

Company Law Board (Qualifications, Experience and Other Conditions Of Service of Members) Rules, 1993

UNION OF INDIA

India

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Rule

COMPANY-LAW-BOARD-QUALIFICATIONS-EXPERIENCE-AND-OTHER of 1993

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Company Law Board (Qualifications, Experience and Other Conditions Of Service of Members) Rules, 1993Published vide Notification Gazette of India, Extraordinary, Point 2 Section 3(1), dated 28th April, 1993G.S.R. 388(E), dated 28th April, 1993. - In exercise of the powers conferred by sub-section (2A) of section 10E, read with clause (a) of sub-section (1) of section 642, of the Companies Act, 1956 (1 of 1956), and in supersession of the Company Law Board Members (Qualifications and Experience) Rules, 1989, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely :-

1. Short title and commencement.

(1)These rules may be called the Company Law Board (Qualifications, Experience and Other Conditions of Service of Members) Rules, 1993.(2)They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

- In these rules, unless the context otherwise requires,-(a)"Chairman" means Chairman of the Company Law Board;(b)"Company Law Board" means the Board of Company Law Administration constituted under sub-section (1) of section 10E of the Companies Act, 1956 (1 of 1956);(c)"Company Law Service" means the Central Company Law Service constituted under rule 3 of the Central Company Law Service Rules, 1965;(d)"Judicial Member" means a Judicial Member of the Company Law Board;(e)"Member" means a Judicial Member or Technical Member and includes the

Vice-Chairman and the Chairman;(f)"Technical Member" means a Technical Member of the Company Law Board;(g)"Vice-Chairman" means Vice-Chairman of the Company Law Board.

3. Qualifications and age limit for appointment of Members.

(1)A person shall not be qualified for appointment as Judicial Member unless he -(a)has, for at least ten years, held a judicial office in the territory of India ; or(b)has, for at least ten years, been an Advocate of High Court, or has partly held judicial office and has been partly in practice as an Advocate for a total period of ten years ; or(c)is, or has been, a Member of the Company Law Service (Legal Branch) and is holding, or has held, a post in Super-Time Grade or Selection Grade in that Service or a post in Grade I of that Service for at least eight years ; or(d)is, or has been a Member of the Indian Legal Service and is holding, or has held a post in Grade II of that Service for at least three years, or any higher post in that Service.(2)A person shall not be qualified for appointment as Technical Member unless he-(a)is, or has been, a Member of the Company Law Service (Accounts Branch) and is holding, or has held, a post in Super-Time Grade or Selection Grade in that service or a post in Grade I of that Service for at least eight years ; or(b)is, eligible to be appointed as a Joint Secretary to the Government of India under the Central Staffing Scheme, or to any other post under the Central Government carrying a scale of pay which is not less than that of Joint Secretary to the Government of India, and has adequate knowledge of and experience in dealing with the problems relating to Company Law; or(c)is, or has been, for at least fifteen years in practice as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949); or(d)is, or has been, for at least fifteen years in practice as a cost accountant under the Costs and Works Accountants Act, 1959 (23 of 1959); or(e)has, for at least fifteen years, working experience as a Secretary in whole time practice as defined in clause (45A) of section 2 of the Companies Act, 1956 (1 of 1956), and is a Member of the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980 (56 of 1980).(3)A person shall not be eligible for appointment as member unless he has completed the age of forty-five years.(4)A person shall not be eligible for appointment as Vice-Chairman unless he has for a period of not less than two years held office as Member.(5)A person shall not be eligible for appointment as Chairman unless he-(a)is, or has been, or is qualified to be, a Judge of a High Court; or(b)has for a period of not less than three years held office as Vice Chairman.

3A. [[Inserted by G.S.R. 503(E), dated 3rd June, 1994 (w.e.f. 3rd June, 1994).]

The Employees of the Central Government on their selection as Members shall have to retire from service before joining as Members of the Company Law Board.]

4. Method of recruitment.

(1)The selection of Members shall be made by the Government of India in consultation with the Chief Justice of India or his nominee.(2)Nothing in this rule shall apply to the appointment of Chairman or any Member of the Company Law Board functioning as such immediately before the commencement of these rules.

5. Medical fitness.

- No person shall be appointed as a Member unless he is declared medically fit by a Medical Board to be constituted by the Central Government for the purpose, unless he has already been declared fit by an equivalent authority.

6. Resignation by a Member.

- A Member may, by writing under his hand addressed to the Central Government, resign his office at any time: Provided that the Member shall, unless he is permitted by the Central Government to relinquish office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as a successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

7. Removal of Members from office in certain circumstances.

- The Central Government in consultation with the Chief Justice of India may remove from office any Member, who-(a) has been adjudged an insolvent; or (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or (c) has become physically or mentally incapable of acting as such Members; or (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or (e) has so abused his position as to render his continuance in office prejudicial to the public interest: Provided that nothing contained in this rule shall apply to a Chairman who is a Judge of a High Court: Provided further that where a Member is proposed to be removed on any of the grounds specified in clauses (b) to (e), the Members shall be informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

8. [Term of office of Chairman, Vice-Chairman and Members. [Substituted by G.S.R. 503(E), dated 3rd June, 1994 (w.e.f. 3rd June, 1994).]

- Except as provided in rule 6 or rule 7, the Chairman shall hold office till he attains the age of sixty-two years; the Vice-Chairman shall hold office till he attains the age of sixty two years and any other Member shall hold office till he attains the age of sixty years.]

8A. [Casual vacancy. [Inserted by G.S.R. 503(E), dated 3rd June, 1994 (w.e.f. 3rd June, 1994).]

- In case of a casual vacancy in the office of chairman, the Central Government shall have the power to appoint the Vice-Chairman or in his absence, one of the Members of the Board to officiate as chairman.]

9. Salary and allowances.

- [(1) The Chairman shall be paid salary and allowances as are admissible to a High Court Judge in case of sitting High Court Judges being appointed as Chairman. In other cases, the Chairman shall be paid a salary of Rs. 8,000 (fixed) and other allowances and benefits as are admissible to Central Government officers holding posts carrying the same pay and allowances.] [Inserted by G.S.R. 503(E), dated 3rd June, 1994 (w.e.f. 3rd June, 1994).](2)The Vice-Chairman shall be paid a salary in the scale of pay of Rs. 7300-100-7600.(3)A Member shall be paid a salary in the scale of Rs. 5900-200-6700.(4)The Chairman and Members shall be entitled to draw allowances as are admissible to a Central Government Officer holding Group 'A' post carrying the same pay or scale of pay.

10. Interpretation.

- If any question arises relating to the interpretation of these rules, the same shall be referred to the Central Government for its decision.

11. Saving.

- Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, Scheduled Tribes, Ex-Servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

12. Oaths of office and secrecy.

- Every person appointed to be Chairman or a Vice-Chairman or a Member shall, before entering upon his office, make and subscribe an oath of office and secrecy in Forms I and II annexed to these rules.

13. Other conditions of service.

- The conditions of service of a Member in respect of matters for which no provision is made in these rules shall be the same as may for the time being be applicable to other employees of the Government of India of a corresponding status. Form I[See rule 12]Form of Oath of Office for Chairman/Vice-Chairman/Member of the Company Law Board"I, A. B., having been appointed as Chairman/Vice-Chairman/Member of the Company Law Board do solemnly affirm/do swear in the name of God that I will faithfully and conscientiously discharge my duties as Chairman/Vice-Chairman/Member to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will."Form II[See rule 12]Form of Oath of Secrecy for Chairman/Vice-Chairman/Member of the Company Law Board"I, A. B., having been appointed as Chairman/Vice-Chairman/Member of the Company Law Board, do solemnly affirm/do swear in the name of God that I will not directly or indirectly communicate or reveal to any person or persons

any matter which shall be brought under my consideration or shall become known to me as Chairman/Vice-Chairman/Member of the said Company Law Board except as may be required for the due discharge of my duties as the Chairman/Vice-Chairman/Member."