

Companies Act, 1956

Chapter 3 - Managing Agents

Section 324 - Power of Central Government to notify that companies engaged in specified classes of industry or business shall not have managing agents [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 324A - Abolition of managing agencies and secretaries and treasurers [Repealed]

1[324A. Abolition of managing agencies and secretaries and treasurers

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

1. Section 324A Inserted by Act 17 of 1969, Section 4 (w.e.f. 28-05-1969).

Section 325 - Managing agency company not to have managing agent [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 325A - Subsidiary of a body corporate not to be appointed as managing agent [Repealed]

1[325A. Subsidiary of a body corporate not to be appointed as managing agent

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

1. Section 325A Inserted by Act 65 of 1960, Section 121 (w.e.f. 28-12-1960).

Section 326 to 328 - Appointment and term of office

Section 326 - Central Government to approve of appointment, etc. of managing agent, and circumstances in which approval may be accorded [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 327 - Application of section 328 to 331 [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 328 - Term of office of managing agent [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 329 - Variation of managing agency agreement [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 330 to 331 - Special provisions regarding existing managing agents

Section 330 - Term of office of existing managing agents to terminate on 15th August 1960 [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 331 - Application of Act to existing managing agents [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 332 - No Person to be managing agent of more than ten companies after 15th August, 1960 [Repealed]

Restrictions on number of managing agencies

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 333 - Right of managing agent to charge on company's assets [Repealed]

Right to charge on assets

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 334 to 342 - Vacation of office, removal and resignation

Section 334 - Vacation of office on insolvency, dissolution or winding up, etc. [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 335 - Suspension from office where receiver appointed [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 336 - Vacation of office on conviction in certain cases [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 337 - Removal for fraud or breach of trust [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 338 - Removal for gross negligence or mismanagement [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 339 - Power to call meetings for the purposes of section 337 and 338 and procedure [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 340 - Time when certain disqualifications will take effect [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 341 - Conviction not to operate as disqualification of convicted partner, director, etc. is expelled [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 342 - Registration of office by managing agent [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 343 to 345 - Transfer of, and succession to, office

Section 343 - Transfer of office by managing agent [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 344 - Managing agency not to be heritable after commencement of Act [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 345 - Succession to managing agency by inheritance or devise under agreement before commencement of Act, to be subject to Central Government's approval [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 346 to 347 - Changes in constitution of firms and corporations

Section 346 - Changes in constitution of managing agency, firm or corporation to be approved by Central Government [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 347 - Application of Schedule VIII to certain managing agents [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 159 (w.e.f. 13-12-2000).

Section 348 to 355 - Remuneration of managing agents

Section 348 - Remuneration of managing agent ordinarily not to exceed 10 per cent. of net profits
[Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), section 159 (w.e.f. 13-12-2000).

Section 349 - Determination of net profits

- (1) In computing 1 [***] the net profits of a company in any financial year -
- (a) credit shall be given for the sums specified in sub-section (2) and credit shall not be given for those specified in sub-section (3); and
 - (b) the sums specified in sub-section (4) shall be deducted, and those specified in sub-section (5) shall not be deducted.
- (2) In making the computation aforesaid, credit shall be given for the following sums:-
- bounties and subsidies received from any Government, or any public authority constituted or authorised in the this behalf, by any Government, unless and except in so far as the Central Government otherwise directs.
- (3) In making the computation aforesaid credit shall not be given for the following sums: -
- (a) profits, by way of premium, on shares or debentures of the company, which are issued or sold by the company;
 - (b) profits on sales by the company of forfeited shares;
 - (c) 2 [profits of a capital nature including profits from the sale] of the undertaking or any of the undertakings of the company or of any part thereof;
 - (d) profits from the sale of any immovable property or fixed assets of a capital nature comprised in the undertaking or any of the undertakings of the company, unless the business of the company consists, whether wholly or partly, of buying and selling any such property or assets:

3 [Provided that where the amount for which any fixed asset is sold exceeds the written-down value thereof referred to in section 350, credit shall be given for so much of the excess as is not higher than the difference between the original cost of that fixed asset and its written-down value.]
- (4) In making the computation aforesaid, the following sums shall be deducted: -
- (a) all the usual working charges;
 - (b) directors' remuneration;
 - (c) bonus or commission paid or payable to any member of the company's staff, or to any engineer, technician or person employed or engaged by the company, whether on a whole-time or on a part-time basis;
 - (d) any tax notified by the Central Government as being in the nature of a tax on excess or abnormal profits;
 - (e) any tax on business profits imposed for special reasons or in special circumstances and notified by the Central Government in this behalf;
 - (f) interest on debentures issued by the company;
 - (g) interest on mortgages executed by the company and on loans and advances secured by a charge on its fixed or floating assets;

(h) interest on unsecured loans and advances;

(i) expenses on repairs, whether to immovable or to movable property, provided the repairs are not of a capital nature;

4 [(j) outgoings inclusive of contributions made under clause (e) of sub-section (1) of section 293;]

(k) depreciation to the extent specified in section 350;

5 [(1) the excess of expenditure over income, which had arisen in computing the net profits in accordance with this section in any year which begins at or after the commencement of this Act, insofar as such excess has not been deducted in any subsequent year preceding the year in respect of which the net profits have to be ascertained;]

(m) any compensation or damages to be paid in virtue of any legal liability, including a liability arising from a breach of contract;

(n) any sum paid by way of insurance against the risk of meeting any liability such as is referred to in clause (m);

6 [(o) debts considered bad and written off or adjusted during the year of account;]

7 [(p) amount paid as cases under section 441A.]

(5) In making the computation aforesaid, the following sums shall not be deducted: -

8 [***]

(b) income-tax and super-tax payable by the company under the Indian Income-tax Act, 1922 (11 of 1922), or any other tax on the income of the company not falling under clauses (d) and (e) of sub-section (4);

(c) any compensation, damages or payments made voluntarily, that is to say otherwise than in virtue of a liability such as is referred to in clause (m) of sub-section (4);

6 [(d) loss of a capital nature including loss on sale of the undertaking or any of the undertakings of the company or of any part thereof not including any excess referred to in the proviso to section 350 of the written-down value of any asset which is sold, discarded, demolished or destroyed over its sale proceeds or its scrap value.

1. The words "for the purpose of section 348," omitted by Act 53 of 2000, section 160 (w.e.f. 13-12-2000).

2. Substituted by Act 65 of 1960, Section 127, for "profits from the sale" (w.e.f. 28-12-1960).

3. Inserted by Act 65 of 1960, Section 127 (w.e.f. 28-12-1960).

4. Substituted by Act 65 of 1960, Section 127, for clause (j) (w.e.f. 28-12-1960).

5. Substituted by Act 65 of 1960, Section 127, for clause (l) (w.e.f. 28-12-1960).

6. Inserted by Act 65 of 1960, Section 127 (w.e.f. 28-12-1960).

7. Inserted by Act 11 of 2000, Section 37.

8. Clause (a) omitted by Act, 2000, Section 160 (w.e.f. 13-12-2000).

Section 350 - Ascertainment of depreciation

1[350. Ascertainment of depreciation

The amount of depreciation to be deducted in pursuance of clause (k) of sub-section (4) of section 349 shall be 2[the amount of depreciation on assets] as shown by the books of the company at the end of the financial year expiring at the commencement of this Act or immediately thereafter and at the end of each subsequent financial year, 3[at the rate specified in Schedule XIV]:

Provided that if any asset is sold, discarded, demolished or destroyed for any reason before depreciation of such asset has been provided for in full, the excess, if any, of the written-down value of such asset over its sale proceeds or, as the case may be, its scrap value, shall be written off in the financial year in which the asset is sold, discarded, demolished or destroyed.]

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1. Substituted by Act 65 of 1960, Section 128, for section 350 (w.e.f. 28-12-1960).
 2. Substituted by Act 53 of 2000, Section 161, for certain words (w.e.f. 13-12-2000).
 3. Substituted by Act 31 of 1988, Section 50, for certain words (15-6-1968).
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Section 351 - Special provision where there is a profit-sharing arrangement between two or more companies [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 162 (w.e.f. 13-12-2000).

Section 352 - Payment of additional remuneration [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 162 (w.e.f. 13-12-2000).

Section 353 - Time of payment of remuneration [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 162 (w.e.f. 13-12-2000).

Section 354 - Managing agent not entitled to office allowance but entitled to be reimbursed in respect of expenses [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 162 (w.e.f. 13-12-2000).

Section 355 - Saving

Sections 1[349 and 350] shall not apply to a private company unless it is a subsidiary of a public company.

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1. Substituted by Act 53 of 2000, Section 163, for "348 to 354" (w.e.f. 13-12-2000).
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Section 356 to 363 - Appointments as selling and buying agents

Section 356 - Appointment of managing agent or associate as selling agent of goods produced by the Company [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 357 - Application of section 356 to case where business of company consists of the supply or rendering of any service [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 358 - Appointment of managing agent or associate as buying agent for company [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 359 - Commission, etc., of managing agent as buying or selling agent of other concerns [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 360 - Contracts between managing agent or associate and company for the sale or purchase of goods or the supply of services, etc. [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 361 - Existing contracts relating to matters dealt with in sections 356 to 360 to terminate on 1st March, 1958 [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 362 - Registers to be open to inspection [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 363 - Remuneration received in contravention of foregoing sections to be held in trust for company [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 364 - Company not to be bound by assignment of, or charge on, managing agent's remuneration

Assignment of, or charge on, remuneration

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 365 to 366 - Compensation for termination of office

Section 365 - Prohibition of payment of compensation for loss of office in certain cases [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 366 - Limit of compensation for loss of office [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 367 - Managing agent's rights and liabilities after termination of office [Repealed]

Other rights and liabilities not affected on termination of office

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 368 to 377 - Restrictions on powers

Section 368 - Managing agent to be subject to control of Board and to restrictions in Schedule VII [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 369 - Loans to managing agent [Repealed]

Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 164 (w.e.f. 13-12-2000).

Section 370 - Loans, etc., to companies under the same management

(1) No company (hereinafter in this section referred to as "the lending company") shall -

(a) make any loan to, or

(b) give any guarantee, or provide any security, in connection with a loan made by any other person to, or to any other person by,

any body corporate 1 [***] unless the making of such loan, the giving of such guarantee or the provision of such security has been previously authorised by a special resolution of the lending company:

2 [Provided that no special resolution shall be necessary in the case of loans made to other bodies corporate not under the same management as the lending company where the aggregate of such loans does not exceed 3 [such percentage of the aggregate of the subscribed capital of the lending company and its free reserves as may be prescribed:]

Provided further that the aggregate of the loans made to all bodies corporate shall not exceed without the prior approval of the Central Government -

(a) 3 [such percentage of the aggregate of the subscribed capital of the lending company and its free reserves as may be prescribed] where all such other bodies corporate are not under the same management as the lending company;

(b) 3 [such percentage of the aggregate of the subscribed capital of the lending company and its free reserves as may be prescribed] where all such other bodies corporate are under the same management as the lending company.

Explanation 4 [1]. -If a special resolution has been passed by the lending company authorising the making of loans up to the limit of 7 [the percentage of the aggregate specified in clause (a) or, as the case may be, the percentage of the aggregate specified in clause (b) of the second proviso] then, no further special resolution or resolutions shall be deemed to be necessary for the making of any loan or loans within such limit.

5 [Explanation 2. -If a special resolution has been passed by the lending company authorising the Board of Directors to give any guarantee or provide any security up to a limit specified in the resolution, then, no further special resolution or resolutions shall be deemed to be necessary for giving any guarantee or providing any security within such limit.]

6 [(1A) Where the lending company -

(a) makes any loan to, or

(b) gives any guarantee, or provides any security, in connection with a loan made by any other person to, or to any other person by,

a firm in which a partner is a body corporate under the same management as the lending company -

(i) the loan shall be deemed to have been made to, or

(ii) the guarantee or the security shall be deemed to have been given or provided in connection with the loan made by such other person to, or to such other person by,

a body corporate under the same management.]

7 (1B) 8 [For the purpose of sub-section (1) and (1A)] two bodies corporate shall be deemed to be under the same management -

(i) if the 9 [***] managing director or manager of the one body, 9 [***] is -

(a) 9 [***] managing director or manager of the other body; or

(b) 9 [***]

(c) 9 [***]

(ii) if a majority of the directors of the one body constitute, or at any time within the six months immediately preceding constituted, a majority of the directors of the other body; 10 [or]

6 [(iii) if not less than one-third of the total voting power with respect to any matter relating to each of the two bodies corporate is exercised or controlled by the same individual or body corporate; or

(iv) if the holding company of the one body corporate is under the same management as the other body corporate within the meaning of clause (i), clause (ii) or clause (iii); or

(v) if one or more directors of the one body corporate while holding, whether by themselves or together with their relatives, the majority of shares in that body corporate also hold, whether by themselves or together with their relatives, the majority of shares in the other body corporate.]

6 [(1C) Every lending company shall keep a register showing -

(a) the names of all bodies corporate under the same management as the lending company and the name of every firm in which a partner is a body corporate under the same management as the lending company; and

(b) the following particulars in respect of every loan made, guarantee given or security provided by the lending company 11 [in relation to any such body corporate] under this section -

(i) the name of the body corporate to which the loan has been made whether such loan has been made before or after that body corporate came under the same management as the lending company,

(ii) the amount of the loan,

(iii) the date on which the loan has been made,

(iv) then date on which the guarantee has been given or security has been provided in connection with a loan made by any other person to, or to any other person by, any body corporate or firm referred to in sub-section (1) or (1A) together with the name of the person, body corporate or firm.

(1D) Particulars of [12](#) [every loan, guarantee or security referred to in sub-section (C)] shall be entered in the register aforesaid within three days of the making of such loan, or the giving of such guarantee or the provision of such security or in the case of any loan made, guarantee given or security provided before the commencement of the Companies (Amendment) Act, 1960 (65 of 1960), within three months from such commencement or such further time not exceeding six months as the company may by special resolution allow.

(1E) If default is made in complying with the provisions of sub-section (1C) or (1D), the company and every officer of the company who is in default, shall be punishable with fine which may extend to five hundred rupees and also with a further fine which may extend to fifty rupees for every day after the first during which the default continues.

(1F) The register aforesaid shall be kept at the registered office of the lending company and-

(a) shall be open to inspection at such office, and

(b) extracts may be taken therefrom or copies thereof may be required,

by any member of the company to the same extent and in the same manner and on the payment of the same fees as in the case of the register of members of the company; and the provisions of section 163 shall apply accordingly.

[13](#) [(1G) A company, which has defaulted in the repayment of any deposit referred to in section 58A or past thereof or interest thereupon in accordance with the terms and conditions of such deposit, shall not make any loan or give guarantee under this section till the default is made good.]

[14](#) [(2) Nothing contained in the foregoing provisions of this section shall apply to -

(a) any loan made -

(i) by a holding company to its subsidiary, or

(ii) [9](#) [***]

[15](#) [(iii) by a banking company, or an insurance company, in the ordinary course of its business; [16](#) [or]

(iv) by a private company, unless it is a subsidiary of a public company; [16](#) [or]

(v) by a company established with the object of financing industrial enterprises;]

(b) any guarantee given or any security provided -

(i) by a holding company in respect of any loan made to its subsidiary, or

(ii) [9](#) [***]

[17](#) [(iii) by a banking company, or an insurance company in the ordinary course of its business; or

(iv) by a private company, unless it is a subsidiary of a public company; or

(v) by a company established with the object of financing industrial enterprises.]

(3) Nothing in this section shall apply to a book debt unless the transaction represented by the book debt was from its inception in the nature of a loan or an advance.

(4) For the purposes of this section, any person in accordance with whose directions or instructions the Board of directors of a company is accustomed to act shall be deemed to be a director of the company.]

18 [(5) Where before the commencement of the Companies (Amendment) Act, 1965, any loan, guarantee or security has been made, given or provided by a company which could not have been made, given or provided under this section as amended by that Act, and such loan, guarantee or security is outstanding at such commencement the company shall, within six months from such commencement enforce the repayment of the loan made or, as the case may be, revoke the guarantee given or the security provided, notwithstanding any agreement to the contrary:

Provided that the aforesaid period of six months may be extended by the Central Government on an application made to it in that behalf by the company.]

19 [(6) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Act, 1999.

20 [Explanation.- For the purposes of this section, "loan" includes any deposit of money made by one company with another company, not being a banking company.]

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1. The words "which is under the same management as the lending company" omitted by Act 31 of 1965, Section 46 (w.e.f. 1-4-1967).
 2. Added by Act 31 of 1965, Section 46 (w.e.f. 1-4-1967).
 3. Substituted by Act 31 of 1988, Section 51, for certain words (w.e.f. 17-4-1989).
 4. Explanation renumbered as Explanation 1 by Act 34 of 1966, Section 3 (w.e.f. 1-4-1967).
 5. Inserted by Act 34 of 1966, Section 3 (w.e.f. 1-4-1967).
 6. Inserted by Act 65 of 1960, Section 135 (w.e.f. 28-12-1960).
 7. Explanation numbered and lettered as sub-section (1B) by Act 65 of 1960, Section 135 (w.e.f. 28-12-1960).
 8. Substituted by Act 65 of 1960, Section 135, for "for the purposes of this sub-section" (w.e.f. 28-12-1960).
 9. Provisions relating to managing agents, secretaries and treasurers have ceased to have effect by Act 17 of 1967, Section 6 (w.e.f. 3-4-1970).
 10. Added by Act 65 of 1960, Section 135 (w.e.f. 28-12-1960).
 11. Inserted by Act 31 of 1965, Section 46 (w.e.f. 1-4-1967).
 12. Substituted by Act 31 of 1965, Section 46, for "every such loan, guarantee or security" (w.e.f. 1-4-1967).
 13. Inserted by Act 5 of 1997, Section 7 (w.e.f. 1-3-1997).
 14. Substituted by Act 65 of 1960, Section 135, for sub-section (2) (w.e.f. 28-12-1960)
 15. Substituted by Act 31 of 1965, Section 46, for sub-clauses (iii) (w.e.f. 1-4-1967).
 16. Inserted by Act 34 of 1966, Section 3 (w.e.f. 1-4-1967).
 17. Substituted by Act 34 of 1966, Section 3, for sub-clause (iii) (w.e.f. 1-4-1967).
 18. Inserted by 31 of 1965, Section 46 (w.e.f. 31-10-1998).
 19. Inserted by Act 21 of 1999, Section 17 (w.e.f. 31-10-1998).
 20. Inserted by Act 31 of 1988, Section 51 (w.e.f. 28-12-1960).

Section 370A - Provisions as to certain loans which could not have been made if sections 369 and 370 were in force

1 [370A. Provisions as to certain loans which could not have been made if sections 369 and 370 were in force

Where any loan made, guarantee given or security provided by a company and outstanding at the commencement of the Companies (Amendment) Act, 1960 (65 of 1960), would not have been made, given or provided if 2 [***] section 370 had been in force at the time when such loan was made, guarantee given or security provided, the company shall, within six months from the commencement of that Act, enforce the repayment of the loan made or, as the case may be, revoke the guarantee given or the security provided, notwithstanding any agreement to the contrary:

Provided that the period of six months within which the company is required by this section to enforce the repayment of the loan or to revoke the guarantee or security, may be extended -

3 [***]

(b) in the case of a loan, guarantee or security under section 370, by a special resolution of the company.]

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1. Inserted by Act 65 of 1960, Section 136 (w.e.f. 28-12-1960).
 2. The words "section 369 or" omitted by Act 53 of 2000, Section 165 (w.e.f. 13-12-2000).
 3. Clause (a) omitted by Act 53 of 2000, Section 165 (w.e.f. 13-12-2000).
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Section 371 - Penalty for contravention of sections 369, 370 or 370A

(1) Every person who is a party to any contravention of 1 [2 [***] or section 370 [excluding sub-section (1C) or (1D)], or section 370A] including in particular any person to whom the loan is made, or in whose interest the guarantee is given or the security is provided, shall be punishable with fine which may extend to 3 [fifty thousand rupees] or with simple imprisonment for a term which may extend to six months:

Provided that where any such loan, or any loan in connection with which any such guarantee or security has been given or provided by the lending company, has been repaid in full, no punishment by way of imprisonment shall be imposed under this subsection; and where the loan has been repaid in part, the maximum punishment which may be imposed under this sub-section by way of imprisonment shall be proportionately reduced.

(2) All persons who are knowingly parties to any such contravention shall be liable, jointly and severally, to the lending company for the repayment of the loan, or for making good the sum which the lending company may have been called upon to pay in virtue of the guarantee given or the security provided by such company.

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1. Substituted by Act 65 of 1960, Section 137, for "section 369 or 370" (w.e.f. 28-12-1960).
 2. The words "section 369 or" omitted by Act 53 of 2000, Section 166 (w.e.f. 13-12-2000).
 3. Substituted by Act 53 of 2000, Section 166, for "five thousand rupees" (w.e.f. 13-12-2000).
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Section 372 - Purchase by company of shares, etc., of other companies

1 [372. Purchase by company of shares, etc., of other companies

2 (1) A company, whether by itself or together with its subsidiaries (hereafter in this section and section 373 referred to as the investing company), shall not be entitled to acquire, by way of subscription, purchase or otherwise (whether by itself, or by any individual or association of individuals in trust for it or for its benefit or on its account) the shares of any other body corporate except to the extent, and except in accordance with the restrictions and conditions, specified in this section.

(2) 3 [The Board of directors of the investing company shall be entitled to invest in any shares of any other body corporate up to such percentage of the subscribed equity share capital, or the aggregate of the paid-up equity and preference share capital, of such other body corporate, whichever is less, as may be prescribed]:

Provided that the aggregate of the investments so made by the Board in all other bodies corporate shall not exceed 3 [such percentage of the aggregate of the subscribed capital and free reserves of the investing company, as may be prescribed):

Provided further that the aggregate of the investments made in all other bodies corporate in the same group shall not exceed 5 [such percentage of the aggregate of the subscribed capital and free reserves of the investing company as may be prescribed].

(3) In computing at any time the percentages specified in sub-section (2) and the provisos thereto, the aggregate of the investments made by the investing company in other body or bodies corporate [whether before or after the commencement of the Companies (Amendment) Act, 1960 (65 of 1960)], up to that time shall be taken into account,

4 [(3A) A company which has defaulted in the repayment of any deposit referred to in section 58A or part thereof or interest due thereupon in accordance with the terms and conditions of such deposit, shall not make any investment under this section till the default is made good.

(4) The investing company shall not make any investment in the shares of any other body corporate in excess of the percentages specified in sub-section (2) and the provisos thereto, unless the investment is sanctioned by a resolution of the investing company in general meeting and 5 [unless previous approved] by the Central Government:

Provided that the investing company may at any time invest up to any amount in shares offered to it under clause (a) of sub-section (1) of section 81 (hereafter in this section referred to as rights shares) irrespective of the aforesaid percentages:

Provided farther that when at any time the investing company intends to make any investments in shares other than rights shares, then, in computing at that time any of the aforesaid percentages, all existing investments, if any, made in rights shares up to that time shall be included in the aggregate of the investments of the company.

(5) No investment shall be made by the Board of directors of an investing company in pursuance of sub-section (2), unless it is sanctioned by a resolution passed at a meeting of the Board with the consent of all the directors present at the meeting, except those not entitled to vote thereon, and unless further notice of the resolution to be moved at the meeting has been given to every director in the manner specified in section 286.

(6) Every investing company shall keep a register of all investments made by it in shares of any other body or bodies corporate (whether in the same group or not and whether in the case of a body corporate in the same group, such investments were made before or after that body came within the same group as the investing company), showing in respect of each investment the following particulars: -

(a) the name of the body corporate in which the investment has been made;

(b) that date on which the investment has been made;

(c) where the body corporate is in the same group as the investing company, the date on which the body corporate came in the same group;

(d) the names of all bodies corporate in the same group as the investing company.

(7) Particulars of every investment to which sub-section (6) applies shall be entered in the register aforesaid within seven days of the making thereof or in the case of investments made before the commencement of the Companies (Amendment) Act, 1960 (65 of 1960), within six months from such commencement, or such further time as the Central Government may grant on an application by the company in that behalf.

(8) If default is made in complying with the provisions of sub-section (6) or (7), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to five hundred rupees and also with a further fine which may extend to fifty rupees for every day after the first during which the default continues.

(9) The register aforesaid shall be kept at the registered office of the investing company and -

(a) shall be open to inspection at such office, and

(b) extracts may be taken therefrom and copies thereof may be required,

by any member of the investing company to the same extent, in the same manner, and on the payment of the same fees as in the case of the register of members of the investing company; and the provisions of section 163 shall apply accordingly.

(10) Every investing company shall annex in each balance-sheet prepared by it after the commencement of the Companies (Amendment) Act, 1960 (65 of 1960), a statement showing the bodies corporate (indicating separately the bodies corporate in the same group) in the shares of which investments have been made by it (including all investments, whether existing or not, made subsequent to the date as at which the previous balance-sheet was made out) and the nature and extent of the investments so made in each body corporate:

Provided that in the case of a company whose principal business is the acquisition of shares, stock, debentures or other securities (hereafter in this section referred to as an investment company), it shall be sufficient if the statement shows only the investments existing on the date as at which the balance sheet to which the statement is annexed has been made out.

(11) For the purposes of this section, a body corporate shall be deemed to be in the same group as the investing company -

(a) 6 [***]

(b) if the body corporate and the investing company should, in virtue of sub-section (1B) of section 370, be deemed to be under the same management.

(12) References in the foregoing provisions of this section to shares shall in the case of investments made by the investing company in other bodies corporate in the same group, be deemed to include references to debentures also.

(13) The provisions of this section except the first proviso to sub-section (2) 7 [and sub-section (5)] shall also apply to an investment company.

(14) This section shall not apply -

(a) to any banking or insurance company;

(b) to a private company, unless it is a subsidiary of a public company;

(c) to any company established with the object of financing, whether by way of making loans or advances to, or subscribing to the capital of, private industrial enterprises in India, in any case where the Central Government has made or agreed to make to the company a special advance for the purpose or has guaranteed or agreed to guarantee the payment of moneys borrowed by the company from any institution outside India;

8 (d) to investments by a holding company in its subsidiary, other than a subsidiary within the meaning of clause (a) of sub-section (1) of section 4;

(e) 9 [***]]

10 (15) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Act, 1999.

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1. Substituted by Act 65 of 1960, Section 138, for section 372 (w.e.f. 28-12-1960).
 2. Substituted by Act 31 of 1988, Section 52, for sub section (1) (w.e.f. 17-4-1989).
 3. Substituted by Act 31 of 1988, Section 52, for certain words (w.e.f. 17-4-1989).
 4. Inserted by Act 5 of 1997, Section 8 (w.e.f. 1-3-1997).
 5. Substituted by Act 31 of 1988, Section 52, for "unless further it is approved." (w.e.f. 17-4-1989).
 6. Provisions relating to managing agents have ceased to have effect by Act 17 of 1969, Section 6 (w.e.f. 3-4-1970).
 7. Inserted by Act 31 of 1965, Section 47 (w.e.f. 15-10-1965).
 8. Substituted by Act 31 of 1988, Section 52, for clause (d) (w.e.f. 17-4-1989).
 9. Provisions relating to managing agents, secretaries and treasurers have ceased to have effect by Act 17 of 1969, Section 6 (w.e.f. 3-4-1970).
 10. Inserted by Act 21 of 1999, Section 18 (w.r.e.f. 31-10-1998).

Section 372A - Inter-corporate loans and investments

1[372A. Inter-corporate loans and investments

(1) No company shall, directly or indirectly, -

(a) make any loan to any other body corporate;

(b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and

(c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate,

exceeding sixty per cent of its paid-up share capital and free reserves, or one hundred per cent of its free reserves, whichever is more:

Provided that where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceeds the aforesaid limits, no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting:

Provided further that the Board may give guarantee, without being previously authorised by a special resolution, if, -

(a) a resolution is passed in the meeting of the Board authorising to give guarantee in accordance with the provisions of this section;

(b) there exists exceptional circumstances which prevent the company from obtaining previous authorisation by a special resolution passed in a general meeting for giving a guarantee; and

(c) the resolution of the Board under clause (a) is confirmed within twelve months, in a general meeting of the company or the annual general meeting held immediately after passing of the Board's resolution, whichever is earlier:

Provided also that the notice of such resolution shall indicate clearly the specific limits, the particulars of the body corporate in which the investment is proposed to be made or loan or security or guarantee to be given, the purpose of the investment, loan or security or guarantee, specific sources of funding and such other details.

(2) No loan or investment shall be made or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution referred to in section 4A, where any term loan is subsisting, is obtained:

Provided that prior approval of a public financial institution shall not be required where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, alongwith the investments, loans, guarantee or security proposed to be made or given does not exceed the limit of sixty per cent specified in sub-section (1), if there is no default in repayment of loan instalments or payment of interest thereon as per the terms and conditions of such loan to the public financial institution.

(3) No loan to any body corporate shall be made at a rate of interest lower than the prevailing bank rate, being the standard rate made public under section 49 of the Reserve Bank of India Act, 1934 (2 of 1934).

(4) No company, which has defaulted in complying with the provisions of section 58A, shall, directly or indirectly, -

(a) make any loan to any body corporate;

(b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and

(c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate, till such default is subsisting.

(5) (a) Every company shall keep a register showing the following particulars in respect of every investment or loan made, guarantee given or security provided by it in relation to any body corporate under sub-section (1), namely: -

(i) the name of the body corporate;

(ii) the amount, terms and purpose of the investment or loan or security or guarantee;

(iii) the date on which the investment or loan has been made; and

(iv) the date on which the guarantee has been given or security has been provided in connection with a loan.

(b) The particulars of investment, loan, guarantee or security referred to in clause (a) shall be entered chronologically in the register aforesaid within seven days of the making of such investment or loan, or the giving of such guarantee or the provision of such security.

(6) The register referred to in sub-section (5) shall be kept at the registered office of the company concerned and -

(a) shall be open to inspection at such office; and

(b) extracts may be taken therefrom and copies thereof may be required,

by any member of the company to the same extent, in the same manner, and on payment of the same fees as in the case of the register of members of the company; and the provisions of section 163 shall apply accordingly.

(7) The Central Government may prescribe guidelines for the purposes of this section.

(8) Nothing contained in this section shall apply, -

- (a) to any loan made, any guarantee given or any security provided or any investment made by -
 - (i) a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of financing industrial enterprises, or of providing infrastructural facilities;
 - (ii) a company whose principal business is the acquisition of shares, sk, debentures or other securities;
 - (iii) a private company, unless it is a subsidiary of a public company;
- (b) to investment made in shares allotted in pursuance of clause (a) of sub-section (1) of section 81;
- (c) to any loan made by a holding company to its wholly owned subsidiary;
- (d) to any guarantee given or any security provided by a holding company in respect of loan made to its wholly owned subsidiary; or
- (e) to acquisition by a holding company, by way of subscription, purchases or otherwise, the securities of its wholly owned subsidiary.

(9) If default is made in complying with the provisions of this section, other than sub-section (5), the company and every officer of the company who is in default shall be punishable with imprisonment which may extend to two years or with fine which may extend to fifty thousand rupees:

Provided that where any such loan or any loan in connection with which any such guarantee or security has been given, or provided by the company, has been repaid in full, no punishment by way of imprisonment shall be imposed under this sub-section, and where such loan has been repaid in part, the maximum punishment which may be imposed under this sub-section by way of imprisonment shall be appropriately reduced:

Provided further that all persons who are knowingly parties to any such contravention shall be liable, jointly and severally, to the company for the repayment of the loan or for making good the same which the company may have been called upon to pay by virtue of the guarantee given or the securities provided by such company.

(10) If default is made in complying with the provisions of sub-section (5), the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees and also with a further fine which may extend to five hundred rupees for every day after the first day during which the default continues.

Explanation.-For the purposes of this section, -

- (a) "loan" includes debentures or any deposit of money made by one company with another company, not being a banking company;
- (b) "free reserves" means those reserves which, as per the latest audited balance sheet of the company, are free for distribution as dividend and shall include balance to the credit of the securities premium account but shall not include share application money.]

1. Inserted by Act 21 of 1999, Section 19 (w.r.e.f. 31-10-1998).

Section 373 - Investments made before commencement of Act

Where any investments have been made by a company¹[in any other body corporate in the same group] at any time after the first day of April, 1952, which, if section 372 had been then in force, could not have been made except on the authority of a resolution passed by the investing company and the approval of the Central Government, the authority of the company by means of a resolution and the approval of the Central Government shall be obtained to such investments, within six months from the commencement of this Act; and if such authority and approval are not so obtained, the Board of directors of the company shall dispose of the investments, insofar as they may be in excess of the limits specified in sub-section (2) of section 372 and²[the second proviso to that subsection], within two years from the commencement of this Act.

1. Inserted by Act 65 of 1960, Section 139 (w.e.f. 28-12-1960).

2. Substituted by Act 65 of 1960, Section 139, for "the proviso to that sub-section" (w.e.f. 28-12-1960).

Section 374 - Penalty for contravention of section 372 or 373

If default is made in complying with the provisions of¹[section 372 [excluding sub-sections (6) and (7)] or section 373], every officer of the company who is in default shall be punishable with fine which may extend to²[fifty thousand rupees.

1. Substituted by Act 65 of 1960, Section 140, for "section 372 or 373" (w.e.f. 28-12-1960).

2. Substituted by Act 53 of 2000, Section 167, for "five thousand rupees" (w.e.f. 13-12-2000).

Section 375 - Managing agent not to engage in business competing with business of managed company [Repealed]

[Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 168 (w.e.f. 13-12-2000).]

Section 376 - Condition prohibiting reconstruction or amalgamation of company

¹[376. Condition prohibiting reconstruction or amalgamation of company

Where any provision in the memorandum or articles of a company, or in any resolution passed in general meeting by, or by the Board of Directors of, the company, or in an agreement between the company and any other person, whether made before or after the commencement of this Act, prohibits the reconstruction of the company or its amalgamation with any body corporate or bodies corporate, either absolutely or except on the condition that the managing director or manager of the company is appointed or re-appointed as managing director or manager of the reconstructed company or of the body resulting from amalgamation, as the case may be, shall become void with effect from the commencement of this Act, or be void, as the case may be.]

1. Substituted by Act 53 of 2000, Section 169, for section 376 (w.e.f. 13-12-2000).

Section 377 - Restrictions on right of managing agent to appoint directors [Repealed]

[Rep. by the Companies (Amendment) Act, 2000 (53 of 2000), sec. 168 (w.e.f. 13-12-2000).]
