

		<p>higher than the average dividends declared by the company during immediately preceding three financial years."</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>		<p><b>immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during immediately preceding three financial years.</b></p>
		<p>32. In section 129 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—</p> <p>"(3) Where a company has one or more subsidiaries or associate companies, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries and associate companies in the same form and manner as that of its own and in accordance with applicable accounting standards, which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2):</p> <p>Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of</p>	9.8 and 9.9	<p>(1) Where a company has one or more subsidiaries,</p> <p>.....</p> <p><b>Rule 6 of the Companies (Accounts) Rules, 2014.</b></p> <p><b>Explanation—</b> For the purposes of this sub-section, the word "subsidiary" shall include associate company and joint venture.</p>



		<p>the financial statement of its subsidiary or subsidiaries and associate company or companies in such form as may be prescribed: Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed.</p> <p><b>Enforcement Date: 7th May, 2018</b></p>		
		<p><b>33.</b> In <b>section 130</b> of the principal Act,-</p> <p>(i) in sub-section (1), in the proviso,-</p> <p>(a) after the words "regulatory body or authorities concerned", the words "or any other person concerned" shall be inserted;</p> <p>(b) after the words "the body or authority concerned", the words "or the other person concerned" shall be inserted;</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	9.13	For (i) - (The words are newly inserted)
		<p><b>33.</b> In <b>section 130</b> of the principal Act,-</p> <p>(ii) after sub-section (2), the following sub-section shall be inserted, namely:-</p> <p>"(3) No order shall be made under sub-section (1) in respect of re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year: Provided that where a direction has been issued by the</p>	9.13	For (ii) – (This sub-section is newly inserted)

		Central Government under the proviso to sub-section (5) of section 128 for keeping of books of account for a period longer than eight years, the books of account may be ordered to be re-opened within such longer period." <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>		
		<b>34.</b> In <b>section 134</b> of the principal Act,— <b>(a)</b> for <b>sub-section (1)</b> , the following sub-section shall be substituted, namely:— "(1) The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of One Person Company, only by one director, for submission to the auditor for his report thereon." <b>Enforcement Date: 31<sup>st</sup> July, 2018</b>	9.16	<b>The financial statements, including consolidated financial statement, ..... for submission to the auditor for his report thereon.</b>
		<b>34.</b> In <b>section 134</b> of the principal Act,— <b>(b)</b> in <b>sub-section (3)</b> ,— (i) for clause (a), the following clause shall be substituted, namely:—	9.17	For (i) <b>Extract of annual return</b> (in the diagram)  For (ii)

	<p>"(a) the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;"</p> <p>(ii) in clause (p), for the words "annual evaluation has been made by the Board of its own performance and that of its committees and individual directors", the words "annual evaluation of the performance of the Board, its Committees and of individual directors has been made" shall be substituted;</p> <p>(iii) after clause (q), the following provisos shall be inserted, namely:—</p> <p>"Provided that where disclosures referred to in this sub-section have been included in the financial statements, such disclosures shall be referred to instead of being repeated in the Board's report:</p> <p>Provided further that where the policy referred to in clause (e) or clause (o) is made available on company's website, if any, it shall be sufficient compliance of the requirements under such clauses if the salient features of the policy and any change therein are specified in brief in the Board's report and the web-address is indicated therein at which the complete policy is available.";</p> <p><b>Enforcement Date: 31<sup>st</sup> July, 2018</b></p>		<p>Listed /other public ..... statement of <b>annual evaluation of performances of Board, committees and individual directors.</b></p> <p>(in the diagram)</p> <p>For (iii) The proviso is newly inserted (in the diagram)</p>
	<p><b>34.</b> In <b>section 134</b> of the principal Act,—</p> <p>(c) after sub-section (3), the following sub-section shall be inserted, namely:—</p>	-	- (The sub-section is newly inserted)

		<p>"(3A) The Central Government may prescribe an abridged Board's report, for the purpose of compliance with this section by One Person Company or small company."</p> <p><b>Enforcement Date: 31<sup>st</sup> July, 2018</b></p>		
		<p><b>35.</b> In <b>section 135</b> of the principal Act,—</p> <p><b>(i)</b> in <b>sub-section (1)</b>,—</p> <p>(a) for the words "any financial year", the words "the immediately preceding financial year" shall be substituted;</p> <p>(b) the following proviso shall be inserted, namely:—</p> <p>"Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors.";</p> <p><b>Enforcement Date: 19<sup>th</sup> September, 2018</b></p>	9.23	<p>For (a) during <b>any financial year</b> shall constitute a Corporate Social Responsibility Committee of the Board.</p> <p>For (b)- (The proviso has been newly inserted)</p>
		<p><b>35.</b> In <b>section 135</b> of the principal Act,—</p> <p><b>(ii)</b> in <b>sub-section (3)</b>, in clause (a), for the words and figures "as specified in Schedule VI", the words and figures "in areas or subject, specified in Schedule VII" shall be substituted;</p> <p><b>Enforcement Date: 19<sup>th</sup> September, 2018</b></p>	9.24	<p>formulate and recommend ..... which shall indicate the activities to be undertaken by the <b>company as specified in Schedule VI</b>;</p>
		<p><b>35.</b> In <b>section 135</b> of the principal Act,—</p> <p><b>(iii)</b> in <b>sub-section (5)</b>, for the <i>Explanation</i>, the following</p>	9.26	<p>Here, "<b>average net profit</b>" shall be calculated in accordance with <b>the</b></p>

		<p><i>Explanation</i> shall be substituted, namely:—  '<i>Explanation.</i>—For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.'</p> <p><b>Enforcement Date: 19<sup>th</sup> September, 2018</b></p>		<b>provisions of section 198</b>
		<p><b>36.</b> In <b>section 136</b> of the principal Act,-  <b>(i)</b> in sub-section (1),-  <b>(a)</b> the words and figures "Without prejudice to the provisions of section 101," shall be omitted;  <b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	9.30	As per the amendment the word Without prejudice to the provisions of section 101," shall be omitted
		<p><b>36.</b> In <b>section 136</b> of the principal Act,-  <b>(i)</b> in sub-section (1),-  <b>(b)</b> in the first proviso, for the words "Provided that", the following shall be substituted, namely:-  "Provided that if the copies of the documents are sent less than twenty-one days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by members-</p> <p>(a) holding, if the company has a share capital, majority in number entitled to vote and who represent not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or</p> <p>(b) having, if the company has no share capital, not less than</p>	9.31	- (The proviso is newly inserted)

		ninety five per cent. of the total voting power exercisable at the meeting: Provided further that"; <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>		
		<b>36.</b> In <b>section 136</b> of the principal Act,- (i) in sub-section (1),- (c) in the second proviso, for the words "Provided further", the words, "Provided also" shall be substituted; <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	9.31	Related to point (ii) on Page 9.31
		<b>36.</b> In <b>section 136</b> of the principal Act,- (i) in sub-section (1),- (d) for the fourth proviso, the following provisos shall be substituted, namely:— 'Provided also that every listed company having a subsidiary or subsidiaries shall place separate audited accounts in respect of each of subsidiary on its website, if any. Provided also that a listed company which has a subsidiary incorporated outside India (herein referred to as "foreign subsidiary")- (a) where such foreign subsidiary is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, the requirement of this proviso shall be met if consolidated financial statement of such foreign	9.31	(iii) Subsidiary Companies: <b>Every company having a subsidiary or subsidiaries shall,—</b> <b>(1) place separate audited accounts in respect of each of its subsidiary on its website, if any;</b> <b>(2) provide a copy of separate audited financial statements in respect of each</b>

	<p>subsidiary is placed on the website of the listed company;</p> <p>(b) where such foreign subsidiary is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the holding Indian listed company may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website.';</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>		<p><b>of its subsidiary, to any shareholder of the company who asks for it.</b></p>
	<p><b>36.</b> In <b>section 136</b> of the principal Act,-</p> <p>(ii) in sub-section (2), the following proviso shall be inserted, namely:-</p> <p>"Provided that every company having a subsidiary or subsidiaries shall provide a copy of separate audited or unaudited financial statements, as the case may be, as prepared in respect of each of its subsidiary to any member of the company who asks for it."</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	9.32	- (The proviso is newly inserted) Add the proviso in point (iv)
	<p><b>37.</b> In <b>section 137</b> of the principal Act,—</p> <p>(i) in <b>sub-section (1)</b>,—</p> <p>(a) the words and figures "within the time specified under section 403" shall be omitted;</p>	9.34	For (a) (i) Filing of financial statements [Section 137(1)]: A copy of the

		<p>(b) in the second proviso, the words and figures "within the time specified under section 403" shall be omitted;</p> <p>(c) after the fourth proviso, the following proviso shall be inserted, namely:—</p> <p>'Provided also that in the case of a subsidiary which has been incorporated outside India (herein referred to as "foreign subsidiary"), which is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the requirements of the fourth proviso shall be met if the holding Indian company files such unaudited financial statement along with a declaration to this effect and where such financial statement is in a language other than English, along with a translated copy of the financial statement in English.'</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>		<p>financial ..... fees as may be prescribed <b>within the time specified under section 403</b></p> <p>For (b) (c) If the financial statements are adopted ..... such additional fees as may be prescribed <b>within the time specified under section 403.</b></p> <p>For (c) – (The proviso is newly inserted)</p>
		<p><b>37.</b> In <b>section 137</b> of the principal Act,—</p> <p><b>(ii)</b> in <b>sub-section (2)</b>, the words and figures "within the time specified, under section 403" shall be omitted;</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	9.35	<p>(v) Annual General meeting not held [Section 137(2)] : Where the annual general ..... additional fees as may be prescribed <b>within the time specified, under section 403.</b></p>



	<p><b>37.</b> In <b>section 137</b> of the principal Act,— <b>(iii)</b> in <b>sub-section (3)</b>, for the words and figures “in section 403”, the word “therein” shall be substituted.</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	9.35	the said words have been substituted (however, the study material does not contain reference of section 403)
	<p><b>38.</b> In <b>section 139</b> of the principal Act, in sub-section (1), the first proviso shall be omitted.</p> <p><b>Enforcement Date: 7<sup>th</sup> May, 2018</b></p>	10.5	<b>The company shall place the matter relating to such appointment for ratification by members at every AGM.</b>
	<p><b>39.</b> In <b>section 140</b> of the principal Act, in sub-section (3), for the words “fifty thousand rupees”, the words “fifty thousand rupees or the remuneration of the auditor, whichever is less,” shall be substituted.</p> <p><b>Enforcement Date: 9<sup>th</sup> February, 2018</b></p>	10.15	(d) If the auditor does not ..... with fine which shall not be less than ₹ <b>50,000</b> but which may extend to ₹ 5 Lacs.
	<p><b>40.</b> In <b>section 141</b> of the principal Act, in sub-section (3), for clause (i), the following clause shall be substituted, namely:- (i) a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company.</p> <p><i>Explanation.</i>—For the purposes of this clause, the term “directly or indirectly” shall have the meaning</p>	10.22	(9) <b>any person whose subsidiary or associate company or any other form of entity, is engaged as on the date of appointment in consulting and specialised services as</b>

		assigned to it in the Explanation to section 144.'  <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>		<b>provided in section 144</b>
		<b>41.</b> In <b>section 143</b> of the principal Act,- <b>(i)</b> in sub-section (1), in the proviso, for the words "its subsidiaries", at both the places, the words "its subsidiaries and associate companies" shall be substituted;  <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	1023	(c) Access to record of all its subsidiaries: The auditor of a ..... the records of all <b>its subsidiaries</b> in so far as it relates to the consolidation of its financial statements with that of <b>its subsidiaries</b> .
		<b>41.</b> In <b>section 143</b> of the principal Act,- <b>(ii)</b> in sub-section (3), in clause (i), for the words "internal financial controls system", the words "internal financial controls with reference to financial statements" shall be substituted;  <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	1024	(9) whether the company has adequate <b>internal financial controls system</b> in place and the operating effectiveness of such controls;
		<b>41.</b> In <b>section 143</b> of the principal Act,- <b>(iii)</b> in sub-section (14), in clause (a), for the words "cost accountant in practice", the words "cost accountant" shall be substituted  <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	1036	The provisions of section 143 shall mutatis mutandis apply to the <b>cost accountant in practice</b> conducting cost audit under section 148.

		42. In <b>section 147</b> of the principal Act,- (i) in sub-section (2),- (a) after the words "five lakh rupees", the words "or four times the remuneration of the auditor, whichever is less" shall be inserted; <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	10.33	- The words shall be inserted in point (iii) (a)
		42. In <b>section 147</b> of the principal Act,- (i) in sub-section (2),- (b) in the proviso, for the words "and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees", the words "and with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees or eight times the remuneration of the auditor, whichever is less" shall be substituted; <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	10.33	<b>and</b>  (2) <b>Fine which shall not be less than Rs. 1 lac but which may extend to Rs. 25 Lacs</b>
		42. In <b>section 147</b> of the principal Act,- (ii) in sub-section (3), in clause (ii), for the words "or to any other persons", the words "or to members or creditors of the company" shall be substituted; <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	10.33	(2) pay for damages to the company, statutory bodies or authorities <b>or to any other persons</b> for loss arising out of incorrect .... audit report.
		42. In <b>section 147</b> of the principal Act,- (iii) in sub-section (5), the following proviso shall be inserted, namely:- "Provided that in case of criminal liability of an audit firm, in respect	10.33	- (The proviso is newly inserted)

		of liability other than fine, the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable." <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>		
		<b>43.</b> In <b>section 148</b> of the principal Act,- (i) in sub-section (3),- (a) for the words "Cost Accountant in practice", the words "cost accountant" shall be substituted; <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	10.34	(iv) The cost audit shall be conducted by a <b>Cost Accountant in practice</b> who shall be ..... by the members in such manner as may be prescribed.
		<b>43.</b> In <b>section 148</b> of the principal Act,- (i) in sub-section (3),- (b) in the <i>Explanation</i> , for the words "Institute of Cost and Works Accountants of India", the words "Institute of Cost Accountants of India" shall be substituted; <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>	10.35	Here, the expression "cost auditing standards" mean such standards as are issued by the <b>Institute of Cost and Works Accountants of India</b> , constituted under the Cost and Works Accountants Act, 1959, with the approval of the Central Government.
		<b>43.</b> In <b>section 148</b> of the principal Act,- (ii) in sub-section (5), in the proviso, for the words "cost	10.35	(x) The report on the audit of cost records shall be

		accountant in practice", the words "cost accountant" shall be substituted <b>Enforcement Date: 9<sup>th</sup> February, 2018</b>		submitted by the <b>cost accountant in practice</b> to the Board of Directors (BoD) of the company.
<b>XI</b>	Amendment in the notification number G.S.R. 463(E) dated the 5 <sup>th</sup> June, 2015 vide Notification no. S.O. 802(E) dated 23 <sup>rd</sup> February, 2018	In exercise of the powers conferred by clauses (a) and (b) of subsection (1) and subsection (2) of section 462 of the Companies Act, 2013, the Central Government, in the interest of public amends the notification of the Government of India in the Ministry of Corporate Affairs number G.S.R. 463(E) dated the 5 <sup>th</sup> June, 2015 namely:— In the said notification, in the Table, for serial number 8 and entries relating thereto, the following serial number and entries shall be respectively substituted, namely:- "In Chapter IX, Section 129- Shall not apply to the companies engaged in defence production to the extent of application of relevant Accounting Standard on segment reporting".	9.7	Replace the footnote 'Section 129 shall not apply to the Government companies to the extent of application of Accounting Standard 17 (Segment Reporting) to the companies engaged in defence production.
<b>XII</b>	'Reservation of Name of Company'  Notification G.S.R. 284(E) dated 23 <sup>rd</sup> March, 2018	<b>Rule 9: Reservation of name</b> An application for reservation of name shall be made through the web service available at www.mca.gov.in by using [form RUN](Reserve Unique Name) along with fee as provided in the Companies (Registration offices and fees) Rules, 2014, which may either be approved or rejected, as the case may be, by the Registrar, Central Registration Centre after allowing re--submission of such	2.11	-  (This Rule may be read with respect to point (iv) Requirement for reservation of the name of the company)

		application within fifteen days for rectification of the defects, if any.		
<b>XIII</b>	Notification G.S.R. 433(E) dated 7 <sup>th</sup> May, 2018	<p>The Central Government has amended the Companies (Specification of Definitions Details) Rules, 2014, by the Companies (Specification of Definitions Details) Amendment Rules, 2018. It shall come into force on 7<sup>th</sup> May, 2018.</p> <p>In the Companies (Specification of Definitions Details) Rules, 2014, in rule 2, in sub-rule (1), clause (r) shall be omitted.</p> <p><b>Please note:</b> The said clause (r) deals with 'Total Share Capital'</p>	1.21	<b>As per the Companies (Specification of Definitions Details) Rules, 2014, "Total Share Capital",</b> ..... <b>(b)</b> <b>convertible preference share capital</b>
<b>XIV</b>	Notification G.S.R. 434(E) dated 7 <sup>th</sup> May, 2018	<p>The Central Government has amended the Companies (Share Capital and Debentures) Rules, 2014, by the Companies (Share Capital and Debentures) Second Amendment Rules, 2018. It shall come into force on 7<sup>th</sup> May, 2018.</p> <p>In the Companies (Share Capital and Debentures) Rules, 2014, in the principal rules, in rule 8, in sub-rule (1), in the Explanation, in clause (i) in sub-clause (a), the words "for at least last one year" shall be omitted.</p>	4.12	"Employee" means-(a) a permanent employee of the company who has been working in India or outside India, <b>for at least last one year;</b> or
<b>XV</b>	Notification G.S.R. 612 (E) dated 5 <sup>th</sup> July, 2018	<p>The Central Government has amended the Companies (Acceptance of Deposits) Rules, 2014, by the Companies (Acceptance of Deposits) Amendment Rules, 2018. It shall come into force on 15<sup>th</sup> August, 2018.</p> <p>In the Companies (Acceptance of Deposits) Rules, 2014 in rule 14, in</p>	5.11	<b>(k) details of deposit insurance including extent of deposit insurance;</b>

		sub-rule (1), clause (k) shall be omitted;		
<b>XVI</b>	Notification G.S.R. 708(E) dated 27 <sup>th</sup> July, 2018	<p>The Central Government has amended the Companies (Incorporation) Rules, 2014, by the Companies (Incorporation) Third Amendment Rules, 2018. It shall come into force on 27<sup>th</sup> July, 2018. In the Companies (Incorporation) Rules, 2014.</p> <p>(a) in rule 3, for Explanation to sub-rule (1), the following shall be substituted, namely:-</p> <p><b>“Explanation I.</b> - For the purposes of this rule, the term "resident in India" means a person who has stayed in India for a period of not less than one hundred and eighty two days during the immediately preceding financial year.</p> <p><b>Explanation II.</b>- For the purposes of this rule, while counting the number of days of stay of a director in India for the financial year 2018-2019, any period of stay between 01.01.2018 till the date of notification of this rule shall also be counted”;</p>	2.4	<b>(person who has stayed in India for a period of not less than 182 days during the immediately preceding one calendar year)</b>
<b>XVI I</b>	Enforcement of the Companies (Audit and Auditors) Amendment Rules, 2018 vide Notification G.S.R. 432 (E) dated 7 <sup>th</sup> May 2018	<p>The Central Government makes the Companies (Audit and Auditors) Second Amendment Rules, 2018 to amend the Companies (Audit and Auditors) Rules, 2014.</p> <p>1. In the Companies (Audit and Auditors) Rules, 2014, in <b>rule 3</b> which deals with the Manner and Procedure of selection and appointment of auditors:</p> <p>(a) Explanation shall be omitted.</p>	10.5	<b>According to the Companies (Audit and Auditors) Rules, 2014, ..... by way of passing of an ordinary resolution. If the appointment is not .....</b>

		(b) proviso to sub-rule (7) shall be omitted.		<b>procedure laid down in this behalf under the Act.</b>
<b>XVI I</b>		The Central Government makes the Companies (Audit and Auditors) Second Amendment Rules, 2018 to amend the Companies (Audit and Auditors) Rules, 2014. 2. In the principal rules, in rule 10A i.e., related to Internal Financial controls system, for the words "adequate internal financial controls system", the words "internal financial controls with reference to financial statements" shall be substituted.	10.24	As per the rule 10A inserted by the Companies (Audit and Auditors)..... about existence of <b>adequate internal financial controls system</b> and its operating effectiveness.
<b>XVI I</b>		The Central Government makes the Companies (Audit and Auditors) Second Amendment Rules, 2018 to amend the Companies (Audit and Auditors) Rules, 2014. 3. In the principal rules, in rule 14 which deals with the remuneration of the cost auditor, following are the changes- (a) in clause (a), in sub-clause (i), for the words, "who is a cost accountant in practice", the words "who is a cost accountant" shall be substituted; (b) in clause (b) for the words "who is a cost accountant in practice", the words "who is a cost accountant" shall be substituted.	10.34	(A) the Board shall appoint an individual, <b>who is a cost accountant in practice</b> , or a firm of  (2) in the case of other companies which are not required....., shall appoint an individual <b>who is a cost accountant in practice</b> or a firm of
<b>XVI II</b>	Enforcement of the Companies (Accounts) Amendment	The Central Government makes the Companies (Accounts) Amendment Rules, 2018 to amend	9.20	- [Clause (ix) and (x) is newly inserted]



	Rules, 2018 vide Notification G.S.R. 725(E) dated 31st July, 2018	the Companies (Accounts) Rules, 2014. 1. In the Companies (Accounts) Rules, 2014, In <b>sub-rule (5) of Rule 8</b> which deals with the Matters to be included in Board's report, after clause (viii) the following clauses shall be inserted, namely:- “(ix) a disclosure, as to whether maintenance of cost records as specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013, is required by the Company and accordingly such accounts and records are made and maintained, (x) a statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013,”		
<b>XVI II</b>		2. In the Companies (Accounts) Rules, 2014, after sub-rule (5), the following Sub Rule (6), rule shall be inserted, namely:- “(6) This rule shall not apply to One Person Company or Small Company”.	9.20	- (Sub- rule 6 is newly inserted)
<b>XIX</b>	Enforcement of the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2018	The Central Government makes the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2018 to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014. 1. In Companies (Corporate Social Responsibility Policy) Rules, 2014,	9.22	(i) Projects or programs relating to activities <b>areas or subjects</b> specified in Schedule VII to the Act; or

	vide Notification G.S.R. 865 (E) dated 19th September, 2018	in rule 2 which deals with the definitions, - (a) in sub-rule (1), in sub-clause (i) of clause (c) which defines "Corporate Social Responsibility (CSR)", after the words "relating to activities", the words ", areas or subjects" shall be inserted; (b) in sub-rule (1), in sub-clause (ii) of clause (c), for the words "cover subjects enumerated", the words "include activities, areas or subjects specified" shall be substituted;		(ii) Projects or programs relating to ..... subject to the condition that such policy will <b>cover subjects enumerated</b> in Schedule VII of the Act.
<b>XIX</b>		<b>2.</b> In Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 5 which deals with the "CSR Committees", in clause (i) of sub rule (1), for the words "an unlisted public company or a private company", the words "a company" shall be substituted.	9.23	(b) <b>An unlisted public company or a private company</b> which is not required to appoint an independent
<b>XIX</b>		<b>3.</b> In Companies (Corporate Social Responsibility Policy) Rules, 2014, In rule 6 which states of CSR Policy, following are the changes- (a) in sub-rule (1), in clause (a), for the words "falling within the purview of" the words "areas or subjects specified in" shall be substituted; (b) in sub-rule (1), in second proviso to clause (b), for the words, "activities included in Schedule VII" the words "areas or subjects specified in Schedule VII" shall be substituted.	9.24	For point (a)- (a) List of CSR projects or programs which a company plans to undertake <b>falling within the purview of</b> the Schedule VII  For point (b)- (d) The Board of Directors shall .... CSR Policy are related to the <b>activities included in Schedule VII</b> of the Act.

XX	Constitution of National Financial Reporting Authority	<p>The Central Government appointed 1<sup>st</sup> October, 2018 (Notification S.O. 5099(E) dated 1<sup>st</sup> October, 2018) as the date of constitution Of National Financial Reporting Authority.</p> <p>Section 132 shall now be read as under:</p> <p><b>Constitution of National Financial Reporting Authority, have also been notified.</b></p> <p><b>132.</b> *(1) The Central Government may, by notification, constitute a National Financial Reporting Authority to provide for matters relating to accounting and auditing standards under this Act.</p> <p>** (2) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—</p> <p>(a) make recommendations to the Central Government on the formulation and laying down of accounting and auditing policies and standards for adoption by companies or class of companies or their auditors, as the case may be;</p> <p>(b) monitor and enforce the compliance with accounting standards and auditing standards in such manner as may be prescribed;</p> <p>(c) oversee the quality of service of the professions associated with ensuring compliance with such standards, and suggest measures required for improvement in quality of service and such other related</p>	9.14	-
----	--	--	------	---

		<p>matters as may be prescribed; and (d) perform such other functions relating to clauses (a), (b) and (c) as may be prescribed.</p> <p>(3) The National Financial Reporting Authority shall consist of a chairperson, who shall be a person of eminence and having expertise in accountancy, auditing, finance or law to be appointed by the Central Government and such other members not exceeding fifteen consisting of part-time and full-time members as may be prescribed:</p> <p>Provided that the terms and conditions and the manner of appointment of the chairperson and members shall be such as may be prescribed:</p> <p>Provided further that the chairperson and members shall make a declaration to the Central Government in the prescribed form regarding no conflict of interest or lack of independence in respect of his or their appointment:</p> <p>Provided also that the chairperson and members, who are in full-time employment with National Financial Reporting Authority shall not be associated with any audit firm (including related consultancy firms) during the course of their appointment and two years after ceasing to hold such appointment.</p> <p>** (4) Notwithstanding anything contained in any other law for the time being in force, the National</p>		
--	--	---	--	--

		<p>Financial Reporting Authority shall—</p> <p>(a) have the power to investigate, either <i>suo moto</i> or on a reference made to it by the Central Government, for such class of bodies corporate or persons, in such manner as may be prescribed into the matters of professional or other misconduct committed by any member or firm of chartered accountants, registered under the Chartered Accountants Act, 1949:</p> <p>Provided that no other institute or body shall initiate or continue any proceedings in such matters of misconduct where the National Financial Reporting Authority has initiated an investigation under this section;</p> <p>(b) have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—</p> <p>(i) discovery and production of books of account and other documents, at such place and at such time as may be specified by the National Financial Reporting Authority;</p> <p>(ii) summoning and enforcing the attendance of persons and examining them on oath;</p> <p>(iii) inspection of any books, registers and other documents of any person referred to in clause (b) at any place;</p> <p>(iv) issuing commissions for examination of witnesses or documents;</p>		
--	--	--	--	--

		<p>(c) where professional or other misconduct is proved, have the power to make order for—</p> <p>(A) imposing penalty of—</p> <p>(I) not less than one lakh rupees, but which may extend to five times of the fees received, in case of individuals; and</p> <p>(II) not less than five lakh rupees, but which may extend to ten times of the fees received, in case of firms;</p> <p>(B) debarring the member or the firm from engaging himself or itself from practice as member of the Institute of Chartered Accountant of India referred to in clause (e) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 for a minimum period of six months or for such higher period not exceeding ten years as may be decided by the National Financial Reporting Authority.</p> <p><i>Explanation.</i>—For the purposes of his sub-section, the expression "professional or other misconduct" shall have the same meaning assigned to it under section 22 of the Chartered Accountants Act, 1949.</p> <p><b>**</b>(5) Any person aggrieved by any order of the National Financial Reporting Authority issued under clause (c) of sub-section (4), may prefer an appeal before the Appellate Tribunal in such manner and on payment of such fee as may be prescribed.</p>		
--	--	---	--	--

	<p>** (10) The National Financial Reporting Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings in such manner as may be prescribed.</p> <p>(11) The Central Government may appoint a secretary and such other employees as it may consider necessary for the efficient performance of functions by the National Financial Reporting Authority under this Act and the terms and conditions of service of the secretary and employees shall be such as may be prescribed.</p> <p>*(12) The head office of the National Financial Reporting Authority shall be at New Delhi and the National Financial Reporting Authority may, meet at such other places in India as it deems fit.</p> <p>** (13) The National Financial Reporting Authority shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as the Central Government may, in consultation with the Comptroller and Auditor-General of India prescribe.</p> <p>** (14) The accounts of the National Financial Reporting Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such accounts as certified by the Comptroller and Auditor-General of India together with the audit report thereon shall be</p>		
--	--	--	--

		<p>forwarded annually to the Central Government by the National Financial Reporting Authority.</p> <p><b>**</b>(15) The National Financial Reporting Authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.</p> <p><b>Please note:</b> (i) Sub Section (3) and (11) have been notified on 21st March 2018. [Notification No. S.O. 1316(E)]</p> <p>(ii) Sub Section (6), (7), (8) and (9) have been omitted [with effect from 9th February, 2018]</p> <p>(iii) *Sub- section (1) and (12) notified on 1st October, 2018 [Notification S.O. 5098(E) dated 1st October, 2018]</p> <p>(iv) <b>**</b>Sub- Section (2),(4),(5),(10),(13),(14) and (15) have been notified on 24th October 2018 [Notification S.O. 5385(E) dated 24th October, 2018]</p>		
<b>The Negotiable Instruments Act, 1881</b>				
7.	Amendments to the Negotiable Instruments Act, 1881	The Ministry of Law and Justice has made amendments to the Negotiable Instruments Act, 1881 through the Negotiable Instruments (Amendment) Act, 2018. This		



		Amendment Act received the assent of the President and published in the Official Gazette on 2 <sup>nd</sup> August, 2018.	
		<p>In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), after section 143, the following section shall be inserted, namely:—</p> <p><b>“143A. Power to direct interim compensation.</b></p> <p>(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant—</p> <p>(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and</p> <p>(b) in any other case, upon framing of charge.</p> <p>(2) The interim compensation under sub-section (1) shall not exceed twenty per cent. of the amount of the cheque.</p> <p>(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.</p> <p>(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the</p>	- (The section is newly inserted)

		<p>Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.</p> <p>(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973.</p> <p>(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.”.</p>		
		<p>(2) In the principal Act, after section 147, the following section shall be inserted, namely:—</p> <p><b>“148. Power of Appellate Court to order payment pending appeal against conviction.</b></p> <p>(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent. of the fine or compensation awarded by the trial Court:</p> <p>Provided that the amount payable under this sub-section shall be in addition to any interim</p>		- (The section is newly inserted)

		<p>compensation paid by the appellant under section 143A</p> <p>(2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.</p> <p>(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal: Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.”.</p>		
--	--	--	--	--

**# Page number of the Study material (SM) with reference of relevant provisions**

**Please note:** The Ministry of Corporate Affairs has replaced Rule 14 of the Companies (Prospectus and Allotment of Securities) Rule, 2014 through Companies (Prospectus and Allotment of Securities) Second Rule, 2018. Hence, students are advised not to read the content related to Rule 14(2) of the Companies (Prospectus and Allotment of Securities) Rule, 2014 as contained on pages 3.31 and Page 3.32 of Study Material. [For May 2019 examinations the said amended rule has not been made applicable for the students.]

## PART – II : QUESTIONS AND ANSWERS

## QUESTIONS

## DIVISION A - MULTIPLE CHOICE QUESTIONS

1. Rajesh has formed a 'One Person Company (OPC)' with his wife Roopali as nominee. For the last two years his wife Roopali is suffering from terminal illness and due to this hard fact he wants to change her as nominee. He has a trusted and experienced friend Ramnivas who could be made nominee or his (Rajesh) son Rakshak who is of seventeen years of age. Whom should he nominate as nominee in place of his wife?
  - (a) Since blood relation can only be appointed as nominee in case of OPC, Rajesh needs to appoint his son Rakshak.
  - (b) Rajesh can appoint his friend Ramnivas as nominee in his OPC
  - (c) Roopali is not agreeable to the proposal of Rajesh and hence, Rajesh cannot change her as the nominee
  - (d) Either Rakshak or Mr. Ramnivas can be appointed as nominee
2. A Company limited by shares can issue equity shares with differential voting rights. Which of the following is not a necessary condition to be fulfilled before issue of such shares:
  - (a) The articles of association of the company shall authorize issue of shares with differential rights;
  - (b) The issue of shares shall be authorized by an ordinary resolution passed at a general meeting of the shareholders;
  - (c) The issue of shares shall be authorized by special resolution passed at a general meeting of the shareholders;
  - (d) The company shall have consistent track record of distributable profits for the last three years;
3. A Ltd. is the holding company of B Ltd. Another company C Ltd. is the subsidiary company of B Ltd. Is there any relationship between A Ltd. and C Ltd.
  - (a) There is no relationship between A Ltd. and C Ltd.
  - (b) C Ltd. is deemed to be the subsidiary of A Ltd.
  - (c) A Ltd. shall be deemed to be the holding company of C Ltd. provided A Ltd. acquires at least 10% stake in C Ltd.
  - (d) C Ltd. shall be deemed to be the subsidiary of A Ltd. if the latter company acquires minimum 10% stake in the former company within six months after C Ltd. becomes subsidiary of B Ltd.

4. Shruti, a common friend of Suchitra and Sukanya, got incorporated OPC sometime before and during a chit-chat with her friends informed them that there is some limit on the maximum capital which her OPC can have and she would have to convert her OPC either into a private or public limited company if such limit exceeded. Suchitra and Sukanya who are desirous of forming a private limited company for carrying on textile trading business, are unsure about the maximum capital which a private limited company can have. Advise.
- (a) A private limited company can have maximum of ₹ One crore as share capital.
  - (b) A private limited company can have maximum of ₹ Two crores as share capital.
  - (c) A private limited company can have maximum of ₹ Five crores as share capital.
  - (d) A private limited company can have unlimited share capital.
5. Vinay and Sanjay made a name reservation application accompanied by requisite fee to the Registrar for forming a new private company. The Registrar accorded its approval for reservation of most preferred name Vinanjay Softwares Private Ltd. on 7<sup>th</sup> July, 2018. By which date necessary documents for incorporation of the company must be submitted to the Registrar so that the reserved name does not get lapsed.
- (a) Latest by 20<sup>th</sup> July, 2018
  - (b) Latest by 27<sup>th</sup> July, 2018
  - (c) Latest by 4<sup>th</sup> August, 2018
  - (d) Latest by 4<sup>th</sup> September, 2018
6. Aman contracts to indemnify Megha against the consequences of any proceedings which Chandar may take against Megha in respect of a sum of ₹ 15000/- advanced by Chandar to Megha. Now, Megha who is called upon to pay the sum of money to Chandar but she fails to do so. Now, as per the provisions of the Indian Contract Act, 1872, advise the future course of action to be taken by Chandar.
- (a) Chandar can recover the amount only from Megha
  - (b) Chandar can recover the full amount from Aman
  - (c) Chandar cannot recover the amount from Aman
  - (d) Chandar can recover at least 10% of the total amount from Megha

## **DIVISION B - DETAILED QUESTIONS**

### **COMPANY LAW**

#### **The Companies Act, 2013**

1. MNO a One Person company (OPC) was incorporated during the year 2015-16 with an authorised capital of ₹ 45 lakhs (4.5 lakhs shares of ₹ 10 each). The capital was fully

subscribed and paid up. Turnover of the company during 2015-16 and 2016-17 was ₹ 2 crores and ₹ 2.5 crores respectively. Promoter of the company seeks your advice in the following circumstances, whether MNO (OPC) can convert into any other kind of company during 2017-18. Please, advise with reference to relevant provisions of the Companies Act, 2013 in the below mentioned circumstances:

- (i) If promoter increases the paid up capital of the company by ₹ 10 lakhs during 2017-18
  - (ii) If turnover of the company during 2017-18 was ₹ 3 crores.
2. The paid-up share capital of Altar Private Limited is ₹ 1 crore, consisting of 8 lacs Equity Shares of ₹ 10 each, fully paid-up and 2 lacs Cumulative Preference Shares of ₹ 10 each, fully paid-up. New Private Limited and Ultra Private Limited are holding 3 lacs Equity Shares and 50,000 Equity Shares respectively in Altar Private Limited. New Private Limited and Ultra Private Limited are the subsidiaries of PQR Private Limited. With reference to the provisions of the Companies Act, 2013 examine whether Altar Private Limited is a subsidiary of PQR Private Limited? Would your answer be different if PQR Private Limited has 8 out of 9 Directors on the Board of Altar Private Limited?
  3. Data Limited (listed on Stock Exchange) was incorporated on 1<sup>st</sup> October, 2018 with a paid-up share capital of ₹ 200 crores. Within this small time of 4 months it has earned huge profits and has topped the charts for its high employee friendly environment. The company wants to issue sweat equity to its employees. A friend of the CEO of the company has told him that they cannot issue sweat equity shares as 2 years have not elapsed since the time company has commenced its business. The CEO of the company has approached you to advise them about the essential conditions to fulfilled before the issue of sweat equity shares especially since their company is just a few months old.
  4. Walnut Limited has an authorized share capital of 1,00,000 equity shares of ₹ 100 per share and an amount of ₹ 3 crores in its Share Premium Account as on 31-3-2018. The Board of Directors seeks your advice about the application of share premium account for its business purposes. Please give your advice.
  5. Ashish Ltd. having a net-worth of ₹ 80 crores and turnover of ₹ 30 crores wants to accept deposits from public other than its members. Referring to the provisions of the Companies Act, 2013, state the conditions and the procedures to be followed by Ashish Ltd. for accepting deposits from public other than its members.
  6. RST Ltd. declared dividend at the rate of 20% for the financial year 2017-2018 in the AGM scheduled on 15<sup>th</sup> June 2018. As RST Ltd. is left with certain unpaid and unclaimed dividend, it transferred amount of unpaid and unclaimed dividend to UDA (unpaid dividend account). After remaining unpaid and unclaimed for more than 2 years in the UDA, some of the entitled shareholders made liable RST Ltd. for noncompliance of section 124, and claimed for their unpaid dividend amount. RST Ltd. denies saying that there were certain legal issues on the entitlement of the dividend amount to the respective shareholders.

State in the light of the given facts, whether the allegation marked by shareholders and claim for the divided amount, against RST Ltd. is justifiable?

7. Examine the following situations in the light of the Companies Act, 2013
  - (i) Mr. Ayush, a Chartered accountant has been appointed as an auditor of X Ltd. in the Annual General Meeting of the company held in September, 2018, in which he accepted the assignment. Subsequently, in January, 2019 he joined B, as a partner for the consultancy firm of Mr. B. Mr. B is working also working as a Finance Executive of X Ltd.
  - (ii) “Mr. Abhi”, a practicing Chartered Accountant, is holding securities of “Abhiman Ltd.” having face value of ₹ 1000/-. Whether Mr. Abhi is qualified for appointment as an Auditor of Abhiman Ltd.?”
8. Primal Limited is a company incorporated in India. It owns two subsidiaries- Privy Limited (in which it holds 75% shares) and Malvy Limited (a wholly owned subsidiary). Both the subsidiaries are incorporated outside India. The Board of Directors of Primal Limited intends to call an Extraordinary General Meeting (EGM) of Primal Limited on urgent basis. Advise the Board of Directors on the following:
  - (i) EGM be held in India
  - (ii) EGM be held in Netherlands

## OTHER LAWS

### The Indian Contract Act, 1872

9. ‘A’ gives to ‘M’ a continuing guarantee to the extent of ₹ 8,000 for the fruits to be supplied by ‘M’ to ‘S’ from time to time on credit. Afterwards ‘S’ became embarrassed and without the knowledge of ‘A’, ‘M’ and ‘S’ contract that ‘M’ shall continue to supply ‘S’ with fruits for ready money and that payments shall be applied to the then existing debts between ‘S’ and ‘M’. Examining the provision of the Indian Contract Act, 1872, decide whether ‘A’ is liable on his guarantee given to M.

### The Negotiable Instruments Act, 1881

10. Manoj owes money to Umesh. Therefore, he makes a promissory note for the amount in favour of Umesh, for safety of transmission he cuts the note in half and posts one half to Umesh. He then changes his mind and calls upon Umesh to return the half of the note which he had sent. Umesh requires Manoj to send the other half of the promissory note. Decide how rights of the parties are to be adjusted.

Give your answer in reference to the Provisions of Negotiable Instruments Act, 1881.

**The General Clauses Act, 1897**

11. A notice when required under the Statutory rules to be sent by "registered post acknowledgment due" is instead sent by "registered post" only. Whether the protection of presumption regarding serving of notice by "registered post" under the General Clauses Act is tenable? Referring to the provisions of the General Clauses Act, 1897, examine the validity of such notice in this case.

**Interpretation of Statutes**

12. Many a time a proviso is added to a Section of the enactment. Explain the function of such a proviso in the interpretation of the section/ provision.

**SUGGESTED ANSWERS/HINTS****DIVISION A - ANSWER TO MULTIPLE CHOICE QUESTIONS**

<b>Question No.</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>Correct Option</b>	<b>(b)</b>	<b>(c)</b>	<b>(b)</b>	<b>(d)</b>	<b>(b)</b>	<b>(b)</b>

**DIVISION B - ANSWER TO DETAILED QUESTIONS**

1. As per Rule 3 of the *Companies (Incorporation) Rules, 2014*, One Person Company (OPC) cannot convert voluntarily into any kind of company unless two years have expired from the date of incorporation, except where the paid up share capital is increased beyond fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees.

Besides, Section 18 of the Companies Act, 2013 provides that a company of any class registered under this Act may convert itself as a company of other class under this Act by alteration of memorandum and articles of the company in accordance with the provisions of the Chapter II of the Act.

According to the above provisions, following are the answers to the given circumstances:

- (i) Where, if the promoters increase the paid up capital of the company by ₹ 10.00 lakh during 2017-2018 i.e., to ₹ 55 lakh (45+10= 55), MNO (OPC) may convert itself voluntarily into any other kind of company due to increase in the paid up share capital exceeding 50 lakh rupees. This could be done by the MNO by alteration of memorandum and articles of the company in compliance with the Provisions of the Act.
- (ii) Where if the turnover of the MNO during 2017-18 was ₹ 3.00 crore, there will be no change in the answer, as it meets up the requirement of minimum turnover i.e., ₹ 2 crore for voluntarily conversion of MNO (OPC) into any other kind of company.



2. In terms of section 2 (87) of the Companies Act 2013 "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 voting power either at its own or together with one or more of its subsidiary companies:

Explanation.—For the purposes of this clause,—

- (a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;
- (b) the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors.

In the present case, New Pvt. Ltd. and Ultra Pvt. Ltd. together hold less than one half of the total share capital i.e. less than one-half of total voting power. Hence, PQR Private Ltd. (holding of New Pvt. Ltd. and Ultra Pvt. Ltd) will not be a holding company of Altar Pvt. Ltd. However, if PQR Pvt. Ltd. has 8 out of 9 Directors on the Board of Altar Pvt. Ltd. i.e. controls the composition of the Board of Directors; it (PQR Pvt. Ltd.) will be treated as the holding company of Altar Pvt. Ltd.

3. **Sweat equity shares of a class of shares already issued.**

According to section 54 of the Companies Act, 2013, a company may issue sweat equity shares of a class of shares already issued, if the following conditions are fulfilled, namely—

- (i) the issue is **authorised by a special resolution** passed by the company;
- (ii) the **resolution specifies** the number of shares, the current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued;
- (iii) where the equity shares of the company are **listed on a recognised stock** exchange, the sweat equity shares are issued in accordance with the regulations made by the Securities and Exchange Board in this behalf and if they are not so listed, the sweat equity shares are issued in accordance with such rules as prescribed under Rule 8 of the *Companies (Share and Debentures) Rules, 2014*,

The rights, limitations, restrictions and provisions as are for the time being applicable to equity shares shall be applicable to the sweat equity shares issued under this section and the holders of such shares shall rank *pari passu* with other equity shareholders.

Data Limited can issue Sweat equity shares by following the conditions as mentioned above. It does not make a difference that the company is just a few months old.

4. According to section 52 of the Companies Act, 2013, where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount of the premium received on those shares shall be transferred to a "securities premium account" and the provisions of this Act relating to reduction of share capital of a company shall, except as provided in this section, apply as if the securities premium account were the paid-up share capital of the company.

The securities premium account may be applied by the company—

- (a) towards the issue of unissued shares of the company to the members of the company as fully paid bonus shares;
  - (b) in writing off the preliminary expenses of the company;
  - (c) in writing off the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company;
  - (d) in providing for the premium payable on the redemption of any redeemable preference shares or of any debentures of the company; or
  - (e) for the purchase of its own shares or other securities under section 68
5. **Acceptance of deposit from public:** According to section 76 of the Companies Act, 2013, a public company, having net worth of not less than 100 crore rupees or turnover of not less than 500 crore rupees, can accept deposits from persons other than its members subject to compliance with the requirements provided in sub-section (2) of section 73 and subject to such rules as the Central Government may, in consultation with the Reserve Bank of India, prescribe.

Provided that such a company shall be required to obtain the rating (including its net-worth, liquidity and ability to pay its deposits on due date) from a recognised credit rating agency for informing the public the rating given to the company at the time of invitation of deposits from the public which ensures adequate safety and the rating shall be obtained for every year during the tenure of deposits.

Provided further that every company accepting secured deposits from the public shall within thirty days of such acceptance, create a charge on its assets of an amount not less than the amount of deposits accepted in favour of the deposit holders in accordance with such rules as may be prescribed.

Since, Ashish Ltd. has a net worth of ₹ 80 crores and turnover of ₹ 30 crores, which is less than the prescribed limits, hence, it cannot accept deposit from public other than its members. If the company wants to accept deposits from public other than its members,

it has to fulfill the eligibility criteria of net worth or Turnover or both and then the other conditions as stated above.

6. As per section 124 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid/claimed to/by shareholder within 30 days from the date of the declaration, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount of dividend which remains unpaid/unclaimed to the Unpaid Dividend Account.

The company shall, within a period of 90 days of making any transfer of an amount, prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the web-site of the company, if any, and also on any other web-site approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed.

Accordingly, in the given situation, RST Ltd. failed to give statement of Unpaid/unclaimed dividend and so liable for the said noncompliance of section 124 of the Companies Act, 2013. Any person claiming to be entitled to any money transferred under section 124(1) to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed. Since RST Ltd. failed to comply with the requirements of this section as to the preparing of a statement of unpaid dividend, so shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to 5 lakh rupees.

7. (i) **Provisions and Explanation:** Section 141(3) (c) of the Companies Act, 2013 prescribes that any person who is a partner or in employment of an officer or employee of the company will be disqualified to act as an auditor of a company. Sub-section (4) of Section 141 provides that an auditor who becomes subject, after his appointment, to any of the disqualifications specified in sub-sections (3) of Section 141, he shall be deemed to have vacated his office as an auditor.

**Conclusion:** In the present case, Ayush, an auditor of X Ltd., joined as partner with B, who is Finance executive of X Ltd., has attracted clause (3) (c) of Section 141 and, therefore, he shall be deemed to have vacated office of the auditor of X Limited.

- (ii) As per section 141 (3)(d) (i) an auditor is disqualified to be appointed as an auditor if he, or his relative or partner holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company.

In the present case, Mr. Abhi. is holding security of ₹ 1000 in the Abhiman Ltd, therefore he is not eligible for appointment as an Auditor of “Abhiman Ltd.”

8. According to section 100 of the Companies Act, 2013, the Board may, whenever it deems fit, call an extraordinary general meeting of the company.

Provided that an extraordinary general meeting of the company, other than of the wholly owned subsidiary of a company incorporated outside India, shall be held at a place within India.

In the light of the above provisions:

- (i) The Board of Directors can call the EGM in India.
  - (ii) The Board of Directors cannot call the EGM of Primal Limited outside India as it is a company incorporated in India.
9. **Discharge of surety by variance in terms of contract:** The problem asked in the question is based on the provisions of the Indian Contract Act, 1872 as contained in Section 133. The section provides that any variance made without the surety's consent in the terms of the contract between the principal debtor and the creditor, discharges the surety as to transactions subsequent to the variance.

In the given problem, 'M' and 'S' entered into arrangement by entering into a new contract without knowledge of the Surety 'A'. Since, the variance made in the contract is without the surety's consent in the existing contract, as per the provision, 'A' is not liable on his guarantee for the fruits supplied after this new arrangement. The reason for such a discharge is that the surety agreed to be liable for a contract which is no more there now and he is not liable on the altered contract because it is different from the contract made by him.

10. The question arising in this problem is whether the making of promissory note is complete when one half of the note was delivered to Umesh. Under Section 46 of the Negotiable Instruments Act, 1881, the making of a promissory note is completed by delivery, actual or constructive. Delivery refers to the whole of the instrument and not merely a part of it. Delivery of half instrument cannot be treated as constructive delivery of the whole. So, the claim of Umesh to have the other half of the promissory note sent to him is not maintainable. Manoj is justified in demanding the return of the first half sent by him. He can change his mind and refuse to send the other half of the promissory note.
11. As per the provisions of Section 27 of the General Clauses Act, 1897, where any legislation or regulation requires any document to be served by post, then unless a different intention appears, the service shall be deemed to be effected by:
- (i) properly addressing,
  - (ii) pre-paying, and

(iii) posting by registered post.

A letter containing the document to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Therefore, in view of the above provision, since, the statutory rules itself provides about the service of notice that a notice when required under said statutory rules to be sent by 'registered post acknowledgement due', then, if notice was sent by 'registered post' only it will not be the compliance of said rules. However, if such provision was not provided by such statutory rules, then service of notice if by registered post only shall be deemed to be effected.

Furthermore, in similar case of *In United Commercial Bank v. Bhim Sain Makhija, AIR 1994 Del 181*: A notice when required under the statutory rules to be sent by 'registered post acknowledgement due' is instead sent by 'registered post' only, the protection of presumption regarding serving of notice under 'registered post' under this section of the Act neither tenable not based upon sound exposition of law.

12. The normal function of a proviso is to except something out of the enactment or to qualify something stated in the enactment which would be within its purview if the proviso were not there. The effect of the proviso is to qualify the preceding enactment which is expressed in terms which are too general. As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment ordinarily a proviso is not interpreted as it stating a general rule.

It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field which is covered by the main provision. It carves out an exception to the provision to which it has been enacted as a proviso and not to the other. (*Ram Narain Sons Ltd. Vs. Assistant Commissioner of Sales Tax. A.I.R, 1995 SC 765*)