

Draft Rules under Companies Act, 2013

Ministry of Corporate Affairs

NOTIFICATION

New Delhi, the _____ 2013

G.S.R -- In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely: -

PRELIMINARY

Short title and commencement.

1.1. (1) These rules may be called the Companies Rules, 2013.

(2) These rules shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different rules and any reference in any rule to the commencement of these rules shall be construed as a reference to the coming into force of that rule.

(3) The provisions of rules made under Chapter XXVII of the Act shall also be applicable on matters where approval of Tribunal is required to be obtained under any other rules made under this Act.

Definitions.

1.2. (1) In these rules, unless the context otherwise requires,

- (a) "Act" means the Companies Act, 2013 (... of 2013);
- (b) "Annexure" means Annexure to these rules;
- (c) "Certifying Authority" for the purpose of 'Digital Signature Certificate' means a person who has been granted a licence to issue a Digital Signature Certificate under section 24 of the Information Technology Act, 2000 (21 of 2000) as amended from time to time;
- (d) "Director Identification Number" (DIN) means an identification number allotted by the Central Government to any individual, in accordance with section 154 of the Act, intending to be appointed as director or to any existing director of a company, for the purpose of his identification as such;
Provided that the Director Identification Number(DIN) obtained by individuals prior to the notification of these rules shall be the DIN for The purpose of the Companies Act, 2013.
- (e) "Digital Signature" means digital signature as defined under clause (p) of sub-section (1) of section 2 of the Information Technology Act, 2000;
- (f) "Digital Signature Certificate" means a Digital Signature Certificate as defined under clause (q) of sub-section (1) of section 2 of the Information Technology Act, 2000;
- (g) "e-Form" means a form in the electronic form as prescribed under the Act or rules made there under and notified by the Central Government under the Act;

- (h) "Electronic Record" means electronic record as defined under clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000;
- (i) "Electronic Registry" means an electronic repository or storage system of the Central Government in which the information or documents are received, stored, protected and preserved in electronic form;
- (j) "Electronic Mail (e-mail)" means message sent, received or forwarded in digital form using any electronic communication mechanism such that the message so sent, received or forwarded is storable and retrievable ;
- (k) For the purposes of clause (42) of section 2 of the Act, the phrase 'electronic mode' means carrying out, business electronically including, but not limited to:-
 - (i) business to business and business to consumer transactions, data interchange and other digital supply transactions;
 - (ii) offering to accept deposits or subscriptions in India or from citizens of India;
 - (iii) financial settlements, web based marketing, advisory and transactional services database services and products, supply chain management;
 - (iv) online services such as telemarketing, telecommuting, telemedicine, education and information research; and
 - (v) all related data communication services,

whether conducted by e-mail, mobile devices, social media, cloud computing, document management, voice or data transmission or otherwise.

- (l) Executive Director means a whole time director as defined in section 2(94) of the Act.
- (m) 'Form' means a form set forth in Annexure 'A' which shall be used for the matter to which it relates;
- (n) "OPC" means a One Person Company as defined in section 2(62) of the Act;
- (o) "Pre-fill" means the automated process of data input by the computer system from the database maintained in electronic registry of the Central Government;
- (p) "Registrar's Front Office" means an office maintained by the Central Government or an agency authorized by it to facilitate e-filing of documents into the electronic registry and their inspection and viewing;
- (q) "Regional Director" means the person appointed by the Central Government in the Ministry of Corporate Affairs as a Regional Director;
- (r) "section" means section of the Act;
- (s) "Total Share Capital", for the purposes of sub-sections (6) and (87) of section 2, means aggregate of the:-
 - (a) paid-up equity share capital-
 - and
 - (b) paid - up preference share capital;

- (t) For the purposes of Section 164(1)(d) and Section 167(1)(f) of the Act, "or otherwise" means any other offence in respect of which he has been convicted by a Court under this Act.
- (2) Words and expressions used in these rules but not defined shall have the meaning respectively assigned to them in the Act or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) or the Information Technology Act, 2000 (21 of 2000) or rules and regulations made thereunder.
- (3) Save as otherwise specifically provided, the words and expressions used but not defined under these rules but defined under National Company Law Tribunal Rules 2013, shall have the meanings respectively assigned to them in such Rules.
- (4) Save as otherwise specifically provided any requirement or procedure or applicable before NCLT under these Rules vis-a-vis under relevant provision of the Act and not provided under these rules, but provided under National Company Law Tribunal Rules 2013 Shall have the effect as if these are also provided for under these Rules.
- (5) Notwithstanding amendment of these rules from time to time, these rules shall be reviewed once in three years.

Related party

1.3. For the purposes of clause (ix) of sub-section (76) of section 2, the following persons, with reference to a company, shall be deemed to be a related party-

- (1) a director or key managerial personnel of the holding, subsidiary or associate company of such company or his relative;
- (2) any person appointed in senior management in the company or its holding, subsidiary or associate company i.e. personnel of the company or its holding, subsidiary or associate company who are members of core management team excluding Board of directors comprising all members of management one level below the executive directors, including the functional heads.

List of relatives

1.4. For the purposes of sub-clause (iii) of sub-section (77) of section 2, a person shall be deemed to be the relative of another, if he or she is related to another in the following manner:

- (1) Spouse
- (2) Father (including step-father)
- (3) Father's father
- (4) Father's mother
- (5) Mother (including step-mother)
- (6) Mother's mother
- (7) Mother's father
- (8) Son (including step-son)
- (9) Son's wife
- (10) Son's son
- (11) Son's daughter
- (12) Daughter (including step-daughter)
- (13) Daughter's husband
- (14) Brother (including step-brother)
- (15) Sister (including step-sister)

