

Company Law Board (Qualifications, Experience and Other Conditions of Service of Members) Rules, 1993

CONTENTS

1. Short title and commencement
2. Definitions
3. Qualifications and age limit for appointment of Members
 - 3A. 3A
 - 3B. 3B
4. Method of recruitment
5. Medical fitness
6. Resignation by a Member
7. Removal of Members from office in certain circumstances
8. Term of office of chairman, vice-chairman und members
 - 8A. Casual vacancy
9. Salary and allowances
10. Interpretation
11. Saving
12. Oaths of office and secrecy
13. Other conditions of service

Company Law Board (Qualifications, Experience and Other Conditions of Service of Members) Rules, 1993

¹1. See section 10E(2A) of the Companies Act, 1956. In exercise of the powers conferred by sub-section (2A) of section 10E, read with clause (a) of sub-section (1) of section 642 of the Companies Act, 1956 (1 of 1956), and in supersession of the Company Law Board Members (Qualifications and Experience) Rules, 1989, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely.-

1. Short title and commencement :-

(1) These rules may be called the Company Law Board (Qualifications, Experience and Other Conditions of Service of Members) Rules, 1993.

(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) "Chairman" means Chairman of the Company Law Board;
- (b) "Company Law Board" means the Board of Company Law Administration constituted under sub-section (1) of section 10E of the Companies Act, 1956 (1 of 1956);
- (c) "Company Law Service" means the Central Company Law Service constituted under rule 3 of the Central Company Law Service Rules, 1965;
- (d) "Judicial Member" means a Judicial Member of the Company Law Board;
- (e) "Member" means a Judicial Member or Technical Member and includes the Vice- Chairman and the Chairman;
- (f) "Technical Member" means a Technical Member of the Company Law Board;
- (g) "Vice-Chairman" means Vice-Chairman of the Company Law Board.

3. Qualifications and age limit for appointment of Members

:-

- (1) A person shall not be qualified for appointment as Judicial Member unless he-
 - (a) has, for at least ten years, held a judicial office in the territory of India; or
 - (b) has, for at least ten years, been an Advocate of High Court or has partly held judicial office and has been partly in practice as an Advocate for a total period of ten years; or
 - ¹(c) is, or has been, a Member of the Central Company Law Service (Legal Branch)/Indian Company Law Service (Legal Branch) and is holding or has held a post in Senior Administrative Grade in that service for at least three years: or
 - (d) is, or has been, a Member of the Indian Legal Service and is holding, or has held a post in Grade 1 of that service for at least three years.
- (2) A person shall not be qualified for appointment as Technical

Member unless he-

2 (a) is, or has been, a Member of the Central Company Law Service (Accounts Branch)/Indian Company Law Service (Account Branch) and is holding, or has held, a post in Senior Administrative Grade in that service for at least three years: or

(b) is, or has been, a Joint Secretary to the Government of India under the Central Staffing Scheme or any other post under the Central Government carrying a scale of pay which is not less than that of Joint Secretary to the Government of India, for at least three years and has adequate knowledge and experience in dealing with the problems relating to Company Law.

(c) is, or has been, for at least fifteen years in practice as a chartered accountant under the Chartered Accountants Act, 1949; or

(d) is, or has been, for at least fifteen years in practice as a cost accountant under the Costs and Works Accountants Act, 1959; or

(e) has, for at least fifteen years' working experience as a Secretary in whole-time practice as defined in clause (45A) of section 2 of the Companies Act, 1956 (1 of 1956), and is a Member of the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980 .

(3) A person shall not be eligible for appointment as member unless he has completed the age of forty-five years.

(4) A person shall not be eligible for appointment as Vice-Chairman unless he has for a period of not less than two years held office as Member.

(5) A person shall not be eligible for appointment as Chairman unless he-

(a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has for a period of not less than three years held office as Vice-Chairman.

1. Substituted for " (c) is, or has been, a Member of the Company Law Service (Legal Branch) and is holding, or has held, a post in Super-Time Grade or Selection Grade in that Service or a post in Grade I of that Service for at least eight years; or (d) is, or has been a Member of the Indian Legal Service and is holding, or has held a post in Grade II of that Service for at least three years, or

any higher post in that Service. ", vide " COMPANY LAW BOARD (QUALIFICATIONS, EXPERIENCE AND OTHER CONDITIONS OF SERVICE OF MEMBERS) RULES, 1993" Dt. 30th September, 1999 Published in Ministry of Law, Justice and Company Affairs (Deptt. of Company Affairs), Noti. No. G.S.R. 680(E), dated September 30, 1999, published in the Gazette of India, Extra., Part II, Section 3(i), dated 30th September, 1999, p. 2, No. 486 [F. No. A. 12018/1/98 Admn. 1] [L]

2. Substituted for " (a) is, or has been, a Member of the Company Law Service (Accounts Branch) and is holding, or has held, a post in Super-Time Grade or Selection Grade in that service or a post in Grade I of that service for at least eight years; or (b) is, eligible to be appointed as a Joint Secretary to the Government of India under the Central Staffing Scheme, or to any other post under the Central Government carrying a scale of pay which is not less than that of Joint Secretary to the Government of India, and has adequate knowledge of and experience in dealing with the problems relating to Company Law; or ", vide " COMPANY LAW BOARD (QUALIFICATIONS, EXPERIENCE AND OTHER CONDITIONS OF SERVICE OF MEMBERS) RULES, 1993" Dt. 30th September, 1999 Published in Ministry of Law, Justice and Company Affairs (Deptt. of Company Affairs), Noti. No. G.S.R. 680(E), dated September 30, 1999, published in the Gazette of India, Extra., Part II, Section 3(i), dated 30th September, 1999, p. 2, No. 486 [F. No. A. 12018/1/98 Admn. 1] [L]

3A. 3A :-

The employees of the Central Government on their selection as Members shall have to retire from their service before joining as Member of the Company Law Board.]

3B. 3B :-

Those Members who came from Government service and who were appointed as members before the coming into force of the Company Law Board (Qualifications, Experience and Other Conditions of Service of Members) Rules, 1993, may opt to return to their parent departments or opt for permanent absorption by transfer in the Company Law Board. The option may be exercised within three months from the date of publication of these rules in the Official Gazette.]

4. Method of recruitment :-

(1) The selection of Members shall be made by the Government of India in consultation with the Chief Justice of India or his nominee.

(2) Nothing in this rule shall apply to the appointment of Chairman or any Member of the Company Law Board functioning as such

immediately before the commencement of these rules.

5. Medical fitness :-

No person shall be appointed as a Member unless he is declared medically fit by a Medical Board to be constituted by the Central Government for the purpose, unless he has already been declared fit by an equivalent authority.

6. Resignation by a Member :-

A Member may, by writing under his hand addressed to the Central Government, resign his office at any time: Provided that the Member shall, unless he is permitted by the Central Government to relinquish office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as a successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

7. Removal of Members from office in certain circumstances :-

The Central Government in consultation with the Chief Justice of India may remove from office any Member, who-

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such Members; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest: Provided that nothing contained in this rule shall apply to a Chairman who is Judge of a High Court:

8. Term of office of chairman, vice-chairman und members :-

¹ Except as provided in rule 6 or 7, the Chairman shall hold office till he attains the age of sixty seven years, the Vice-Chairman shall hold office till he attains the age of sixty five years and any other Member shall hold office till he attains the age of sixty two years.

Rule 8, shall be substituted in place of - "8. Term of office of chairman, vice-chairman und members.-Except as provided in rule 6 or rule 7, the chairman shall hold office till he attains the age of

sixty-five years; the vice-chairman shall hold office till he attains the age of sixty-two years and any other Member shall hold office till he attains the age of sixty years. Explanation.-For the removal of doubts it is hereby declared that the expression 'any other member' shall include a person appointed as member before the coming into force of the Company Law Board (Qualifications, Experience and Other Conditions of Service of Members) Rules, 1993. and continuing to hold office as such member immediately before the coming into force of the Company Law Board (Qualifications, Experience and Other Conditions of Service of Members) (Amendment) Rules, 1996." by the Company Law Board (Qualifications, Experience and other Conditions of Service of Members) Amendment Rules, 2007.

8A. Casual vacancy :-

In case of a casual vacancy in the office of chairman, the Central Government shall have the power to appoint the vice-chairman or in his absence, one of the Members of the Board to officiate as chairman.]

9. Salary and allowances :-

1

(1) The chairman shall be paid salary and allowances as are admissible to a High Court judge in case of sitting High Court judges being appointed as chairman. In other cases, the chairman shall be paid a salary of Rs. 8,000 (fixed) and other allowances and benefits as are admissible to the Central Government officers holding posts carrying the same pay and allowances.]

(2) The Vice-Chairman shall be paid a salary in the scale of pay of Rs. 7,300-100- 7,600.

(3) A Member shall be paid a salary in the scale of Rs. ²["22400-525-24500"].

(4) The Chairman and Members shall be entitled to draw allowances as are admissible to a Central Government Officer holding Group 'A' post carrying the same pay or scale of pay.

3 (5) Notwithstanding anything contained in sub-rules (1) to (4),-

(a) a judge of a High Court appointed as chairman under clause (a) of sub-rule (5) of rule 3 shall be entitled to a monthly salary, allowances and other benefits including perquisites at the same rate as is admissible to him as a judge of a High Court; or

(b) a retired Judge of a High Court appointed as chairman under

clause (a) of sub-rule (5) of rule 3 shall be paid for the period he serves as chairman, such salary which, together with his pension and pension equivalent of any other form of retirement benefits, shall not exceed the last pay drawn by him before retirement. He shall be entitled to such allowances and other benefits including perquisites as are admissible to a serving judge of a High Court.]

1. Notification No. GSR 253(E), dated 28-5-1996.

2. Substituted for "5,900-200-6,700", vide "COMPANY LAW BOARD (QUALIFICATIONS, EXPERIENCE AND OTHER CONDITIONS OF SERVICE OF MEMBERS) RULES, 1993" Dt.30th September, 1999 Published in Ministry of Law, Justice and Company Affairs (Deptt. of Company Affairs), Noti. No. G.S.R. 680(E), dated September 30, 1999, published in the Gazette of India, Extra., Part II, Section 3(i), dated 30th September, 1999, p. 2, No. 486 [F. No. A. 12018/1/98 Admn. 1] [L]

3. Inserted by Notification No. GSR 49(E), dated 31-1-1997.

10. Interpretation :-

If any question arises relating to the interpretation of these rules, the same shall be referred to the Central Government for its decision.

11. Saving :-

Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, Scheduled Tribes, Ex-Servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

12. Oaths of office and secrecy :-

Every person appointed to be Chairman or a Vice-Chairman or a Member shall, before entering upon his office, make and subscribe an oath of office and secrecy in Forms I and II annexed to these rules.

13. Other conditions of service :-

The conditions of service of a Member in respect of matters for which no provision is made in these rules shall be the same as may for the time being be applicable to other employees of the Government of India of a corresponding status.