

Companies (Appointment and Qualifications of Secretary) Rules, 1988

UNION OF INDIA

India

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Rule

COMPANIES-APPOINTMENT-AND-QUALIFICATIONS-OF-SECRETARY of 1988

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1513.

In exercise of the powers conferred by clauses (a) and (b) of section 642 read with clause (45) of section 2 and section 383A of the Companies Act, 1956 (1 of 1956), and in supersession of the Companies (Secretary's Qualifications) Rules, 1975, the Central Government hereby makes the following Rules, namely :

1. Short title and commencement.-

(1)These rules may be called the Companies (Appointment and Qualifications of Secretary) Rules, 1988.(2)It shall come into force on the 1st day of December, 1988.

2. Appointment, etc., of whole-time secretary.-

(1)Every company having a paid-up share capital of not less than [rupees two crores] [Substituted by Notification No. G.S.R. No. 419(E), dated 11.6.2002 (w.e.f. 29.11.1988)] shall have a whole-time secretary.(2)No person shall be appointed as whole-time secretary under sub-rule (1) unless he is a member of the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980 (56 of 1980).(3)A company having a paid-up share capital of less than rupees fifty lakhs

may appoint any individual as its whole-time secretary to perform the duties of a secretary under the Companies Act, 1956, and any other ministerial or administrative duties :Provided that no individual shall be eligible to be so appointed unless he possesses one or more of the qualifications specified in sub-rule (4).[* * *] [Provisos omitted by G.S.R. 11(E), dated 5.1.2009](3A)[A company having a paid up share capital of two crore rupees or more but less than five crore rupees may appoint any individual who possesses the qualification of membership of the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980 (56 of 1980), as a whole-time secretary to perform the duties of a secretary under the Companies Act, 1956:Provided that where a company has appointed under sub-rule (3) or this sub-rule, a whole-time company secretary, possessing the qualification of membership of the Institute of Company Secretaries of India, such a company is not required to obtain a certificate from a secretary in whole-time practice under rule 3 of the Companies (Compliance Certificate) Rules, 2001.] [Inserted by G.S.R. 11(E), dated 5.1.2009](4)No individual shall be appointed as secretary pursuant to sub-rule (3) unless he possesses any one or more of the following qualifications, namely -(i)membership of the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980 (56 of 1980) ;(ii)pass in the Intermediate examination conducted either by the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980 (No. 56 of 1980), or by the earlier Institute of Company Secretaries of India incorporated on 4th October, 1968, under the Companies Act, 1956 (1 of 1956), and licensed under section 25 of that Act ;(iii)Post-graduate degree in commerce or corporate secretary ship granted by any university in India ;(iv)degree in law granted by any university ;(v)membership of the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949 (38 of 1949) ;(vi)membership of the Institute of Cost and Works Accountants of India constituted under the Cost and Works Accountants Act, 1959 (23 of 1959) ;(vii)post-graduate degree or diploma in management sciences, granted by any university, or the Institutes of Management, Ahmedabad, Calcutta, Bangalore or Lucknow ;(viii)post-graduate diploma in company secretary ship granted by the Institute of Commercial Practice under the Delhi Administration or Diploma in Corporate Laws and Management granted by the Indian Law Institute, New Delhi ;(ix)post-graduate diploma in company law and secretarial practice granted by the University of Udaipur; or(x)membership of the Association of Secretaries and Managers, Calcutta, registered under the West Bengal Registration of Societies Act, 1961 (XXVI of 1961) :Provided that where the paid-up share capital of such company is increased to rupees twenty-five lakhs or more, the company shall, within a period of one year from the date of such increase, comply with the provisions of sub-rules (1) and (2) of rule 2.Explanation.- In this rule, "University" has the meaning assigned to it in the University Grants Commission Act, 1956 (No. 3 of 1956), and includes any university outside India which is recognised by the Union Public Service Commission for the purposes of recruitment to public services and posts in connection with the affairs of the Union or of any State.

3. Provisions relating to existing secretaries.-

Notwithstanding contained in sub-rules (1) and (2) of rule 2, the qualifications possessed by a person holding the office of whole-time secretary of a company immediately before 30th October, 1980, in terms of the second proviso to clause (a) of rule 2 of the Companies (Secretaries Qualifications) Rules, 1975, shall be deemed to be the qualifications which he shall be required to

possess in order to be eligible to continue as whole-time secretary in that company.