

Unit 46. Indian Companies Act 2013 - Salient Features



The Indian Companies Act 2013 replaced the Indian Companies Act, 1956. The Companies Act 2013 makes comprehensive provisions to govern all listed and unlisted companies in the country. The Companies Act 2013 implemented many new sections and repealed the relevant corresponding sections of the Companies Act 1956. This is a landmark legislation with far-reaching consequences on all companies incorporated in India.

Comparison of Companies Act 1956 and Companies Act 2013

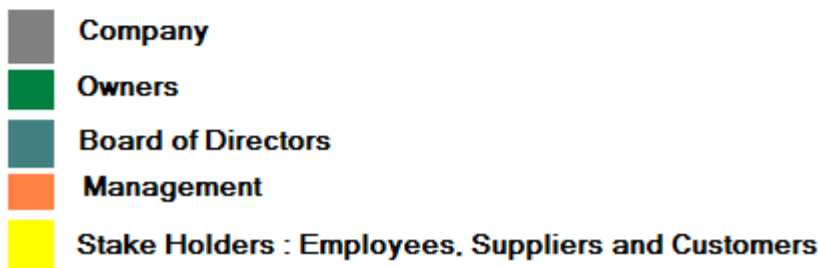
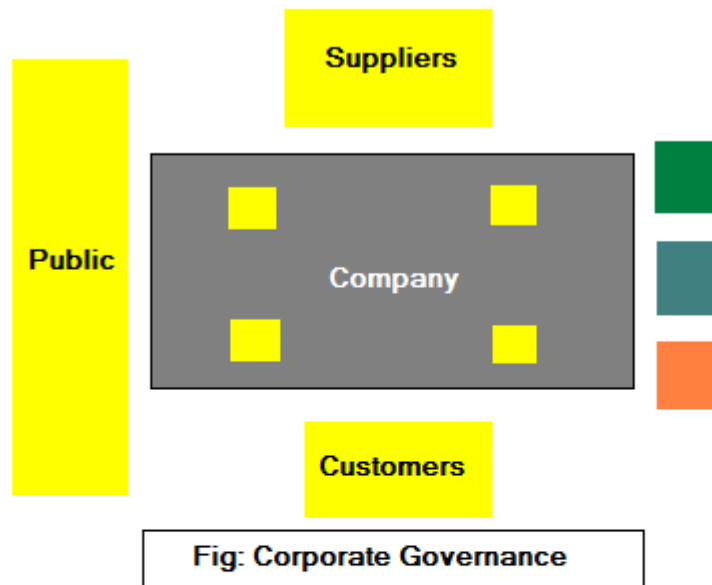
Indian Companies Act 2013 has fewer sections (470) than Companies Act 1956 (658). The new act empowers shareholders and gives high value for Corporate Governance.

Details	1956 Act	2013 Act
Parts	13	NA
Chapters	26	29
Sections	658	470
Schedules	15	7

Key Highlights of Indian Companies Act 2013

- Maximum number of members (share holders) permitted for a Private Limited Company is increased to 200 from 50.
- One-Person company.
- Section 135 of the Act which deals with Corporate Social Responsibility.
- Company Law Tribunal and Company Law Appellate Tribunal.

Salient features of the Companies Act 2013



1. **Class action suits for Shareholders:** The Companies Act 2013 has introduced new concept of class action suits with a view of making shareholders and other stakeholders, more informed and knowledgeable about their rights.
2. **More power for Shareholders:** The Companies Act 2013 provides for approvals from shareholders on various significant transactions.
3. **Women empowerment in the corporate sector:** The Companies Act 2013 stipulates appointment of at least one woman Director on the Board (for certain class of companies).
4. **Corporate Social Responsibility:** The Companies Act 2013 stipulates certain class of Companies to spend a certain amount of money every year on activities/initiatives reflecting Corporate Social Responsibility.
5. **National Company Law Tribunal:** The Companies Act 2013 introduced National Company Law Tribunal and the National Company Law Appellate Tribunal to replace the Company Law Board and Board for Industrial and Financial Reconstruction. They would relieve the Courts of their burden while simultaneously providing specialized justice.
6. **Fast Track Mergers:** The Companies Act 2013 proposes a fast track and simplified procedure for mergers and amalgamations of certain class of companies such as holding and subsidiary, and small companies after obtaining approval of the Indian government.

7. **Cross Border Mergers:** The Companies Act 2013 *permits* cross border mergers, both ways; a foreign company merging with an India Company and vice versa but with prior permission of *RBI*.
8. **Prohibition on forward dealings and insider trading:** The Companies Act 2013 prohibits directors and key managerial personnel from purchasing call and put options of shares of the company, if such person is reasonably expected to have access to price-sensitive information.
9. **Increase in number of Shareholders:** The Companies Act 2013 increased the number of maximum shareholders in a private company from 50 to 200.
10. **Limit on Maximum Partners:** The maximum number of persons/partners in any association/partnership may be upto such number as may be prescribed but not exceeding *one hundred*. This restriction will not apply to an association or partnership, constituted by professionals like lawyer, chartered accountants, company secretaries, etc. who are governed by their special laws. Under the Companies Act 1956, there was a limit of maximum 20 persons/partners and there was no exemption granted to the professionals.
11. **One Person Company:** The Companies Act 2013 provides new form of private company, i.e., one person company. It may have only one director and one shareholder. The Companies Act 1956 requires minimum two shareholders and two directors in case of a private company.
12. **Entrenchment in Articles of Association:** The Companies Act 2013 provides for entrenchment (apply extra legal safeguards) of articles of association have been introduced.
13. **Electronic Mode:** The Companies Act 2013 proposed E-Governance for various company processes like maintenance and inspection of documents in electronic form, option of keeping of books of accounts in electronic form, financial statements to be placed on company's website, etc.
14. **Indian Resident as Director:** Every company shall have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year.
15. **Independent Directors:** The Companies Act 2013 provides that all listed companies should have at least one-third of the Board as independent directors. Such other class or classes of public companies as may be prescribed by the Central Government shall also be required to appoint independent directors. No independent director shall hold office for more than two consecutive terms of five years.
16. **Serving Notice of Board Meeting:** The Companies Act 2013 requires at least seven days' notice to call a board meeting. The notice may be sent by electronic means to every director at his address registered with the company.
17. **Duties of Director defined:** Under the Companies Act 1956, a director had fiduciary (legal or ethical relationship of trust) duties towards a company. However, the Companies Act 2013 has defined the duties of a director.
18. **Liability on Directors and Officers:** The Companies Act 2013 does not restrict an Indian company from indemnifying (compensate for harm or loss) its directors and officers like the Companies Act 1956.
19. **Rotation of Auditors:** The Companies Act 2013 provides for rotation of auditors and audit firms in case of publicly traded companies.
20. **Prohibits Auditors from performing Non-Audit Services:** The Companies Act 2013 prohibits Auditors from performing non-audit services to the company where they are auditor to ensure independence and accountability of auditor.

21. **Rehabilitation and Liquidation Process:** The entire rehabilitation and liquidation process of the companies in financial crisis has been made time bound under Companies Act 2013.

