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PRACTICE NOTE — CORPORATE & COMPANY LAW

The Companies Act, 2013 — Key Points

Incorporation, share capital, board governance, related-party dealings, accounts & audit, mergers, oppression & mismanagement, fraud, and NCLT/NCLAT

Title note: There is no enacted "Companies Act, 2023." The governing law remains the **Companies Act, 2013**, as amended — most recently by substantive rule changes in 2023 (dematerialisation of shares, elimination of bearer share warrants) and the revised "small company" thresholds notified 1 December 2025. A **Corporate Laws (Amendment) Bill, 2026** (introduced in Lok Sabha, 23 March 2026) is currently before a Joint Parliamentary Committee — it proposes further decriminalisation and CSR/small-company threshold changes but is **not yet law**. This note covers the current 2013 Act framework and flags the pending 2026 Bill on the last page.

STRUCTURE	29 Chapters, 470 Sections, 7 Schedules (as originally enacted)
REPLACES	Companies Act, 1956
ADMINISTERED BY	Ministry of Corporate Affairs (MCA); Registrar of Companies (RoC); NCLT / NCLAT
KEY 2023 CHANGES	Mandatory demat of shares for private companies (issue/transfer, from 1 Oct 2024); abolition of bearer share warrants
KEY 2025 CHANGE	"Small company" thresholds raised — paid-up capital up to ₹10 crore, turnover up to ₹100 crore (w.e.f. 1 Dec 2025)

TYPES OF COMPANIES

BY LIABILITY / OWNERSHIP

- **Private Company** (min. 2 members, max. 200); **Public Company** (min. 7 members, no cap); **One Person Company (OPC)** — a private company with a single member (S.3).
- **Section 8 Company** — formed for charitable/not-for-profit objects, profits applied to objects, dividend distribution prohibited.

BY SIZE / SPECIAL CATEGORY

- **Small Company** — S.2(85): private company (not a holding/subsidiary, Section 8, or special-Act company) with paid-up capital ≤ ₹10 crore and turnover ≤ ₹100 crore (revised threshold, w.e.f. 1 Dec 2025).
- **Producer Company, Nidhi Company, Government Company, Foreign Company** — separately defined special-purpose categories.

INCORPORATION — CHAPTER II (S.3–S.22)

SECTION 3, 4 — FORMATION & MEMORANDUM

- Formed by 7+ persons (public), 2+ (private), or 1 person (OPC), subscribing to a Memorandum of Association (MOA) — the foundational document stating name, registered office State, objects, liability, and capital clauses.

SECTION 7 — INCORPORATION PROCEDURE

- MOA and Articles of Association (AOA), duly subscribed, filed with the RoC along with declarations of compliance, address proof, and particulars of subscribers/directors — RoC issues a Certificate of Incorporation, conclusive evidence of the company's registration.

SHARE CAPITAL & DEBENTURES — CHAPTER IV (S.43–S.72)

SECTION 62 — FURTHER ISSUE / RIGHTS ISSUE

- Further shares must first be offered to existing equity shareholders in proportion to their holding ("rights issue"); offer open for **not less than 15 days and not more than 30 days**; shareholders may renounce in favour of others unless AOA restricts it.

SECTION 68 — BUY-BACK OF SECURITIES

- Company may buy back its own shares/securities out of free reserves, securities premium, or proceeds of a fresh issue (not the same kind) — subject to AOA authorisation, board/special resolution (as applicable), and the prescribed debt-equity and quantum ceilings; buy-back must complete within the prescribed period from authorisation.

DEPOSITS & CHARGES

SECTION 73 — ACCEPTANCE OF DEPOSITS

- General prohibition on companies inviting/accepting deposits from the public. Deposits from **members only** permitted by ordinary resolution, subject to a circular disclosing financial position, a deposit repayment reserve, deposit insurance, and a director's certificate of no default in past repayments.

SECTION 77 — REGISTRATION OF CHARGES

- Every charge created on the company's property/assets (e.g. mortgage, hypothecation) must be registered with the RoC within the prescribed timeline — an unregistered charge is not enforceable against the liquidator or other creditors, though the underlying debt survives.

SMALL COMPANY / OPC — KEY COMPLIANCE RELAXATIONS (ILLUSTRATIVE)

RELAXATION	APPLIES TO
No cash flow statement required	Small companies, OPCs, dormant companies
Board meetings — minimum 2 per year (not 4)	Small companies, OPCs
Annual return signed by director alone (not CS)	OPCs, small companies
Lower/no rotation requirement for auditors	OPCs, small companies (subject to Rules)
Reduced penalties for procedural defaults	OPCs, small companies, start-ups (S.446B)

BOARD OF DIRECTORS — CHAPTER XI (S.149–S.172)

SECTION 149 — COMPOSITION

- Minimum directors: **3 (public), 2 (private), 1 (OPC)**; maximum 15 (extendable by special resolution). Every listed public company must have **at least one-third independent directors**; nominee directors cannot qualify as independent.

WOMEN DIRECTOR — S.149(1) PROVISIO

- Prescribed classes of companies (certain listed and public companies crossing paid-up capital/turnover thresholds) must have **at least one woman director**; any resulting vacancy must be filled within the prescribed time, not later than the immediate next Board meeting or 3 months, whichever is later.

DIRECTORS' DUTIES & BOARD MEETINGS

SECTION 166 — DUTIES OF DIRECTORS

- Act in good faith to promote the company's objects for the benefit of members as a whole; exercise independent judgment, reasonable care/skill/diligence; avoid conflict of interest; not achieve/attempt undue gain; not assign office. Contravention attracts fine, and disgorgement of any gain made.

SECTION 173 — BOARD MEETINGS

- Minimum **4 Board meetings per year**, with not more than **120 days' gap** between two consecutive meetings (small companies/OPCs: minimum 2 meetings/year, one per half-year, min. 90-day gap). Meetings may be held via video conferencing subject to Rules.

KEY MANAGERIAL PERSONNEL & RELATED-PARTY DEALINGS

SECTION 203 — KEY MANAGERIAL PERSONNEL (KMP)

- Prescribed classes of companies must appoint whole-time KMP — **Managing Director/CEO/Manager/Whole-time Director, Company Secretary, and Chief Financial Officer** — a person cannot ordinarily hold KMP office in more than one company at the same time (subject to exceptions).

SECTION 188 — RELATED PARTY TRANSACTIONS

- Board (and, above prescribed thresholds, shareholder) approval required for specified categories of related-party dealings (sale/purchase of goods, property, services, leasing, agency appointments, etc.) — **not required** for transactions in the ordinary course of business and on an arm's-length basis.

LOANS TO DIRECTORS & CORPORATE SOCIAL RESPONSIBILITY

SECTION 185 — LOANS TO DIRECTORS

- General prohibition on a company giving loans/guarantees/security to its directors or connected entities, subject to exceptions — loans to MD/whole-time directors under approved service conditions or pursuant to a scheme applicable to all employees, inter-company loans between a holding company and its wholly-owned subsidiary, and loans by companies whose ordinary business is lending.

SECTION 135 — CORPORATE SOCIAL RESPONSIBILITY (CSR)

- Applies to companies meeting **any** of: net worth ≥ ₹500 crore, turnover ≥ ₹1,000 crore, or net profit ≥ ₹5 crore in the preceding financial year. A CSR Committee must be constituted; eligible companies must spend **at least 2% of average net profit** of the preceding 3 years on CSR activities (comply-or-explain for shortfall).

MEETINGS — CHAPTER VII (S.96–S.122)

SECTION 96 — ANNUAL GENERAL MEETING (AGM)

- Every company (except OPC) must hold an AGM each year, **within 6 months** of the close of the financial year (first AGM: within 9 months of incorporation) and **not more than 15 months** between two AGMs, at the registered office/city, on a day other than a national holiday.

SECTION 100 — EXTRAORDINARY GENERAL MEETING (EGM)

- Board may call an EGM at its discretion, or must call one on requisition by members holding not less than **1/10th of paid-up capital** (or voting rights, for companies without share capital) — for business requiring shareholder approval outside the AGM cycle.

ACCOUNTS OF COMPANIES — CHAPTER IX (S.128–S.138)

SECTION 129 — FINANCIAL STATEMENTS

- Every company must prepare financial statements (balance sheet, profit & loss/income & expenditure account, cash flow statement, statement of changes in equity, notes) giving a true and fair view, in the form under Schedule III, complying with applicable Accounting Standards, laid before the AGM each year.

SECTION 134 — BOARD'S REPORT

- Board's Report must accompany the financial statements — covering state of company affairs, dividend recommendation, material changes, directors' responsibility statement, related-party transactions, CSR (if applicable), risk management, and other prescribed particulars; signed by the chairperson (if authorised) or at least 2 directors.

AUDIT & AUDITORS — CHAPTER X (S.139–S.148)

SECTION 139 — APPOINTMENT OF AUDITORS

- First auditor appointed by the Board within 30 days of incorporation; thereafter auditor appointed at the first AGM to hold office until the conclusion of the **6th AGM** (subject to ratification requirements as amended). Listed/prescribed companies subject to mandatory **auditor rotation**.

SECTION 143 — POWERS & DUTIES OF AUDITORS

- Right of access at all times to books of account, vouchers, and to seek information/explanation from officers; duty to report on true and fair view, compliance with Accounting Standards, and specified matters (e.g. adequacy of internal financial controls) — auditor must report suspected fraud above the prescribed threshold to the Central Government (S.143(12)).

COMPROMISE, ARRANGEMENT & MERGER — CHAPTER XV (S.230–S.240)

SECTIONS 230–232 — NCLT-SANCTIONED SCHEMES

- **S.230:** a company (or its creditors/members) may apply to the NCLT to convene a meeting for a compromise or arrangement; the Tribunal orders notice to be given to members/creditors, statutory regulators (SEBI, RBI, CCI, Income Tax authorities, stock exchanges as applicable), and the Central Government/RoC for objections.
- **S.232:** where the scheme involves a merger/amalgamation, the Tribunal, once satisfied on the statutory matters (transfer of assets/liabilities, continuation of legal proceedings, dissolution without winding up, employee treatment), sanctions the scheme by order; a certified copy must be filed with the RoC within 30 days.
- Governed procedurally by the **Companies (Compromises, Arrangements and Amalgamations) Rules, 2016**; **Section 233** provides a faster "fast-track" merger route (Central Government approval, via RD) for mergers between small companies, holding-wholly-owned-subsidary companies, and other prescribed classes, bypassing full NCLT sanction.

OPPRESSION & MISMANAGEMENT — CHAPTER XVI (S.241–S.246)

SECTION 241 — RIGHT TO APPLY

- Members meeting the prescribed shareholding threshold (or the Central Government, in public-interest cases) may apply to the NCLT where the company's affairs are conducted in a manner **oppressive to members** or **prejudicial to public interest/the company**.

SECTION 242 — NCLT'S POWERS

- Wide remedial powers — regulate future conduct, order purchase of shares, appoint/remove directors, restrict share transfers, order investigation, and even order winding up — tailored to end the oppression/mismanagement without necessarily dissolving the company.

INSPECTION, INVESTIGATION & FRAUD — CHAPTER XIV

SECTION 212 — SFIO INVESTIGATION

- Central Government may order the **Serious Fraud Investigation Office (SFIO)** to investigate a company's affairs in specified circumstances (including NCLT reference). SFIO has powers of arrest (S.212(8), with the 2017 Arrest Rules) where it has reason to believe an offence under S.447 is made out; courts may take cognizance of S.447 offences only on an SFIO/authorised officer's complaint.

SECTION 447 — PUNISHMENT FOR FRAUD

- Fraud involving an amount of at least **₹10 lakh** or **1% of turnover** (whichever is lower): imprisonment of **6 months to 10 years** and mandatory fine of not less than the fraud amount, extendable up to **3 times** the amount involved. Where fraud involves **public interest**, minimum imprisonment is **3 years**.

WINDING UP & NCLT/NCLAT STRUCTURE

TOPIC	KEY POINT
Winding Up (Chapter XX)	Insolvency-based winding up now primarily routed through the Insolvency and Bankruptcy Code, 2016 (Corporate Insolvency Resolution Process before NCLT); the Companies Act retains provisions for voluntary winding up and winding up on other specified grounds (e.g. by Tribunal for just and equitable cause, oppression/mismanagement fallback under S.242).
NCLT (S.408)	Quasi-judicial body adjudicating company law, oppression/mismanagement, mergers, and (with IBC) insolvency matters — replaced the Company Law Board and jurisdiction of civil courts/High Courts on company matters.
NCLAT (S.410)	Appellate forum for orders of the NCLT (and, under other statutes, of IBBI/CCI in certain matters); further appeal on a question of law lies to the Supreme Court.

OFFENCES, PENALTIES & COMPOUNDING — CHAPTER XXIX

GRADED PENALTY STRUCTURE

- Most procedural/technical defaults (late filings, non-maintenance of registers, etc.) are civil in nature — punishable with monetary penalty on the company and every officer in default, without imprisonment; a smaller set of offences involving fraud, deposit-related defaults, or repeated non-compliance retain criminal consequences (imprisonment and/or fine).

SECTION 441 — COMPOUNDING OF OFFENCES

- Offences punishable with fine only (or fine/imprisonment as an alternative) may be compounded by the NCLT or the Regional Director, on payment of a specified sum — offences punishable with imprisonment only, or imprisonment along with fine, are **not compoundable**.

SECTION 446B — REDUCED PENALTIES FOR SMALL COMPANIES, OPCS & START-UPS

LOWER PENALTY CEILING

- Where a penalty is payable by a small company, OPC, start-up, or producer company (or an officer thereof) for a default under specified provisions, the penalty is not more than **one-half** of the penalty specified in the relevant section, subject to a prescribed maximum — a targeted relief for smaller entities.

PENDING — CORPORATE LAWS (AMENDMENT) BILL, 2026 (NOT YET LAW)

REPORTED PROPOSALS — VERIFY CURRENT STATUS BEFORE RELYING

- Introduced in Lok Sabha on 23 March 2026 and referred to a Joint Parliamentary Committee (JPC); proposes amendments across ~107 clauses to the Companies Act, 2013 and the LLP Act, 2008.
- Reported key proposals: further **decriminalisation** — shifting a further set of minor/technical offences from criminal prosecution to an e-adjudication civil-penalty framework; raising the CSR net-profit threshold from ₹5 crore to ₹10 crore; further expansion of the small-company definition; and changes to merger-approval thresholds.
- **Practice instruction: before advising or filing on the basis of any provision attributed to a "2023" or "2026" Companies Act, independently confirm via mca.gov.in / indiacode.nic.in / PRS Legislative Research whether the Bill has been enacted and notified, and cite only the enacted text of the Companies Act, 2013 as it currently stands.**

PRACTICE NOTES

Always Confirm the Company's Category First

Compliance obligations (board meetings, CSR, audit rotation, related-party approval thresholds) shift substantially between a private company, small company, OPC, and listed public company — confirm the client's exact category (including the revised Dec 2025 small-company thresholds) before advising on any compliance calendar.

Related-Party & Director-Loan Checks Before Any Board Approval

Before approving related-party transactions or any financial accommodation involving directors, test the transaction against S.188 (arm's-length/ordinary-course carve-out) and S.185 (loan prohibition and its narrow exceptions) — these are among the most frequently litigated compliance gaps.

Mergers — Confirm Whether Fast-Track (S.233) Applies

Before initiating a full S.230/232 NCLT scheme, check whether the fast-track merger route under S.233 is available (small companies, holding-WOS structures) — it is materially quicker and does not require full Tribunal sanction.

Fraud Complaints — Route Through SFIO, Not a Private Complaint

Courts cannot take cognizance of a Section 447 fraud offence except on a complaint by the SFIO Director or an authorised Central Government officer — advise clients accordingly when a suspected corporate fraud is being escalated.

For internal practice reference only — this note highlights select, frequently used provisions across the Companies Act, 2013 (29 Chapters, 470 Sections) and does not cover the full Act, its Rules, or Schedules. The referenced Corporate Laws (Amendment) Bill, 2026 is not yet law — verify its current status independently before relying on it. Cross-check exact section/rule text and the latest MCA notifications before relying in advice or proceedings. Prepared 2 August 2026.

Primary sources: The Companies Act, 2013 (mca.gov.in, indiacode.nic.in); Companies (Compromises, Arrangements and Amalgamations) Rules, 2016; MCA notifications on small-company thresholds (Dec 2025) and demat/PAS Rules (Oct 2023); PRS Legislative Research on the Corporate Laws (Amendment) Bill, 2026; commentary via ICSI, TaxGuru, ClearTax, CA2013 (CAIRR), and IndiaCorpLaw.