

The Companies (Appointment of the Small Shareholders' Director) Rules, 2001

G.S.R. 168(E). – In exercise of the powers conferred by section 642 read with section 252 of the Companies

Act, 1956 (1 of 1956), the Central Government hereby makes the following rules, namely:-

1. Short title and Commencement:-

- (1) These rules may be called the Companies (Appointment of the Small Shareholders' Director) Rules, 2001.
- (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) "Act" means the Companies Act, 1956 (1 of 1956);
- (b) "Small Shareholder" means a shareholder holding shares of nominal value of twenty thousand rupees or less in a public company to which section 252 of the Act applies.

3. Applications:-

These rules shall apply to public companies having -

- (a) paid-up capital of five crore rupees or more;

(b) one thousand or more small shareholders.

4. Manner of election of small shareholders' director:-

- (1) A company may act suo-moto to elect a small shareholders' director from amongst small shareholders or upon the notice of small shareholders, who are not less than 1/10th of total small shareholders and have proposed name of a person who shall also be a small shareholder of the company.
- (2) Small shareholders intending to propose a person shall leave a notice of their intention with the company at least 14 days before the meeting under the signature of at least 100 small shareholders specifying name, address, shares held and folio number and particulars of share with differential rights as to dividend and voting, if any, of the person whose name is being proposed for the post of director and of other small shareholders proposing such person as a candidate for the post of director or small shareholders.
- (3) A person whose name has been proposed for the post of small shareholders' director shall sign, and file with the company, his consent in writing to act as a director.
- (4) The listed public company shall elect small shareholders nominee subject to sub-rules (1), (2) and (3) above through the postal ballot.
- (5) The unlisted company may appoint such small shareholders' nominee subject to above conditions if majority of small shareholders recommend his candidature for the post of director in their meeting.
- (6) Tenure of such small shareholders' director shall be for a maximum period of 3 years subject to meeting the requirement of provisions of Companies Act except that he need not have to retire by rotation.

- (7) On expiry of his tenure, the same person if so desired by small shareholders, may be elected for an another period of 3 years.
- (8) Such director shall be treated as director for all other purposes except for appointment as whole time director or managing director.

5. Disqualification:-

A person shall not be capable of being appointed as small shareholders' director of a company, if –

- (i) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;
- (ii) he is an undischarged insolvent;
- (iii) he has applied to be adjudicated as an insolvent and his application is pending;
- (iv) he has been convicted by a Court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months, and a period of five years has not elapsed from the date of expiry of the sentence;
- (v) he has not paid any call in respect of shares of the company held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call; or
- (vi) an order disqualifying him for appointment as director has been passed by a Court in pursuance of section 203 and is in force, unless the leave of the Court has been obtained for his appointment in pursuance of that section.

6. Vacation of office:-

A person appointed as small shareholders' director shall have to vacate the office if -

- (i) such person so elected, as director of small shareholders ceases to be a small shareholders' director on and from such date on which he ceased to be a small shareholder;
- (ii) he has been rendered disqualified by virtue of sub-rule (1) of rule (5);
- (iii) he fails to pay any call in respect of shares of the company held by him, whether alone or jointly with others, within six months from the last date fixed for the payment of the call;
- (iv) he absents himself from three consecutive meetings of the Board of directors, or from all meetings of the Board for a continuous period of three months, whichever is longer, without obtaining leave of absence from the Board;
- (v) he is a partner of any private company of which he is a director, accepts a loan, or any guarantee or security for a loan, from the company in contravention of section 295;
- (vi) he acts in contravention of section 299;
- (vii) he becomes disqualified by an order of Court under section 203;
- (viii) he is removed in pursuance of section 284;

7. Restriction on number of directorship:-

No person shall hold office at the same time as small shareholders' director in more than two companies.