

- (c) is, or has been, for at least fifteen years in practice as a Chartered Accountant under the Chartered Accountants Act, 1949 (38 of 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 (23 of 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 (56 of 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 ²[two years] held office as Vice-Chairman.

³[3A. The Employees of the Central Government on their selection as Members shall have to retire from their service before joining as Members of the Company Law Board].

⁴[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.

NOTES

Method of appointment of members.—The power to appoint the members is vested in the selection committee headed by the nominee of the Chief Justice of India. All materials which are relevant, are placed before the selection committee. It is the selection committee which makes the selection on the basis of relevant material. After the committee recommends one or more names, they should be placed before the appointments committee without any addition or alteration. In this case, when the selection committee had recommended two names, the secretary to the appointments committee made an adverse noting against one of the candidates. This was considered as an interference with the process of selection, neither desirable, nor permitted under the rules. Further in this case, the secretary apparently was trying to promote the name of another candidate, who had come to adverse notice. He kept the matter pending until his name was exonerated and thereafter placed the files before the Appointments Committee reiterating his earlier remark. The court considered this rank favouritism. The Court directed that the names recommended earlier by the selection committee be placed before the appointments committee without any notings or comments and the committee was to select the member from the said three names. *Dr. A.K.Doshi v. Union of India*, (2001) 43 CLS (Snr) 5 : (2001) CLS 403 : (2001) 32 SCL 217 : AIR 2001 SC 1369 : (2001) 2 Comp LJ 221.

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 earliest.

7. Removal of members from office in certain circumstances.—The Central Government in consultation with Chief Justice of India may remove from office any Member, who—

- (a) has been adjudged an insolvent; or

2. Subs. by Amendment Rules, 1998, *vide* GSR 370(E), dated 30-6-1998.

3. Ins. by Amendment Rules, 1994 *vide* GSR 503(E), dated 3-6-1994 (w.e.f. 3-6-1994).

4. Ins. by Amendment Rules, 1996, *vide* GSR 532(E), dated 20-11-1996.

- (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 member; 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 a Judge of a High Court:

Provided further that where a Member is proposed to be removed on any of the grounds specified in clauses (b) to (e),⁴ the Member shall be informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

⁵[8. **Term of office of Chairman, Vice-Chairman and Members.**—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.]

⁶[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.—⁷[(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[26,000] (fixed) and other allowances and benefits as are admissible to 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. ⁸[24,050-650-26,000];

(3) A Member shall be paid a salary in the scale of Rs. ⁹[22,400-525-24,500].

(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.

¹⁰[(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.]

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 (*published hereunder*) 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.

5. Subs. by Amendment Rules, 2007, *vide* GSR 588(E), dated 13-9-2007.

6. Ins. by Amendment Rules, 1994, *vide* GSR 503(E), dated 3-6-1994 (w.e.f. 3-6-1994).

7. Subs. by Amendment Rules, 1994, *vide* GSR 503(E), dated 3-6-1994.

8. Subs. by Third Amendment Rules, 1999, *vide* GSR 683(E), dated 5-10-1999.

9. Subs. by Second Amendment Rules, 1999, *vide* GSR 680(E), dated 30-9-1999.

10. Ins. by (Amendment) Rules, 1997, *vide* GSR 49(E), dated 31-1-1997.

FORM-I

(See rule 12)

Form of Oath of Office for Chairman/Vice-Chairman/Member of the Company Law Board

"I, A.B., having been appointed as Chairman/Vice-Chairman/Member of the Company Law Board do solemnly affirm/do swear in the name of God that I will faithfully and conscientiously discharge my duties as Chairman/Vice-Chairman/Member to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will."

FORM-II

(See rule 12)

Form of Oath of Secrecy for Chairman/Vice-Chairman/Member of the Company Law Board

"I, A.B., having been appointed as Chairman/Vice-Chairman/Member of the Company Law Board, do solemnly affirm/do swear in the name of God that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Chairman/Vice-Chairman/Member of the said Company Law Board except as may be required for the due discharge of my duties as the Chairman/ Vice-Chairman/Member."

[Issued by the Ministry of Law, Justice & Company Affairs, Department of Company Affairs, vide File No. 12018/3/92-Ad-I dated 28-4-1993]