

TOPIC: COMPANY ADMINISTRATION (2nd Semester)
SUB-TOPIC: Companies Secretary (PINAKI GHOSH)

A company secretary is responsible for the efficient administration of a company, particularly with regard to ensuring compliance with statutory and regulatory requirements and for ensuring that decisions of the board of directors are implemented. Thus, the Company Secretary is appointed to ensure that the Company is following good Corporate Governance practices.

According to Section 2(24) of the Companies Act, 2013, “Company Secretary” or ‘Secretary’ means a company secretary as defined in clause (c) of Sub-section (1) of Section 2 of the Company Secretaries Act, 1980 and who is appointed by a company to perform the functions of a company secretary under this Act.

According to clause (c) of Sub-section (1) of Section 2 of the Company Secretaries Act, 1980, a company secretary means a person who is a member of the Institute of Company Secretaries of India. Therefore, ‘Company Secretary’ means a person who is a member of the Institute of Company Secretaries of India (ICSI) and who is appointed by a company to perform the functions of a company secretary. The functions of company secretary have been defined in section 205 of the Act.

Following companies are required to appoint Key Managerial Personnel or Company Secretary in full time employment compulsorily:

1. Every listed companies and every other public company having paid up share capital of Rs. 10 Cr. or More shall have whole-time managerial personnel. [As per Rule 8 of companies (Appointment and Remuneration of Managerial Personnel) Rules 2014]
2. every other company having paid up share capital of Rs. 5 Cr. or more shall have a whole-time company secretary. [As per Rule 8A of companies (Appointment and Remuneration of Managerial Personnel) Rules 2014]

Therefore, every company which has a paid-up share capital of Rs 5 Cr. or more is compulsorily required to appoint whole time company secretary

Appointment of Company Secretary

From the above discussion it can be said that the appointment of Company Secretary (CS) has been made mandatory under **Companies Act 2013** for a few class of the company like listed companies or company having paid-up capital more than the 5 Crore. As per Regulation 77 of

table F provides that a Company Secretary may be appointed by the board of director and can fix the remuneration and condition as it may think fit. Generally, board appoints the company secretary soon after the incorporation. Board of director may appoint Company Secretary by passing the board resolution in the meeting and execute service agreement between Secretary so appointed and the company.

Functions of Company Secretary

Section 205 of the Companies Act, 2013 defines the term ‘functions of company secretary’ as under, **Section205(1)**-the functions of the company secretary shall include, —

- (a) To report to the Board about compliance with the provisions of this Act, the rules made there under and other laws applicable to the company;
- (b) To ensure that the company complies with the applicable secretarial standards;
- (c) To discharge such other duties as may be prescribed.

Section205(2)-The provisions contained in section 204 and section 205 shall not affect the duties and functions of the Board of Directors, chairperson of the company, managing director or whole-time director under this Act, or any other law for the time being in force.

According to Rule 10 of companies (Appointment and Remuneration of Managerial Personnel) Rules 2014] the Company Secretary shall also discharge, the following duties, namely: -

- (1) to provide to the directors of the company, collectively and individually, such guidance as they may require, with regard to their duties, responsibilities and powers;
- (2) to facilitate the convening of meetings and attend Board, committee and general meetings and maintain the minutes of these meetings;
- (3) to obtain approvals from the Board, general meeting, the government and such other authorities as required under the provisions of the Act;
- (4) to represent before various regulators, and other authorities under the Act in connection with discharge of various duties under the Act;
- (5) to assist the Board in the conduct of the affairs of the company;
- (6) to assist and advise the Board in ensuring good corporate governance and in complying with the corporate governance requirements and best practices; and
- (7) to discharge such other duties as have been specified under the Act or rules; and
- (8) such other duties as may be assigned by the Board from time to time.