

Roll No.....

*Time allowed : 3 hours*

*Maximum marks : 100*

*Total number of questions : 6*

*Total number of printed pages : 7*

**NOTE :** 1. Answer **ALL** Questions.

2. All references to sections relate to the Companies Act, 2013 unless stated otherwise.

1. Comment on the following :

- (a) Members of a company incorporated under the Companies Act, 2013 are the agents of the company. Therefore, the company can be held liable for their acts.
- (b) A private company incorporated under the Companies Act, 2013 may issue debentures to any number of persons and can accept deposits from the public.
- (c) Only a naturally born person, who is an Indian citizen and resident in India, can form a One Person Company.
- (d) Three companies incorporated with the same set of shareholders are treated as same companies under the Companies Act, 2013.

*(5 marks each)*

***Attempt all parts of either Q. No. 2 or Q. No. 2A***

2. Distinguish between the following :

- (a) 'Red-Herring Prospectus' and 'Abridged Prospectus'.
- (b) 'Free Reserves' and 'Net Worth' under the provisions of Companies Act, 2013.
- (c) 'Related Party' and 'Relative' as defined and applied under the Companies Act, 2013.
- (d) 'Inspection' and 'Investigation' of companies in India.

*(4 marks each)*

**OR (Alternate question to Q. No. 2)**

- 2A.** (i) A company has taken a term loan from a financial institution and is regularly paying the loan installments and interest. The financial institution proposes to convert 20% of the loan into equity shares of the company as per terms of the agreement. Advise the company, whether the financial institution can enforce such a convertibility clause ? Also examine the validity of such a clause.
- (4 marks)
- (ii) A company has 120 members. It sends notice of general meeting to all of them. 20 members did not attend the meeting. Out of remaining 100 members who were present, 20 members abstained from voting. Advise the company, how many members should vote in favour of a resolution, if it has to be passed as a special resolution ?
- (4 marks)
- (iii) American Trading Ltd. to whom Rs. 2,00,000 was due and payable by ABC Pvt. Ltd. against their supply of material in the year 2015 was shocked to find that the name of ABC Pvt. Ltd. has been struck off by the Registrar of Companies under Section 248 of the Companies Act, 2013. Advise American Trading Ltd. as to how it should proceed for recovering its dues as an unpaid creditor.
- (4 marks)
- (iv) A company wants to include a provision in its Articles of Association by altering them to limit the company's share capital to a fixed amount. Can it do so ? Will your answer be different if 100% shareholders agree for such alteration ?
- (4 marks)

*Attempt all parts of either Q. No. 3 or Q. No. 3A*

3. (a) The minutes of 24th Annual General Meeting of Poly Bank Ltd. are to be signed by the chairman. However, the chairman of Poly Bank Ltd. met with an accident 2 days after the AGM was held. Minutes of AGM are, therefore, pending for signatures. Advise the company secretary of Poly Bank Ltd. about the procedure for signing of minutes in such a case as if the chairman has become permanently incapable of signing. Will your answer be different if chairman suffers only minor injury and gets back to his office in one week ?

(4 marks)

- (b) ABC Ltd. holds 75% equity share capital of DEF Ltd. and controls composition of Board of Directors of DEF Ltd. ABC Ltd. goes for public issue for raising further share capital. Board of Directors of ABC Ltd. allot 10% of the issue to DEF Ltd. Referring to the provisions of the Companies Act, 2013 examine the validity of Board's decision to allot 10% of issue to DEF Ltd. DEF Ltd. holds certain number of shares as a legal representative of a deceased member of ABC Ltd. and has a right to vote at a general meeting of ABC Ltd. in respect of such shareholding, will this right be affected by issue of 10% to DEF Ltd. by ABC Ltd. ?

(4 marks)

- (c) One of the subscribers to Memorandum of Association of a company under process of incorporation is a foreign national residing outside India. State the provisions of Companies Act, 2013 regarding authentication of his signature and address. Will the requirement of business visa be applicable to his case if he is a person of Indian origin or overseas citizen of India ?

(4 marks)

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- (d) XYZ Ltd. has 6 directors on its Board of Directors. Out of 6 directors, 5 are foreigners and they reside in America. The company wants to convene its Board meeting in Mumbai but all the 5 directors are pre-occupied and are not in a position to travel to India. Advise the company regarding conduct of such a Board meeting as per provisions of the Companies Act, 2013 and relevant Rules. Will the same Rules or provisions be applicable in case the company wants to approve annual financial statements in the Board meeting ?

(4 marks)

**OR (Alternate question to Q. No. 3)**

- 3A. (i) ABC Ltd. has altered its name from BCD Ltd. to ABC Ltd. However, the fact of alteration of name of the company was not brought to the notice of NCLT. Please advise the company ABC Ltd. whether it has a right to execute a decree in its new name after the change of name.

(4 marks)

- (ii) KAJ Ltd., a company incorporated under the Companies Act, 2013 wants to go for issue of secured debentures. Referring to relevant provisions and Rules, state the conditions to be satisfied before the company goes for such issue of debentures. Will your answer be different in case such issue of debentures is by a Government company where the Central Government has given a guarantee ?

(4 marks)

- (iii) Robert, a member of MLM Ltd. submitted his proxy to the company before the scheduled time of the Annual General Meeting. The Articles of the company provided that proxy

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can be submitted to the company 70 hours before the scheduled time of the meeting. The chairman of the company rejects the proxy on the ground that it is in violation of the Articles. Referring to the provisions of the Companies Act, examine the validity of the chairman's decision to reject the proxy.

(4 marks)

- (iv) The Board of Directors of American Express Ltd. declared interim dividend third time during the financial year 2015-16. After declaration, the Board of Directors decided to revoke third interim dividend as they noticed that company's financial position did not permit payment of such interim dividend. The Board of Directors seek your advice in this matter. Please advise the Board as a company secretary. Will your advice be different in case it was a regular dividend instead of interim dividend ?

(4 marks)

4. (a) Ram is a chartered accountant in practice. His proprietary concern has been appointed as the statutory auditor of a private limited company. Subsequently, it came to light that Mrs. Ram has been holding less than 1% shares of that private limited company. Examine the legal validity of the appointment of statutory auditor.

(4 marks)

- (b) The Board of Directors of Goodwill (India) Ltd. wish to appoint an alternate director on the Company's Board in the absence of Mr. Prince, a director, who proceeded on leave. Referring to the provisions of the Companies Act, 2013, state the conditions to be satisfied before Board appoints such a director. What shall be the tenure of such alternate director in case Mr. Prince incurs a disqualification and ceases to be a director ?

(4 marks)

(c) Bright Pvt. Ltd. is a private company. Its Board of Directors want to convert the company into an One Person Company. Can it be converted into an One Person Company ? Please advise the company about the conditions and procedure for such a conversion.

(4 marks)

(d) XYZ Ltd., a company, has a paid up share capital of Rs. 60 crores and free reserves of Rs. 25 crores. It desires to make a loan of Rs. 20 crores to M Ltd. The company XYZ Ltd. has already made investments in many other companies including loans to the extent of Rs. 35 crores. Can the company go ahead with loan to M Ltd. ? Please advise the company about the procedure to be followed by it.

(4 marks)

5. (a) Directors of ABC Ltd. want to incorporate a producer company. ABC Ltd. itself is in the production and harvesting business. You are the company secretary of ABC Ltd. You are requested to advise the Board of ABC Ltd. about incorporation of such a producer company and set out its objectives as per relevant provisions of the Companies Act.

(8 marks)

(b) SUP Ltd. is a public company incorporated in India. It wants to propose a scheme of arrangement (merger) with another company in the same line of business in India. Help the company in preparing such a scheme of arrangement firstly. Secondly, help the company in taking approval of NCLT. Advise how company should approach NCLT for its approval to the scheme and discuss grounds on the basis of which NCLT will accord its approval.

(8 marks)

6. (a) Explain the significance and meaning of 'officer in default' as per provisions of Companies Act, 2013.

(4 marks)

(b) What do you understand by 'class action suit' as introduced by the Companies Act, 2013 ? Explain the objective behind introducing this provision in the Companies Act and the persons who can initiate such class action suit.

(4 marks)

(c) An investigation was ordered into affairs of RST Ltd. by the Central Government under Section 210 of the Companies Act, 2013. After carrying out investigation, a report was submitted by the inspector under Section 223 of the Companies Act, 2013. In such a case, what should be done by the Board of Directors of the Company ? Please also inform the Board why such investigation might have been ordered.

(4 marks)

(d) A group of Indian citizens hold 60% of the paid up share capital of a foreign company. This group of shareholders claim that since the company was incorporated outside the country, the company is not bound to comply with the provisions of the Companies Act, 2013 in relation to its business in India. Examine the validity of such a claim by the group.

(4 marks)

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**NOTE :** 1. Answer **ALL** Questions.

2. All references to sections relate to the Companies Act, 2013 unless stated otherwise.

1. (a) Tempest Ltd., an unlisted company, has 500 shareholders, 400 debenture holders and 200 deposit holders. As a Company Secretary of the Company Advise the Board, if the Company is required to form a Stakeholders' Relationship Committee ? Discuss the provisions relating to the functioning of such a committee.

(5 marks)

- (b) PGA Limited receive a deed of transfer of equity shares complete in all respect, before registering the transfer, it was noticed by the Company that the proposed transferee of the equity shares has deceased, please explain the course of action of PGA Limited in the aforesaid case. What if the PGA Limited is unaware about the such status of transferee ? Also explain whether the company is bound to enquire into the capability of the transferee to enter into a contract.

(5 marks)

- (c) Fortune Ltd. had below financial details during the last three financial years :

(₹ In Crores)

Year	Net Worth	Turnover	Net Profit
2016-17	100.00	490.00	5.50
2015-16	95.00	500.00	4.50
2014-15	80.00	380.00	2.00

Discuss the compliance requirements for the Company on Corporate Social Responsibility. Whether Company requires to spend amount on CSR Activities, and what are the consequences if the Company fails to spend any amount ?

(5 marks)

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- (d) Prudent Ltd. an unlisted Company having 4,00,000 equity shares of ₹ 10 each, conducting its general meeting. Ramesh a Proxy of Suresh (Ramesh holds 42,000 equity shares in that Company), demands a Poll to pass a Resolution. Explain the Rights of Ramesh in the capacity of Proxy, whether he will be allowed to demand a Poll ? Also explain the role of the Chairman of the meeting in the case.

(5 marks)

*Attempt all parts of either Q. No. 2 or Q. No. 2A*

2. (a) Priya is a Whole-Time Director in Surya Limited and Sun Limited, wishing to draw Remuneration from both the Companies. As per the limits prescribed under the Companies Act, 2013, she is entitled to draw a remuneration of ₹ 10,00,000 from Surya Ltd. and ₹ 15,00,000 from Sun Limited, you being a Company Secretary advise Ms. Priya about her entitlement for the Remuneration in the aforesaid situation.

(4 marks)

- (b) Prism Ltd. appointed Mr. Sameer Rajpal as an Independent Director for a term of Three years, upon completion of his first term, he was re-appointed for another term for the same period, now upon completion of the second term, Company again wants to re-appoint him as the Independent Director of the Company, considering the fact that he has not completed the consecutive term of Ten years. Advise the Company on the feasibility of his re-appointment.

(4 marks)

- (c) Decide if the office of Mr. Satish Nirankar, Director of Royal Ltd. shall be vacated in the following circumstances :

- (i) he did not attend any board meeting of the Company during the financial year 2016-17, but had promptly sent his leave of absence to Company by e-mail on 31st March, 2017, the last Board Meeting of Financial Year, which was acknowledged by the Company.

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(ii) he is convicted by a court of an offence, not involving any moral turpitude and is sentenced for imprisonment for one year but immediately files an appeal in higher Court against the order of the lower Court.

(4 marks)

(d) List the matters that cannot be dealt with in a meeting through video conferencing or other Audio Visual means.

(4 marks)

**OR (Alternate question to Q. No. 2)**

2A. (i) A Ltd. has entered into a contract with B Ltd. by which the former will reserve 25% of their output to be sold to B. Ltd. or to a buyer at the direction of B Ltd. Can B Ltd. be called an associate company of A Ltd. ?

Also determine, if S Private Ltd. with a paid-up share capital of ₹ 45 lakh and annual turnover of ₹ 175 lakh, is a wholly owned subsidiary of H Ltd., a listed company. Can S Ltd. be called a small company ?

(4 marks)

(ii) Decide whether the following transactions will fall within the ambit of “deposits” as defined under the Companies Act, 2013, quoting relevant provisions of the Act :

(a) Great Ltd. received an application money of ₹ 5 lakh on 1st January, 2017 towards allotment of equity shares, pursuant to an offer made earlier. The Company has neither made the allotment of shares nor refunded the application money so far.

(b) Great Ltd. collected a security deposit of ₹ 5 lakh from Mr. Parteek, an employee whose monthly salary was ₹ 25,000 per month.

(c) Will your answer be different, if the security deposit earned an interest at the rate of 6% per annum ?

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(d) Great Ltd. collected a security deposit of ₹ 25 lakhs from Mr. Sorabh towards performance of the contract for supply and erection of a machinery.

(4 marks)

(iii) Favourite Ltd., an unlisted Company, has the following figures at the end of the last financial year :

Paid-up share capital : ₹ 110.00 Crore

Turnover : ₹ 600.00 Crore

Borrowings by way of  
loans, debentures and deposits : ₹ 60.00 Crore

Being a Company Secretary, advise the Company on the composition of its Board of Directors as required under the Companies Act, 2013.

(4 marks)

(iv) List the conditions to be satisfied for declaration of dividend out of reserves.

(4 marks)

*Attempt all parts of either Q. No. 3 or Q. No. 3A*

3. (a) Advise whether the auditor appointment by a private limited company with paid-up share capital of ₹ 30.00 Crore in the following cases are valid for the financial year 2017-18 :

(i) Amarjeet, (an Individual Auditor) who has been the auditor since financial year 2011-12.

(ii) Firm VAP & Co., who completes 10 years continuously, at the end of financial year 2016-17. Vijay is a partner in VAP & Co.

(iii) Firm Ajay & Co., in which Vijay is also a partner in addition to being a partner of VAP & Co.

(4 marks)

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(b) Excel Ltd., an unlisted company, has a paid-up share capital of ₹ 30 Crore, turnover of ₹ 190 Crore and borrowings of ₹ 25 Crore and outstanding deposits of ₹ 30 Crore. Decide if the Company needs to comply with internal audit requirements under the Act. If so, can they appoint Siddh, who is the Practising Company Secretary, as their internal auditor ?

(4 marks)

(c) Crown Ltd. has proposed to come out with a public issue of equity shares and in order to enable their employees to subscribe to the Company's shares, wants to extend loans to the employees including directors and key management personnel. Advise.

(4 marks)

(d) "A Company being an artificial person having status in the eyes of the law," in light to this statement, please comment whether a Company Incorporated in India is having the status of a Citizen of this Country ?

(4 marks)

**OR (Alternate question to Q. No. 3)**

**3A.** Write notes on the following :

- (i) CARO 2015
- (ii) Pre-certification of e-forms
- (iii) Consequence of non-registration of Charge
- (iv) 'SPICE'.

(4 marks each)

**4.** (a) Encode Pvt. Ltd. is having two shareholders namely Mr. Vishal and Mr. Joytan holding 9,00,000 and 5,50,000 equity shares, of ₹ 10 each, respectively. The Company's Paid-up share Capital as on the date is ₹ 1,45,00,000 and Authorised Share Capital is

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₹ 2,00,00,000. Company wishes to issue further equity shares for ₹ 7,50,000, i.e., 75,000 equity shares of ₹ 10 each at par, by way of Rights issue, to meet the working capital requirements and expansion plan of the Company, you being a Company Secretary of the Company is required to draft the Board Resolutions inter-alia approving the letter of offer towards aforesaid offer of the Rights Issue, assuming that the shareholders may renounce their rights of subscription and the proposed shares shall rank pari-passu with the existing Equity shares of the Company.

(8 marks)

(b) CIN, issued by MCA, the unique identifier, provides the key profile of companies – Explain.

(4 marks)

(c) Write note on Statutory duties of a Company Secretary.

(4 marks)

5. (a) Forecore Ltd. is a closely held company with 25 shareholders and proposes to make a public offer of convertible securities. The existing shareholders (Promoter) have their holdings in physical form. The company is wishing to issue, aforesaid convertible securities to the public, in physical form. Advise the feasibility.

(4 marks)

(b) Explain the provisions to determine in what circumstances an Individual will be considered as a promoter of the Company, if Kundan has been identified as a promoter in the recent annual return of the Company, please comment whether Kundan will be considered as a promoter of that Company ? In the event of a mis-statement in the prospectus of the company, what will be the civil liability of Kundan ?

(4 marks)

(c) Lal holds 1,00,000 preference shares in Luxury Ltd. (an unlisted company), wants to understand his voting rights in the Company. Advise.

(4 marks)

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(d) Dynamic Ltd. (paid-up share capital ₹ 25 Crore) proposes to enter into a contract with Sunil for the procurement of raw materials for an amount of ₹ 5 Crore during the financial year. Sunil is the step brother (father's second wife's son) of Anil, who is a director of Dynamic Ltd. Discuss the compliance requirements in respect of the above procurement contract.

(4 marks)

6. (a) SRM Limited (a listed company), a wholly owned subsidiary of Spice Limited (an another listed company) proposes to acquire 10,000 equity shares of Spice Limited from the secondary market (in demat form). Advise SRM Limited on the feasibility of the proposal.
- (b) Weak Ltd. is interested in obtaining the status of a dormant company, as they have not been carrying on operation for the past two years. Explain the enabling conditions to be fulfilled for applying to be a Dormant Company.
- (c) State the procedure for voluntary revision of financial statements or the board's report by a Company.
- (d) Star Ltd. was incorporated on 1st January, 2016. Further, Star Ltd. has floated its subsidiary company incorporated in Germany for which the financial year ends with June every year. In light to the above, please determine :
- (i) The first financial year of Star Ltd. for which financial statement will be reported.
- (ii) Does Star Ltd. have an option to align its financial year with that of its German subsidiary in respect to the consolidation of its accounts outside India ?

(4 marks each)

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