

Amendment Document-Part-I

1. Rule-9-The Companies (Appointment and Qualification of Directors) Rules, 2014

(a) The applicant shall download Form DIR-3 from the portal, fill in the required particulars sought therein, verify and sign the form and after attaching copies of the following documents, scan and file the entire set of documents electronically-

- (i) photograph;
- (ii) proof of identity;
- (iii) proof of residence;
- (iiia) board resolution proposing his appointment as director in an existing company
- (iv) Specimen signature duly verified.

(b) Form DIR-3 shall be signed and submitted electronically by the applicant using his or her own Digital signature certificate and shall be verified digitally by a company secretary in full time employment of the company or by the managing director or director or CEO or CFO of the company in which the applicant is intended to be appointed as director in an existing company

2. Section 169

Independent director re-appointed for second term under sub-section (10) of section 149 shall be removed by the company only by passing a special resolution and after giving him a reasonable opportunity of being heard

3. Amendment in Sec 152

No person shall be appointed as a director of a company unless he has been allotted the Director Identification Number (DIN) under section 154 or any other number as may be prescribed under section 153. (Sec 152(3))

Every person proposed to be appointed as a director by the company in general meeting or otherwise, shall furnish his Director Identification Number (DIN) or such other number as may be prescribed under section 153 and a declaration that he is not disqualified to become a director under this Act. (Sec 152(4))

4. Amendment of section 160.

Provided that requirements of deposit of amount shall not apply in case of appointment of

- an independent director or
- a director recommended by the Nomination and Remuneration Committee, if any, constituted under sub-section (1) of section 178 or
- a director recommended by the Board of Directors of the Company, in the case of a

Handwritten notes at the top of the page: "A.L. + D", "D1", "D2", "D3", "D4", "D5", "D6" (with D6 circled and an arrow pointing to it), and "A.L. + Director".

Amendment Document-Part-I

company not required to constitute Nomination and Remuneration Committee.

5. Amendment of section 161.

Alternate Director [Section 161(2)]

- The **Board of Directors** of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint a person to act as an alternate **director in place of another director (original director) during his absence for a period of not less than three months from India.**
- A person who is holding any alternate directorship for any other director in the company or holding directorship in the same company cannot be considered for appointment as above.
- No person shall be appointed as an alternate director for an independent director unless he is qualified to be appointed as an independent director under the provisions of this Act.
- An alternate director shall not hold office for a period longer than that permissible to the original director in whose place he has been appointed and shall vacate the office if and when the original director returns to India.
- If the term of office of the original director is determined before he so returns to India, any provision for the automatic re-appointment of retiring directors in default of another appointment shall apply to the original, and not to the alternate director.

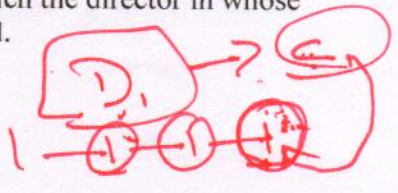
Casual Vacancy [Section 161(4)]

According to this section:

- **If the office of any director appointed by the company in general meeting is vacated before his term of office expires**, the resulting casual vacancy may, in default of, and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board which shall be subsequently approved by members in the immediate next general meeting
- Any person so appointed shall hold office only up to the date up to which the director in whose place he is appointed would have held office if it had not been vacated.

Handwritten note: "earlier it was Public Co. only"

Handwritten note: "Nature of Ratification"



6. Amendment of section 165.

According to this section:

- (1) **No person** shall hold office as director, including any alternate directorship, **in more than 20 companies at the same time.**

Provided that out of the limit of 20, the maximum number of public companies in which a person can be appointed as a director shall not exceed 10.

Amendment Document-Part-I

Explanation II —For reckoning the limit of directorships of twenty companies, the directorship in a dormant company shall not be included

BK
7. Amendment of section 2(51)

Section 2(51) "key managerial personnel", in relation to a company, means—

- (i) the Chief Executive Officer or the managing director or the manager;
- (ii) the company secretary;
- (iii) the whole-time director;
- (iv) the Chief Financial Officer;
- (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
- (vi) such other officer as may be prescribed

Y
8. Amendment of Section 180

According to this section: 1551-1600 Pages
BK 1-5000 Pages

1. The Board of Directors of a company shall exercise the following powers only with the consent of the company by a special resolution, namely: —

- (c) To borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital, free reserves and securities premium, apart from temporary loans obtained from the company's bankers in the ordinary course of business.

9. Amendment of section 188

1. **Contracts with related parties which are covered under section 188** [Section 188(1)]: Except with the consent of the Board of Directors given by a resolution at a meeting of the Board, no company shall enter into any contract or arrangement with a related party with respect to—

- (a) sale, purchase or supply of any goods or materials;
- (b) selling or otherwise disposing of, or buying, property of any kind;
- (c) leasing of property of any kind;
- (d) availing or rendering of any services;
- (e) appointment of any agent for purchase or sale of goods, materials, services or property;
- (f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and
- (g) underwriting the subscription of any securities or derivatives thereof, of the company:

[Third proviso to Section 188(1)]

Amendment Document-Part-I

Provided also that nothing contained in the second proviso shall apply to a company in which ninety per cent. or more members, in number, are relatives of promoters or are related parties

10. Companies (Restriction on number of layers) Rules, 2017

Restriction on number of layers for certain classes of holding companies. –

(1) On and from the date of commencement of these rules, no company, other than a company belonging to a class specified in sub rule (2), shall have more than two layers of subsidiaries:

Provided that the provisions of this sub-rule shall not affect a company from acquiring a company incorporated outside India with subsidiaries beyond two layers as per the laws of such country:

Provided further that for computing the number of layers under this rule, one layer which consists of one or more wholly owned subsidiary or subsidiaries shall not be taken into account.

(2) The provisions of this rule shall not apply to the following classes of companies, namely: -

(a) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act 1949;

(b) a non-banking financial company as defined in clause (f) of Section 45-I of the Reserve Bank of India Act, 1934 which is registered with the Reserve Bank of India and considered as systematically important non-banking financial company by the Reserve Bank of India;

(c) an insurance company being a company which carries on the business of insurance in accordance with provisions of the Insurance Act, 1938 and the Insurance Regulatory Development Authority Act, 1999;

(d) a Government company referred to in clause (45) of section 2 of the Act.

(3) The provisions of this rule shall not be in derogation of the proviso to sub-section (1) of section 186 of the Act.

(4) Every company other than a company referred to in sub-rule (2) existing on or before the commencement of these rules, which has number of layers of subsidiaries in excess of the layers -

(i) Shall file, with the Registrar a return in Form CRL- 1 disclosing the details specified therein, within a period of 150 days from the date of publication of these rules in the official Gazette;

(ii) shall not, after the date of commencement of these rules, have any additional layer of subsidiaries over and above the layers existing on such date; and

(iii) shall not, in case one or more layers are reduced by it subsequent to the commencement of these rules, have the number of layers beyond the number of layers it has after such reduction or maximum layers allowed in sub-rule (1), whichever is more.

(5) If any company contravenes any provision of these rules the company and every officer of the company who is in default shall be punishable with fine which may extend to ten thousand rupees and where the contravention is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which such contravention continues.

11 Valuation by Registered Valuers [Sec 247 of Companies Act 2013]

(1) Valuation By Whom:-

- Where a valuation is required to be made in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets (herein referred to as the assets) or net worth of a company or its liabilities under the provision of this Act,
- it shall be valued by a person having such qualifications and experience and registered as a valuer in such manner,
- on such terms and conditions as may be prescribed and
- appointed by the audit committee or in its absence by the Board of Directors of that company

(2) The valuer appointed shall, ^{I-T-F}

- (a) make an impartial, true and fair valuation of any assets which may be required to be valued;
- (b) exercise due diligence while performing the functions as valuer;
- (c) make the valuation in accordance with such rules as may be prescribed; and

Rule-8-Companies (Registered Valuers and Valuation) Rules, 2017

The registered valuer may obtain inputs for his valuation report or get a separate valuation for an asset class conducted from another registered valuer, in which case he shall fully disclose the details of the inputs and the particulars etc. of the other registered valuer in his report and the liabilities against the resultant valuation, irrespective of the nature of inputs or valuation by the other registered valuer, shall remain of the first mentioned registered valuer.

- (d) not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during a period of three years prior to his appointment as valuer or three years after the valuation of assets was conducted by him

(3) If a valuer contravenes the provisions of this section or the rules made thereunder, the valuer shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees:

Provided that if the valuer has contravened such provisions with the intention to defraud the company or its members, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(4) Where a valuer has been convicted, he shall be liable to—

- (i) refund the remuneration received by him to the company; and
- (ii) pay for damages to the company or to any other person for loss arising out of incorrect or misleading statements of particulars made in his report.

Rule 3-Companies (Registered Valuers and Valuation) Rules, 2017: -

(1) A person shall be eligible to be a registered valuer if he-

- (a) Is a valuer member of a registered valuers organisation;

Amendment Document-Part-I

Explanation.- For the purposes of this clause, "a valuer member" is a member of a registered valuers organisation who possesses the requisite educational qualifications and experience for being registered as a valuer;

(b) Is recommended by the registered valuers organisation of which he is a valuer member for registration as a valuer;

(c) Has passed the valuation examination within 3 years preceding the date of making an application for registration under rule 6;

(d) Possesses the qualifications and experience as specified in rule 4;

(e) Is not a minor;

(f) Has not been declared to be of unsound mind;

(g) Is not an undischarged bankrupt, or has not applied to be adjudicated as a bankrupt;

(h) Is a person resident in India;

Explanation.- For the purposes of these rules 'person resident in India' shall have the same meaning as defined in clause (v) of section 2 of the Foreign Exchange Management Act, 1999 as far as it is applicable to an individual;

(i) Has not been convicted by any competent court for an offence punishable with imprisonment for a term exceeding six months or for an offence involving moral turpitude, 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 registered;

(j) Has not been levied a penalty under section 271J of Income-tax Act, 1961 and time limit for filing appeal before Commissioner of Income-tax (Appeals) or Income-tax Appellate Tribunal, as the case may be has expired, or such penalty has been confirmed by Income-tax Appellate Tribunal, and five years have not elapsed after levy of such penalty; and

Amendment Document-Part-I

(k) Is a fit and proper person:

Explanation.- For determining whether an individual is a fit and proper person under these rules, the authority may take account of any relevant consideration, including but not limited to the following criteria-

- (i) Integrity, reputation and character,
- (ii) Absence of convictions and restraint orders and
- (iii) Competence and financial solvency.

(2) No partnership entity or company shall be eligible to be a registered valuer if-

(a) It has been set up for objects other than for rendering professional or financial services, including valuation services and that in the case of a company, it is not a subsidiary, joint venture or associate of another company or body corporate;

(b) It is undergoing an insolvency resolution or is an undischarged bankrupt;

(c) All the partners or directors, as the case may be, are not ineligible under clauses (c), (d), (e), (g), (h), (i), (j) and (k) of sub-rule (1);

(d) Three or all the partners or directors, whichever is lower, of the partnership entity or company, as the case may be, are not registered valuers; or

(e) None of its partners or directors, as the case may be, is a registered valuer for the asset class, for the valuation of which it seeks to be a registered valuer.

Rule-4. Qualifications and experience

An individual shall have the following qualifications and experience to be eligible for registration under rule 3, namely:-

(a) post-graduate degree or post-graduate diploma, in the specified discipline, from a University or Institute established, recognised or incorporated by law in India and at least three years of experience in the specified discipline thereafter; or

Amendment Document-Part-I

(b) a Bachelor's degree or equivalent, in the specified discipline, from a University or Institute established, recognised or incorporated by law in India and at least five years of experience in the specified discipline thereafter; or

(c) membership of a professional institute established by an Act of Parliament enacted for the purpose of regulation of a profession with at least three years' experience after such membership and having qualification mentioned at clause (a) or (b). CICAI

Explanation- For the purposes of this clause the 'specified discipline' shall mean the specific discipline which is relevant for valuation of an asset class for which the registration as a valuer or recognition as a registered valuers organisation is sought under these rules.

Rule 6. Application for certificate of registration

(1) An individual eligible for registration as a registered valuer under rule 3 may make an application to the authority in Form-A of Annexure-II along with a non-refundable application fee of five thousand rupees in favour of the authority.

(2) A partnership entity or company eligible for registration as a registered valuer under rule 3 may make an application to the authority in Form-B of Annexure-II along with a non-refundable application fee of ten thousand rupees in favour of the authority.

(3) The authority shall examine the application, and may grant twenty one days to the applicant to remove the deficiencies, if any, in the application. (21 days)

(4) The authority may require the applicant to submit additional documents or clarification within 21 days.

(5) The authority may require the applicant to appear, within 21 days, before the authority in person, or through its authorised representative for explanation or clarifications required for processing the application.

(6) If the authority is satisfied, after such scrutiny, inspection or inquiry as it deems necessary, that the applicant is eligible under these rules, it may grant a certificate of registration to the applicant to carry on the activities of a registered valuer within 60 days of receipt of the application, excluding the time given by the authority for presenting additional documents etc

(7) If, after considering an application made under this rule, the authority is of the prima facie opinion that the registration ought not be granted, it shall communicate the reasons for forming such an opinion within 45 days of receipt of the application, excluding the time given by it for removing the deficiencies, presenting additional documents or clarifications, or appearing in person, as the case may be.

Amendment Document-Part-I

- (8) The applicant shall submit an explanation as to why his/its application should be accepted within 15 days of the receipt of the communication under sub- rule (7), to enable the authority to form a final opinion.
- (9) After considering the explanation, if any, given by the applicant under sub-rule (8), the authority shall either -
- (a) accept the application and grant the certificate of registration; or
 - (b) reject the application by an order, giving reasons thereof.
- (10) The authority shall communicate its decision to the applicant within 30 days of receipt of explanation.

ALDINE CA

1. Acquisition and Transfer of Immovable Property in India by a Person Resident outside India i.e. NRI/OCI

A person resident outside India who is a NRI/OCI may—

acquire immovable property in India, other than an agricultural property, plantation, or a farm house

acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property

transfer any immovable property in India to a person resident in India

- 1. As per FEMA rules & Regulation
- 2. From PRI

transfer any immovable property other than agricultural land/ farm house/ plantation property to an NRI or an OCI.

Provided that in case of acquisition of immovable property, payment of purchase price, if any, shall be made out of

Provided further that no payment of purchase price for acquisition of immovable property shall be made either by traveller's cheque or by foreign currency notes or by other mode other than those specifically permitted by this clause.

acquire any immovable property in India other than agr'l land/ farm house/ plantation property by way of gift from a PRI/NRI/OCI, who in any case is a relative as defined in section 2(77) of the Companies Act, 2013;

1



funds received in India through normal banking channels by way of inward remittance from any place outside India or



2



funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank.



NRO A/c

Amendment Document-Part-I

'Overseas Citizen of India (OCI)' means a person resident outside India who is registered as an Overseas Citizen of India Cardholder under Section 7(A) of the Citizenship Act, 1955;

2. Acquisition of Immovable Property for carrying on a permitted activity: -

A person resident outside India who has established in India in accordance with the Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016, as amended from time to time, a branch, office or other place of business for carrying on in India any activity, excluding a liaison office, may -

(a) acquire any immovable property in India, which is necessary for or incidental to carrying on such activity;

Provided that, all applicable laws, rules, regulations or directions for the time being in force are duly complied with; and the person files with the Reserve Bank a declaration in the form IPI as prescribed by Reserve Bank from time to time, not later than ninety days from the date of such acquisition.

(b) transfer by way of mortgage to an authorised dealer as a security for any borrowing, the immovable property acquired in pursuance of clause (a).

Provided no person of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Hong Kong or Macau or Nepal or Bhutan or Democratic People's Republic of Korea (DPRK) shall acquire immovable property, other than on lease not exceeding five years, without prior approval of the Reserve Bank.

4. Joint acquisition by the spouse of an NRI or an OCI:-

A person resident outside India, not being a Non-Resident Indian or an Overseas Citizen of India, who is a spouse of a Non-Resident Indian or an Overseas Citizen of India may acquire one immovable property (other than agricultural land/ farm house/ plantation property), jointly with his/ her NRI/ OCI spouse.

Provided that,

(i) the consideration for transfer, shall be made out of

(i) funds received in India through banking channels by way of inward remittance from any place outside India or

(ii) funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank;

(ii) No payment for any transfer of immovable property shall be made either by traveler's cheque or by foreign currency notes or by any other mode other than those specifically permitted under this clause;

Amendment Document-Part-I

(iii) Provided that the marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the acquisition of such property;

(iv) Provided further that the non-resident spouse is not otherwise prohibited from such acquisition.

5. Acquisition by a Long-Term Visa holder: -

A person being a citizen of Afghanistan, Bangladesh or Pakistan belonging to minority communities in those countries, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who is residing in India and has been granted a Long Term Visa (LTV) by the Central Government may purchase only one residential immovable property in India as dwelling unit for self-occupation and only one immovable property for carrying out self-employment subject to the following conditions:

- a) the property should not be located in and around restricted/ protected areas so notified by the Central Government and cantonment areas;
- b) the person submits a declaration to the Revenue Authority of the district where the property is located, specifying the source of funds and that he/ she is residing in India on LTV;
- c) the registration documents of the property should mention the nationality and the fact that such person is on LTV;
- d) the property of such person may be attached/ confiscated in the event of his/ her indulgence in anti-India activities;
- e) a copy of the documents of the purchased property shall be submitted to the Deputy Commissioner of Police (DCP)/ Foreigners Registration Office (FRO)/ Foreigners Regional Registration Office (FRRO) concerned and to the Ministry of Home Affairs (Foreigners Division);
- f) such person shall be eligible to sell the property only after acquiring Indian citizenship. However, transfer of the property before acquiring Indian citizenship shall require prior approval of DCP/FRO/FRRO concerned.

Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries:

No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Hong Kong or Macau or Democratic People's Republic of Korea (DPRK) without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.

Provided this prohibition shall not apply to an OCI.

Explanation: For the purpose of this regulation the term "citizen" shall include natural persons and legal entities.

Prohibition on transfer of immovable property in India:-

Save as otherwise provided in the Act or Regulations, no person resident outside India shall transfer any immovable property in India: -

Provided that

Amendment Document-Part-I

- i. The Reserve Bank may, for sufficient reasons, permit the transfer, subject to such conditions as may be considered necessary.
- ii. A bank which is an authorised dealer may, subject to the directions issued by the Reserve Bank in this behalf, permit a person resident in India or on behalf of such person to create charge on his immovable property in India in favour an overseas lender or security trustee, to secure an external commercial borrowing availed under the provisions of the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, as amended from time to time.
- iii. An Authorized Dealer in India being the Indian correspondent of an overseas lender may, subject to the directions issued by the Reserve Bank in this regard, create a mortgage on an immovable property in India owned by an NRI or an OCI, being a director of a company outside India, for a loan to be availed by the company from the said overseas lender.

Provided

- *the funds shall be used by the borrowing company only for its core business purposes overseas;*
- *in case of invocation of charge, the Indian bank shall sell the immovable property to an eligible acquirer and remit the sale proceeds to the overseas lender.*

A person resident outside India who has acquired any immovable property in India in accordance with foreign exchange laws in force at the time of such acquisition or with the general or specific permission of the Reserve Bank may transfer such property to a person resident in India provided the transaction takes place through banking channels in India and provided that the resident is not otherwise prohibited from such acquisition.

Section 7A in the Citizenship Act, 1955

7A Registration of overseas citizens of India. —

(1) The Central Government may, subject to such conditions and restrictions as may be prescribed, on an application made in this behalf, register any person as an overseas citizen of India—

(a) any person of full age and capacity,—

(i) who is citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or

(ii) who is citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or

(iii) who is citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or

(iv) who is a child or a grand-child of such a citizen; or

(b) a person, who is a minor child of a person mentioned in clause (a):

ALDINE
CA