

## **DISCLOSURE OF INTEREST BY DIRECTORS**

As per **Section 179(3) of the Companies Act 2013** the board of Directors is entitled to exercise the powers as mentioned in that section on behalf of the company by means of resolutions passed at board meeting. Clause (k) of Section 179(3) of the Companies Act 2013 contain the authorizes the government to prescribe any other power which is to be exercised by the board.

Rule 8(5) of Companies (Meeting of Board & its Powers) Rules 2014 prescribes the following additional powers

### **Rule 8(5):- to take note of the disclosure of director's interest and shareholding;**

**Section 184 of the Companies Act 2013** require every director to disclose his concern or interest in any company or companies or bodies corporate, firms, or other association of individuals which shall include the shareholding.

Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into----

With a body corporate in which such director or such director in association with any other director, holds more than two per cent shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate

### **OR**

With a firm or other entity in which, such director is a partner, owner or member, as the case may be, shall disclose the nature of his concern or interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting:

Any director of the company contravenes the provisions of regarding disclosure of Interest as aforesaid shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees, or with both.

As per Section 117(3) (g) resolutions passed in pursuance of sub-section (3) of section 179 is to be filled with the registrar within thirty days of passing or making thereof along with the fees.

As per Rule 9(1) of Companies (Meeting of Board & its Powers) Rules 2014 every director shall disclose his concern or interest in any company or companies or bodies corporate (including shareholding interest), firms or other association of individuals, by giving a notice in writing in **Form MBP 1**. Such notice is to be kept at registered office of the company for 8 Years from the end of the FY to which it relates

As per Rule 24 of Companies (Management & Administration) Rules ,2014 copy of every resolution or any agreement required to be filed, together with the explanatory statement under section 102, if any, shall be filed with the Registrar in Form No.

**MGT.14** along with the fee

Fee prescribed for filing MGT-14 for company having share capital is hereunder

| Nominal Share Capital  | Fees Applicable |
|------------------------|-----------------|
| Less than 1,00,000     | Rupees 200      |
| 1,00,000 to 4,99,999   | Rupees 300      |
| 5,00,000 to 24,99,999  | Rupees 400      |
| 25,00,000 to 99,99,999 | Rupees 500      |
| 1,00,00,000 or more    | Rupees 600      |

Fee for filing e-Forms in case of company not have share capital

**Rupees 200**

**EXTRACTS OF THE RELEVANT SECTIONS & RULES**

**Section 179 of The Companies Act 2013 - POWERS OF BOARD**

(1) The Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorized to exercise and do: Provided that in exercising such power or doing such act or thing, the Board shall be subject to the provisions contained in that behalf in this Act, or in the memorandum or articles, or in any regulations not inconsistent therewith and duly made there under, including regulations made by the company in general meeting:

Provided further that the Board shall not exercise any power or do any act or thing which is directed or required, whether under this Act or by the memorandum or articles of the company or otherwise, to be exercised or done by the company in general meeting.

(2) No regulation made by the company in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made.

(3) The Board of Directors of a company shall exercise the following powers on behalf of the company by means of resolutions passed at meetings of the Board, namely:—

- (a) to make calls on shareholders in respect of money unpaid on their shares;
- (b) to authorize buy-back of securities under section 68;
- (c) to issue securities, including debentures, whether in or outside India;
- (d) to borrow monies;
- (e) to invest the funds of the company;
- (f) to grant loans or give guarantee or provide security in respect of loans;
- (g) to approve financial statement and the Board's report;
- (h) to diversify the business of the company;
- (i) to approve amalgamation, merger or reconstruction;
- (j) to take over a company or acquire a controlling or substantial stake in another company

**(k) Any other matter which may be prescribed:**

**Rule 8 of Companies (Meeting of Board & its Powers) Rules 2014- POWERS OF BOARD**

In addition to the powers specified under sub-section (3) of section 179 of the Act, the following powers shall also be exercised by the Board of Directors only by means of resolutions passed at meetings of the Board.-

- (1) to make political contributions;
- (2) to appoint or remove key managerial personnel (KMP);
- (3) to take note of appointment(s) or removal(s) of one level below the Key Management Personnel;
- (4) to appoint internal auditors and secretarial auditor;

**(5) to take note of the disclosure of director's interest and shareholding;**

- (6) to buy, sell investments held by the company (other than trade investments), constituting five percent or more of the paid up share capital and free reserves of the investee company;
- (7) to invite or accept or renew public deposits and related matters;
- (8) to review or change the terms and conditions of public deposit;
- (9) to approve quarterly, half yearly and annual financial statements or financial results as the case may be.

**Section 184 of The Companies Act 2013- DISCLOSURE OF INTEREST BY DIRECTORS**

(1) 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, in such manner as may be prescribed.

(2) Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into—

(a) With a body corporate in which such director or such director in association with any other director, holds more than two per cent. shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate; or

(b) with a firm or other entity in which, such director is a partner, owner or member, as the case may be, shall disclose the nature of his concern or interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting:

Provided that where any director who is not so concerned or interested at the time of entering into such contract or arrangement, he shall, if he becomes concerned or interested after the contract or arrangement is entered into, disclose his concern or interest forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested.

(3) A contract or arrangement entered into by the company without disclosure under sub-section (2) or with participation by a director who is concerned or interested in any way, directly or indirectly, in the contract or arrangement, shall be voidable at the option of the company.

(4) If a director of the company contravenes the provisions of sub-section (1) or subsection (2), such director shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees, or with both.

(5) Nothing in this section—

(a) Shall be taken to prejudice the operation of any rule of law restricting a director of a company from having any concern or interest in any contract or arrangement with the company;

(b) Shall apply to any contract or arrangement entered into or to be entered into between two companies where any of the directors of the one company or two or more of them together holds or hold not more than two per cent of the paid up share capital in the other company

**Rule 9 of Companies (Meeting of Board & its Powers) Rules 2014 -DISCLOSURES BY A DIRECTOR OF HIS INTEREST**

(1) Every director shall disclose his concern or interest in any company or companies or bodies corporate (including shareholding interest), firms or other association of individuals, by giving a notice in writing in **Form MBP 1**.

(2) It shall be the duty of the director giving notice of interest to cause it to be disclosed at the meeting held immediately after the date of the notice.

(3) All notices shall be kept at the registered office and such notices shall be preserved for a period of eight years from the end of the financial year to which it relates and shall be kept in the custody of the company secretary of the company or any other person authorized by the Board for the purpose.

**Section 117 of the Companies Act 2013- RESOLUTIONS & AGREEMENTS TO BE FILLED**

(1) A copy of every resolution or any agreement, in respect of matters specified in sub-section (3) together with the explanatory statement under section 102, if any, annexed to the notice calling the meeting in which the resolution is proposed, shall be filed with the Registrar within thirty days of the passing or making thereof in such manner and with such fees as may be prescribed within the time specified under section 403:

Provided that the copy of every resolution which has the effect of altering the articles and the copy of every agreement referred to in sub-section (3) shall be embodied in or annexed to every copy of the articles issued after passing of the resolution or making of the agreement.

(2) If a company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified under section 403 with additional fee, the company 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, including liquidator of the company, if any, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(3) The provisions of this section shall apply to—

(a) special resolutions;

(b) resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed as special resolutions;

(c) any resolution of the Board of Directors of a company or agreement executed by a company, relating to the appointment, re-appointment or renewal of the appointment, or variation of the terms of appointment, of a managing director;

(d) resolutions or agreements which have been agreed to by any class of members but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by a specified majority or otherwise in some particular manner; and all resolutions or agreements which effectively bind such class of members though not agreed to by all those members;

(e) Resolutions passed by a company according consent to the exercise by its Board of Directors of any of the powers under clause (a) and clause (c) of sub-section (1) of section 180;

(f) Resolutions requiring a company to be wound up voluntarily passed in pursuance of section 304;

(g) Resolutions passed in pursuance of sub-section (3) of section 179; and

(h) any other resolution or agreement as may be prescribed and placed in the public domain

**Rule 24 of the Companies (Management & Administration) Rules, 2014 - RESOLUTIONS AND AGREEMENTS TO BE FILED**

A copy of every resolution or any agreement required to be filed, together with the explanatory statement under section 102, if any, shall be filed with the Registrar in **Form No. MGT.14** along with the fee