

# Chapter 9

## Directors' Role and Responsibilities under the Light of New Amendment Act of Company Law

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### ABSTRACT

*The chapter focuses on the key changes the roles and duties of Directors and Independent Directors under the light of New Amendment Act, 2013 of the Companies Act, 1956. This chapter analyzes the role of Directors / Independent Director by comparing the two major Companies Act 1956 and Companies Act 2013. Company Act 2013, is an initiation for better corporate governance, increasing levels of transparency and enhance the corporate and auditor's accountability. New Amendment Act of 2013 is a good legislative attempt by the Government. The following points are focused for the first time in this New Act, 2013. Duties of Directors are defined and Role of Independent Directors is defined. The Board has to take the precautions to implement proper systems and to ensure that all the compliance with the provisions of all the applicable laws which were adequate and operating effectively. As per the provisions of the New Act, 2013 the maximum number of Directors can be appointed are 15 with a special resolution, can be increased more than 15. Made provision for women Director.*

### INTRODUCTION

The Companies Act, 2013 (New Act) has been passed by the Parliament in August, 2013. The assent from the President of India was received on 29<sup>th</sup> August, 2013 and notified on 30<sup>th</sup> August, 2013. P. N. Shah has pointed that this Act is the replacement for the existing Companies Act, 1956 (old Act) (Shah, n.d.). Out of 470 sections 98 sections of the New Act have come into force from 12<sup>th</sup> September, 2013.

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183 sections of the Act have come into force from 1<sup>st</sup> April, 2014. The provisions relating to duties and responsibilities of Directors are as follows:

1. **Chapter XI:** Appointment and Qualifications of the Directors (Sec.149 to 172).
2. **Chapter XII:** Meetings of Board and its powers (Sec.173 to 195).
3. **Chapter XIII:** Appointment and Remuneration of Managerial personnel (Sec.196 to 205).

Out of the above, Sections 161 to 163, 176, 180 to 183, 185, 192, 194, 195 and 202 have come into force from 12<sup>th</sup> September, 2013.

### **Definition of Director**

Section 2(34) of the Act prescribed that “director” means a person appointed to the Board of a company to perform the duties and functions of director of a company in accordance with the provisions of the Companies Act, 2013 (The Institute of Company Secretaries, 2013). The Companies Act, 2013 does not have an exhaustive definition of the term Director.

Under the Companies Act of 2013 the duties and responsibilities of the Directors of a company have great contributions for better security and corporate governance for the prosperity and growth in the corporate world of India. The former company law of India, the Companies Act of 1956, was disgustingly deficient in this respect. The new Company Act, 2013 is a landmark piece of legislation in this regards, which explicitly and duly redefines and clarified and enlarges the ambit of duties and responsibilities of the Directors including independent directors. Under the legislation of Company Act, 2013 over the duties and liabilities of the directors are revised corporate governance norms (Revised and New Clause 49 of Listing Agreement) of SEBI (the Securities and Exchange Board of India), in order to bring the SEBI's corporate governance norms in connection with the listed companies, in close harmony and consistency with the provisions of the Company Act, 2013. Several provisions of the Company Act, 2013 related to duties of directors made effective from 01, April, 2014; revised norms related to corporate governance are come in to force from 01 October, 2014.

Some of the provisions are more or less on the same lines as the provisions in the Companies Act, 1956. (See Table 1 and Table 2). Some additional provisions added to the duties and responsibilities on the Directors. Some of the important provisions relating to duties and responsibilities of directors discussed in the Chapter.

The individual deeds and actions of director cannot bind the company, unless such director has been specifically authorized by a Board resolution to do so on behalf of the company.

### **Board of Directors**

Though a Company has legal entity before the law, it is an artificial person, it does not have physical existence. The Existence is only in contemplation of law but, it cannot act in its own person. It has to work only through some human agency. The persons who are delegated power to take care of the affairs of the company are termed as directors. They are called as Board of Directors or the Board. The Directors are called as brain of a company.

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