OVERVIEW OF DIRECTORS OF A COMPANY

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INTRODUCTION

■ Directors of a company are individuals that are elected as, or elected to act as, representatives of the stockholders to establish corporate management related policies and to make decisions on major company issues.

■ The success of the company depends, to a very large extent, upon the competence and integrity of its directors.

■ The Companies Act 2013 does not contain an exhaustive definition of the term “director”.

■ Section 2(34) of the Act prescribed that “director” means a director appointed to the Board of a company.
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.

The term ‘Board of Directors’ means a body duly constituted to direct, control and supervise the affairs of a company.

As per Section 149 of the Companies Act, 2013, the Board of Directors of every company shall consist of individual only. Thus, no body corporate, association or firm shall be appointed as director.

Again Section 166 (6) of Companies Act, 2013, prohibits assignment of office of director to any other person. Any assignment of office made by a director shall be void.
NUMBER OF DIRECTORSHIPS [SECTION 165]
SECTION 165

- According to Section 165 of the Companies Act, 2013, no person shall hold office as a director, including any alternate directorship, in more than twenty companies at the same time.

- The maximum number of public companies in which a person can be appointed as a director shall not exceed ten.

- For reckoning the limit of directorships of twenty companies, the directorship in a dormant company shall not be included.
DISQUALIFICATIONS FOR APPOINTMENT OF DIRECTOR
Section 164(1) Provides that a person shall not be eligible for appointment as a director of a company, if –

- 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.
- Provided that 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.
CONT'D.

- 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 complied with sub-section (3) of section 152.
Section 164(2) also provides that no person who is or has been a director of a company which

- Has not filed financial statements or annual returns for any continuous period of three financial years; or
- (b) Has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more,

shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of five years from the date on which the said company fails to do so.

- Provided that where a person is appointed as a director of a company which is in default of clause (a) or clause (b), he shall not incur the disqualification for a period of six months from the date of his appointment.
PROVISION IN THE ARTICLES OF A PRIVATE COMPANY

- However, a private company may by its articles provide for any disqualifications for appointment as a director in addition to those specified in sub-sections (1) and (2).

- The disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall continue to apply even if the appeal or petition has been filed against the order of conviction or disqualification.
REMOVAL OF DIRECTORS
Under section 169 of the Act, a company may, by ordinary resolution remove a director before the expiry of the period of his office.

The provisions of section 169 shall apply regardless of the way in which the director concerned was appointed and notwithstanding anything contained in the articles of the company or any agreement with the director concerned.
REMOVAL OF DIRECTOR
BY SHAREHOLDERS
According to Section 169, a company may, by ordinary resolution, remove a director, not being a director appointed by the Tribunal under section 242, before the expiry of the period of his office after giving him a reasonable opportunity of being heard.

The provision relating to removal shall not apply where the company has availed itself of the option to appoint not less than two-thirds of the total number of directors according to the principle of proportional representation.
REMOVAL OF DIRECTOR
BY THE NATIONAL
COMPANY LAW TRIBUNAL
Where an application has been made to the National Company Law Tribunal under Section 241 of the Companies Act 2013 for prevention of oppression or mismanagement and the Tribunal has conducted its proceedings on the application, it has the power under Section 242(2)(h) of the Act, to remove any director.
DISCLOSURES BY A DIRECTOR OF HIS INTEREST
Section 184 (1) states that every director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the disclosures already made, then at the first Board meeting held after such change, disclose his concern or interest in any company or companies or bodies corporate, firms, or other association of individuals which shall include the shareholding.
REFERENCES

- https://blog.ipleaders.in/director-companies-act-2013/
- https://www.mca.gov.in/SearchableActs/Section149.htm
- https://taxguru.in/company-law/types-director-companies-act-2013.html
ALL THE BEST.

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