

# DIRECTORS



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## DEFINITION OF DIRECTOR

Section 2 (34) of the Act prescribed that “Director” means a director appointed to the Board of a company. A director is a person appointed to perform the duties and functions of director of a company in accordance with the provisions of the Companies Act, 2013.





# BOARD OF DIRECTORS

## Board of Directors (BOD)



A company, though a legal entity in the eyes of law, is an artificial person, existing only in contemplation of law. It has no physical existence. It has neither soul nor body of its own. As such, it cannot act in its own person. It can do so only through some human agency. The persons who are in charge of the management of the affairs of a company are termed as directors. They are collectively known as Board of Directors or the Board.

The directors are the brain of a company. Directors take the decision regarding the management of a company collectively in their meetings known as Board Meetings or at the meetings of their committees constituted for certain specific purposes.

Section 2 (10) of the Companies Act, 2013 defined that “Board of Directors” or “Board”, in relation to a company, means the collective body of the directors of the company.



## DEFINITION OF KEY MANAGERIAL PERSONNEL (KMP)

Section 2(51) of the Act defines Key Managerial Personnel (KMP). It states that the KMP of a company means:

- Chief executive officer, manager or managing director
- Company Secretary
- Whole-time director
- Chief financial officer
- Such other officers, designated by the Board as KMP but are not more than one level below the directors in whole-time employment
- Such other officer as may be prescribed



## MINIMUM/MAXIMUM NUMBER OF DIRECTORS IN A COMPANY- SECTION 149(1)

1. Every company shall have a minimum number of
  - Three directors in the case of a public company,
  - Two directors in the case of a private company
  - One director in the case of a One Person Company
2. A company can appoint maximum 15 directors. A company may appoint more than fifteen directors after passing a special resolution in general meeting.



## NUMBER OF DIRECTORSHIPS- SECTION 165

Maximum number of directorships, including any **alternate directorship** a person can hold is 20.

It has come with a rider that number of directorships in public companies/ private companies that are either holding or subsidiary company of a public company shall be limited to 10. Further the members of a company may restrict abovementioned limit by passing a special resolution.





## RESIDENT DIRECTOR

Section 149 (3) of the Act has provided for residence of a director in India as a compulsory i.e. every company shall have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year.







## ALTERNATE DIRECTOR

As Per Section 161 (3) of the Companies Act, 2013, Alternate Director is appointed in place of a director who is temporarily unavailable/leave for a period of more than 3 months from INDIA. We can say that an Alternate Director is like a substitute for the original Director. The appointment of alternate director must be authorized by the Articles of the company otherwise we need to alter the Article first.



## WOMEN DIRECTOR



Every listed company shall appoint at least one woman director within one year from the commencement of the second proviso to Section 149(1) of the Act.

Every other public company having

Paid up share capital of Rs. 100 crores or more or

Turnover of Rs. 300 crore or more as on the last date of latest audited financial statements

shall also appoint at least one woman director.

A period of six months from the date of company's incorporation, has been provided to enable the companies incorporated under Companies Act, 2013 to comply with this requirement.

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Further if there is any intermittent vacancy of a woman director then it shall be filled up by the board of directors within 3 months from the date of such vacancy or not later than immediate next board meeting, whichever is later.





## APPOINTMENT OF DIRECTORS- Section 152

The first directors of most of the companies are named in their articles. If they are not so named in the articles of a company, then subscribers to the memorandum who are individuals shall be deemed to be the first directors of the company until the directors are duly appointed.

In the case of a One Person Company, an individual being a member shall be deemed to be its first director until the director(s) are duly appointed by the member in accordance with the provisions of Section 152.



## APPOINTMENT OF ADDITIONAL DIRECTOR- SECTION 161 (1)

The board of directors can appoint additional directors, if such power is conferred on them by the articles of association. Such additional directors hold office only upto the date of next annual general meeting or the last date on which the annual general meeting should have been held, whichever is earlier.



## Appointment of Additional Director



## DISQUALIFICATIONS FOR APPOINTMENT OF DIRECTOR - SECTION 164 (1)

A person shall not be eligible for appointment as a director of a company, if –

- (a) he is of unsound mind and stands so declared by a competent court;
- (b) he is an undischarged insolvent;
- (c) he has applied to be adjudicated as an insolvent and his application is pending;
- (d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence. If a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company;

(e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;

(f) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call;

(g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or

(h) he has not got the DIN.

**DIRECTOR  
DISQUALIFICATION**





## RESIGNATION OF DIRECTOR- SECTION 168 & RULE 15, 16

A director may resign from his office by giving notice in writing. The Board shall, on receipt of such notice within 30 days intimate the Registrar in Form DIR-12 and also place the fact of such resignation in the Directors' Report of subsequent general meeting of the company and post the information on its website. The director shall also forward a copy of resignation alongwith detailed reasons for the resignation to the Registrar in Form DIR-11 within 30 days from the date of resignation. The notice shall become effective from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later.







## VACATION OF OFFICE (SECTION 167)

- (1) The office of a director shall become vacant in case –
  - (a) he incurs any of the disqualifications specified in section 164;
  - (b) he absents himself from all the meetings of the Board of Directors held during a period of twelve months with or without seeking leave of absence of the Board;
  - (c) he acts in contravention of the provisions of section 184 relating to entering into contracts or arrangements in which he is directly or indirectly interested;
  - (d) he becomes disqualified by an order of a court or the Tribunal;
  - (e) he is convicted by a court of any offence, whether involving moral turpitude or otherwise and sentenced in respect thereof to imprisonment for not less than six months:

Cont.....

Provided that the office shall not be vacated by the director in case of orders referred to in clauses (d) and (e)-

(i) for thirty days from the date of conviction or order of disqualification;

(ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed of; or

(iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed of.

(f) he is removed in pursuance of the provisions of this Act;



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