

2.14 Government Companies [Section 2(45)]

2.14.1 Definition

Government Company (i) means any company in which not less than 51% of the paid-up share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by any one or more State Governments and (ii) includes a company which is a subsidiary company of such a Government Company.

1. **Appointment of Auditor of a Government Company by CAG [Section 139(5)]** : The Comptroller of Auditor General of India shall appoint an auditor in respect of the following companies —

(a) a Government Company; or

(b) any other company owned and controlled, directly or indirectly, by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments.

Such auditor shall be duly qualified to be appointed as an auditor of companies under the Act. Such appointment shall be made within a period of 180 days from the commencement of the financial year.

Such appointment shall be in respect of a financial year and the auditor so appointed shall hold office till the conclusion of the annual general meeting.

2. **Appointment of First Auditor of a Government Company by CAG [Section 139(7)]** : In the case of a Government Company, the first auditor shall be appointed by the Comptroller and Auditor General of India within 60 days from the date of registration of the Company. If not so appointed, the Board of Directors of the company shall appoint such auditor within the next 30 days.

If the Board of Directors fails to do so, the company shall inform the members of the company who shall then appoint such auditor within 60 days at an extraordinary general meeting of the company.

The first auditor so appointed shall hold office until the conclusion of the first AGM.

3. **Resignation of Auditor [Section 140(2)]** : If the auditor of a company appointed by CAG under Section 139(5) resigns, he should file with ROC as also with CAG a statement in the prescribed Form No. ADT. 3 with reasons for resignation and other relevant facts. The time limit for filling up the vacancy is 30 days.

4. **Copy of Audit Report to be Submitted to CAG [Section 143(5)]** : In the case of Government Company, the auditor shall submit a copy of his audit report to the CAG. Such report shall include the directions, if any, issued by the CAG and the action taken thereon and its impact on the accounts and financial statement of the company.

5. **Annual Report of Government Company [Section 394(1)]** : Where the Central Government is a member of Government Company, the Central Government shall cause an annual report on the working and affairs of that company to be —

(a) prepared within three months of its annual general meeting before which the comments given by the CAG and the audit report are placed under proviso to Section 143(6);

- (b) as soon as may be after such preparation, laid before both Houses of Parliament together with a copy of the audit report and any comments upon or subsequent to the audit report made by the Comptroller and Auditor General.

2.14.2 Annual reports where one or more State Governments are members of companies [Section 395]

- (1) Where the Central Government is not a member of a Government Company, every State Government which is a member of that company, or where only one State Government is a member of the company, the State Government shall cause an annual report on the working and affairs of the company to be —
- (a) prepared within the time specified in sub-section (1) of Section 394; and
- (b) as soon as may be after such preparation, laid before the House or both Houses of the State Legislature together with a copy of the audit report and comments upon or supplement to the audit report referred to in sub-section (1) of that section.