

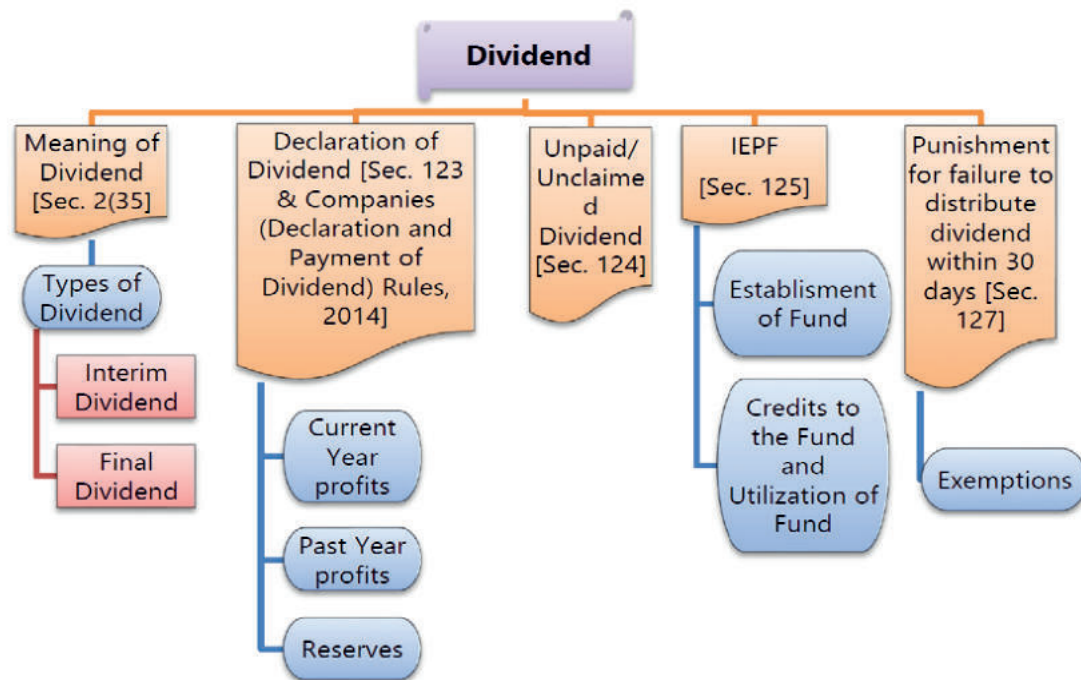
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Chapter VIII

DECLARATION AND PAYMENT OF DIVIDEND

1. OVERVIEW OF THE CHAPTER



Sections	Provision
123	Declaration of dividend
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1. Sec. 2(35) : Meaning of DIVIDEND

Meaning	<ul style="list-style-type: none"> Includes final and interim dividend. Distribution to members out of profits or free reserves (where permitted).
Nature	<ul style="list-style-type: none"> Shareholders' return on their investment. Part of distributable profits.
Declaration	<ul style="list-style-type: none"> Recommended by Board of Directors. Declared by Shareholders at AGM. Declared as a % of Face Value.
Limit on Declaration	<ul style="list-style-type: none"> Cannot exceed amount recommended by Board. Can be declared at a lower rate by shareholders.
Liability Status	<ul style="list-style-type: none"> Becomes a liability only after declaration by shareholders via Ordinary Resolution in a valid AGM.
Table F Provision	<ul style="list-style-type: none"> Clause 80 of Table F: No dividend shall exceed amount recommended by Board.

Example 1: AB Ltd. has issued equity shares having face value of Rs. 10 per share. The shares are currently quoting on the NSE at Rs. 250/- per share. The company at its AGM held on 27.7.24 has declared a dividend of 20%. Mr. Shekar owns 1000 shares which he purchased at Rs. 300/- per share. What is the amount of dividend he will receive?

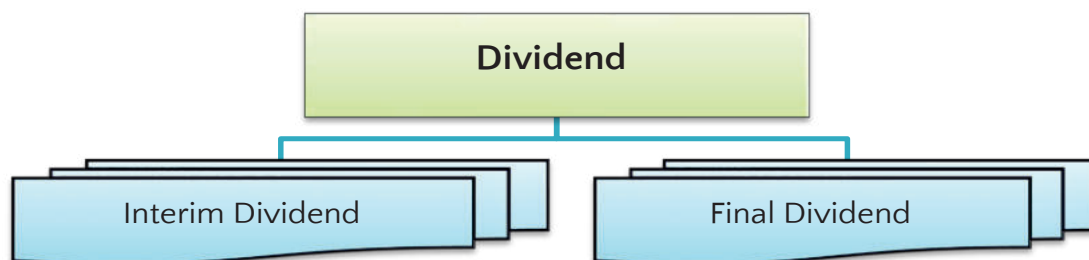
The dividend is to be calculated on Face Value i.e. Rs. 10/-. So dividend per share is 20% of Rs. 10/- = Rs. 2/- per share. So, Mr. Shekar will receive Rs. 2 * 1000 shares = Rs. 2000/-.

Example 2: The shareholders at an annual general meeting unanimously passed a resolution for payment of dividend at a rate higher than that recommended by the directors. Discuss the validity of the resolution.

Articles of Association companies usually contain provisions with regard to declaration of dividend on the pattern of regulations 80 to 85 of Table F to Schedule I of the Companies Act, 2013. Under regulation 80, although the power to declare a dividend vests with the shareholders however under no circumstances they can declare dividend exceeding the amount recommended by the Board of Directors.

Note: As per section 102 (2) declaration of any dividend at the AGM is an ordinary business requiring ordinary resolution. At any other general meeting it will be special business.

1.1 Types of DIVIDEND

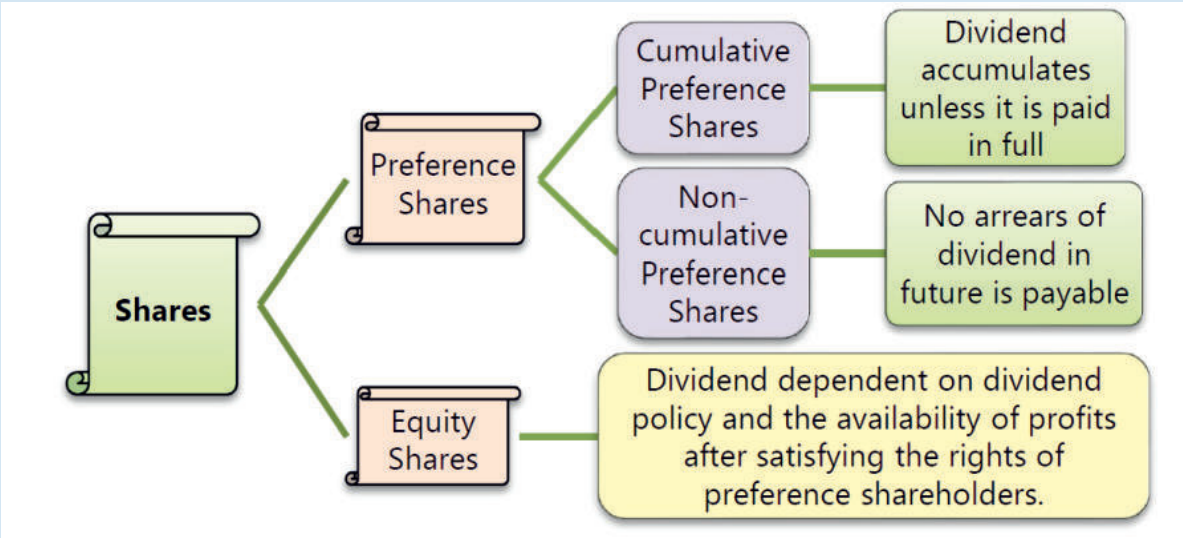


Particulars	Interim Dividend	Final Dividend
Provision	Section 123(3) & 123(4)	Section 123(1)
Definition	Interim dividend is declared and paid during an accounting year, i.e. before the finalization of accounts for the year.	Final dividend is the dividend recommended by the board of directors, and approved by shareholders at the company's Annual General Meeting, after the close of financial year.
Declaration By	Board of Directors	Shareholders at AGM, based on Board's recommendation
Time of Declaration	Between two AGMs (after closure of financial year till AGM). It is done out of profits before the final adoption of the accounts by the shareholders	At the AGM after finalization of accounts
Revocation	It can be revoked with the consent of all shareholders.	It cannot be revoked.
Some other important pointers -		

Particulars	Interim Dividend	Final Dividend
Sources	<ul style="list-style-type: none"> ● Surplus in P&L ● Current year profits ● Profits till preceding quarter 	Current year's profits or past reserves (as per law)
Restriction (If Loss)	If loss till preceding quarter - then → Rate ≤ average of last 3 FYs' dividends	No such specific restriction
Separate Account	To be deposited in separate bank account within 5 days of declaration	Same provision
Applicable Provisions	All provisions related to declaration and payment apply	
Rate Change by Members	Not applicable as declared by Board	Cannot exceed Board's recommendation
<p>Example: If a company declared dividend at the rate of 16% during the immediately preceding three financial years, then in case the company incurs loss in the current financial year, it is permitted to declare interim dividend at a rate which is not higher than 16%.</p>		

2. Sec. 43 : TYPES OF SHARES

Shares can be classified into two categories *i.e.* preference shares and equity shares. The manner of payment of dividend is dependent upon the nature of shares.

Types of Share	Details
	
2.1 Preference Shares	<ul style="list-style-type: none"> • Holders are assured of preferential dividend at a fixed rate during the life of the company
(A) Cumulative	<ul style="list-style-type: none"> • Dividend accumulates if not paid in any year • Arrears paid from profits of later years • No equity dividend till arrears paid
(B) Non-Cumulative	<ul style="list-style-type: none"> • Dividend only if profits in that year • No accumulation • Right lapses if dividend not declared
2.2 Equity Shares	<ul style="list-style-type: none"> • No preferential rights • Dividend = Variable (depends on profits & Board's recommendation)
	<p style="text-align: center;">Until and unless cumulative dividend and its arrears are paid on cumulative preferences in full, no dividend is payable to equity shareholders.</p>

1. When the dividend is declared at the Annual General Meeting of the company, it is known as _____.

 - a. Final Dividend
 - b. Interim Dividend
 - c. Dividend on preference shares
 - d. Scrip Dividend

3. Sec. 123 (1) & RULE 3 : DECLARATION AND PAYMENT OF DIVIDEND

3.1 Sources for Declaration of Dividend - Section 123(1)	
The dividend for any financial year shall be declared or paid from the following sources -	
A Current Year's Profit	Profits of the current year after providing for depreciation as per Schedule II of Companies Act.
B Profits of Previous Year(s)	Profits of earlier years' undistributed profits (also after providing for depreciation) <ol style="list-style-type: none"> 1. Credit balance of P&L - No conditions 2. Free reserves - Follow Rule 3 conditions Only free reserves can be used, not any other reserves.
C Combination of (A) and (B)	Both current and previous years' profits can be used together for declaring dividend.
D Government Money	Money given by the Central or State Government under a guarantee to help the company pay dividend.
<p>Important Notes about Declaration of Dividend -</p> <ol style="list-style-type: none"> 1. Meaning of Free Reserves (Sec 2(43)): Free reserves are those reserves shown in the latest audited balance sheet available for distribution as dividend. These are NOT treated as free reserves: <ul style="list-style-type: none"> ○ Any unrealised or notional gains, or revaluation of assets (even if shown as reserve). ○ Any changes in asset/liability values due to fair value adjustments recognized in equity (including surplus in P&L). 	

2. *Before declaring dividend, past losses and unprovided depreciation of previous years must be adjusted against current profits.*
3. *While calculating profits, exclude:*
 - *Unrealised or notional gains*
 - *Revaluation profits*
 - *Changes in asset/liability values due to fair value adjustments*
4. *Capital profits ≠ Distributable profits*
Reason: Capital profits are not earned in the normal course of business, so they are normally not available for dividends
5. *Need for providing for depreciation out of profits before declaring dividend*
 - *Dividend is an apportionment from revenue profits. Therefore, dividend should never be declared out of capital. This is also the reason for prohibition on issue of shares at a discount which you studied in the topic Share Capital and Debentures.*
 - *"Depreciation" is a notional estimate of the reduction in the value of an asset due to wear and tear, efflux of time, improvements in technology etc.*
 - *If depreciation is not provided for there will be two consequences-*
 - *The value of the asset will be overstated in Balance Sheet*
 - *The profits of the current year will be overstated.*
6. *Let us take a hypothetical case where a company declares all the profits earned during any year as dividend.*
 - *At the time of winding up of the company the value of assets appearing in the Balance-sheet would appear to be sufficient to repay the capital of the shareholders but*
 - *the actual realizable value thereof will be a paltry sum which may not be sufficient even to meet the expenses of winding up.*
 - *This is because the company has failed to retain the amount of wear and tear in the value of the asset by way of provision for depreciation.*
 - *In a way the company would have declared dividend out of capital, which is prohibited.*
 - *Hence the law mandates provision for depreciation out of profits before declaration of dividend.*

Example - Shreyas Mechanics Limited owns a plot of land which was purchased long before. As the property rates are going up, it is decided to revalue the plot at fair value which is moderately ten times the original price, thus resulting in a revaluation profit of Rs. 20,00,000.

The Board of Directors is keen to utilize this Rs. 20,00,000 along with free reserves of Rs. 24,00,000 for declaration of dividend at the forthcoming Annual General Meeting (AGM) to be held on 28th September, 2023. But according to Proviso to Section 123(1)(a), the amount of Rs. 20,00,000 cannot be considered as it does not form part of Free Reserves as the same cannot be utilized towards declaration of dividend.

3.2 Transfer to Reserves

It is based on company's discretion

- Transfer of profits to reserves for any financial year has been left to the discretion of the company.
- Therefore, a company is free to transfer any portion of its profit to reserves as it may deem fit.
- It may also decide not to transfer any amount to reserves.

Example 1: *For the current year, Alma Watches Limited proposes to transfer more than 10% of its profits to the reserves before declaration of dividend at the rate of 12%. Can the company do so?*

Answer: *The amount to be transferred to reserves out of profits for any financial year before the declaration of dividend has been left to the discretion of the company. Therefore, Alma Watches Limited is free to transfer any part of its profits to reserves as it may deem fit.*

Example 2: *Brix Shipyards Limited has earned a profit of Rs. 1,000 crore for the financial year 2023-24. It has proposed a dividend @ 8.75%. However, it does not intend to transfer any amount to the reserves out of the profits earned. Can the company do so?*

Answer: *The amount to be transferred to reserves out of profits for any financial year has been left to the discretion of the company. The company is free to transfer any part of its profits to reserves as it may deem fit or it may even not transfer any profits to reserve if it is deemed appropriate before the declaration of dividend. Thus, Brix Shipyards Limited is justified in its action if it does not transfer any amount of profits to the reserves.*

3.3 Declaration of Dividend when there is inadequacy or Absence of Profits (Second Proviso to Sec. 123)

When is it Applicable ? -

When the current year's profits are insufficient and company wants to declare dividend from accumulated profits transferred to Free Reserves.

What is a Free Reserve ?	<ul style="list-style-type: none"> Profits available for dividend distribution (As per latest audited Balance Sheet) but Excludes - Unrealised/Notional Gains Revaluation Reserves Fair value adjustments recognised in equity
<div style="border: 1px solid black; padding: 10px; background-color: #fff9c4; margin: 10px auto; width: 80%;"> <p>ONLY Free reserves or General reserve are allowed to be utilised.</p> <ul style="list-style-type: none"> Unrealised gain Notional gain Revaluation reserve whether shown as a reserve or otherwise etc. - Are not allowed. </div>	
Procedure for Declaration	<ul style="list-style-type: none"> Declaration of dividend from accumulated profits (Free Reserves) → Must follow 4 Conditions
*** All the three conditions have to be satisfied ***	
CONDITION I	
“Follow the Past Pattern”	<ul style="list-style-type: none"> The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by the company in the immediately preceding three years. However, this condition shall not apply if the company has not declared any dividend in each of the three preceding financial year.
<p>$Rate\ of\ Dividend \leq (RD1 + RD2 + RD3)/3$</p> <p>Where, RD1, RD2, RD3 are rates at which dividend was declared by the company in the immediately preceding three years.</p>	
CONDITION II	
“Don’t take too much”	<ul style="list-style-type: none"> The total amount to be drawn from such accumulated profits shall not exceed 10% of its paid-up share capital and free reserves as appearing in the latest audited financial statement. In other words:

Total amount that can be drawn from accumulated profits \leq 10% of (paid up share capital + free reserves)							
CONDITION III							
“Losses First Rule”	<ul style="list-style-type: none"> • The amount so drawn shall first be utilised to set off the losses incurred in the financial year in which dividend is declared and • only thereafter, any dividend in respect of equity shares shall be declared. 						
CONDITION IV							
“Don’t empty the tank”	<ul style="list-style-type: none"> • The balance of reserves after such withdrawal shall not fall below 15% of its paid up share capital as appearing in the latest audited financial statement. 						
Free Reserves after the amount of withdrawal \geq 15 % of paid up share capital							
<p>Note: The conditions prescribed by Rule 3 are not applicable to a Government company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments (vide Notification No. 463 (E), dated 05-06-2015).</p>							
<p>Example:</p> <p>Capricorn Industries Limited has a paid-up capital of Rs. 200 lakh and accumulated Reserves of Rs. 240 lakh. Loss for the year ending 31st March 2024 is Rs. 30 lakh. Dividend was declared at the following rates during the three years immediately preceding.</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Year 1</td> <td style="text-align: right;">9%</td> </tr> <tr> <td>Year 2</td> <td style="text-align: right;">10%</td> </tr> <tr> <td>Year 3</td> <td style="text-align: right;">12%</td> </tr> </table> <p>What is the maximum rate at which the company can declare dividend for the current year?</p> <p>Answer: In the given case, Capricorn Industries Limited has not made adequate profits during the current year ending on 31st March, 2024, but it still wants to declare dividend. Let us apply the conditions:</p> <p>Condition I:</p>		Year 1	9%	Year 2	10%	Year 3	12%
Year 1	9%						
Year 2	10%						
Year 3	12%						

Average rate = $\frac{9 + 10 + 12}{3} = 10.33\%$

3

Therefore, the rate of dividend shall not exceed 10.33%. ie. 10.3% of the Paid up Capital ie. Rs. 200 lakh = Rs. 20.6 lakh

Condition II:

Paid up capital + Free Reserves = (200 + 240) lakh

(Assuming all reserves are free) = 440 lakh

10% thereof = 44 lakh

Less: loss of the year (Condition III) = 30 lakh

Amount available = 14 lakh

Hence the quantum of dividend is further restricted to Rs. 14 lakh

Condition IV:

Amount of reserves available after adjustment of

current year loss = 210 lakh

Proposed withdrawal declaration of dividend = 14 lakh

Balance of Reserves = 196 lakh

This is more than 15% of paid-up capital (i.e 15% of 200 lakh) i.e. Rs. 30 lakh.

Thus, the company can declare a dividend of Rs. 14 lakh i.e. at a rate of 7% on its paid-up capital of Rs. 200 lakh.

Example: *Shipra Sugar Mills Limited has been regularly declaring dividend at the rate of 20% on its equity shares for the past 3 years. However, the company has not made adequate profits during the current year ending on 31st March, 2024, but it has got adequate free reserves which can be utilized for maintaining the rate of dividend at 20%.*

Advise the company as to how it should proceed in the matter if it wants to declare dividend at the rate of 20% for the year 2023-24, as per the provisions of the Companies Act, 2013.

Answer: *The company can declare a dividend out of its Accumulated Free Reserves subject to satisfaction of the following conditions:*

- *The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by the company in the immediately preceding three years.*

However, this condition shall not apply if the company has not declared any dividend in each of the three preceding financial year.

- *The total amount to be drawn from free reserves shall not exceed 10% of its paid-up share capital and free reserves as per the latest audited financial statement.*
- *The amount so drawn shall first be utilised to set off the losses incurred in the current financial year and only thereafter, dividend at 20% shall be declared.*
- *After such withdrawal from free reserves, the residual reserves shall not fall below 15% of its paid-up share capital as per the latest audited financial statement.*

The company is advised to get the desired dividend recommended by the Board of Directors and propose the same for the approval of the members at the ensuing Annual General Meeting as the authority to declare dividend lies with the members of the company.

4. Section 123(4) and 123 (5) : DEPOSITING OF AMOUNT OF DIVIDEND AND PAYMENT OF DIVIDEND

Section 123(4)	<ul style="list-style-type: none"> ● The amount of the dividend (including interim dividend) ● shall be deposited in a separate account maintained with a scheduled bank. ● This is to be done within 5 days from the date of declaration of dividend.
<p><i>Note: In terms of Notification No. 463 (E), dated 05-06-2015, this requirement shall not apply to a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments or by one or more Government Company.</i></p>	
<p><i>Example: The authorised and paid-up share capital of Avantika Ayurvedic Products Limited is Rs. 50 lakh divided into 5,00,000 equity shares of Rs. 10 each. At its Annual General Meeting (AGM) held on 24th September, 2024, the company declared a dividend of Rs. 2 per share by passing an ordinary resolution. The amount of dividend must be deposited in a scheduled bank in a separate account latest by 29th September, 2024.</i></p>	
To Whom Payable Section 123(5)	<ul style="list-style-type: none"> ● Registered shareholder ● His order ● His banker (if shareholder directs so)

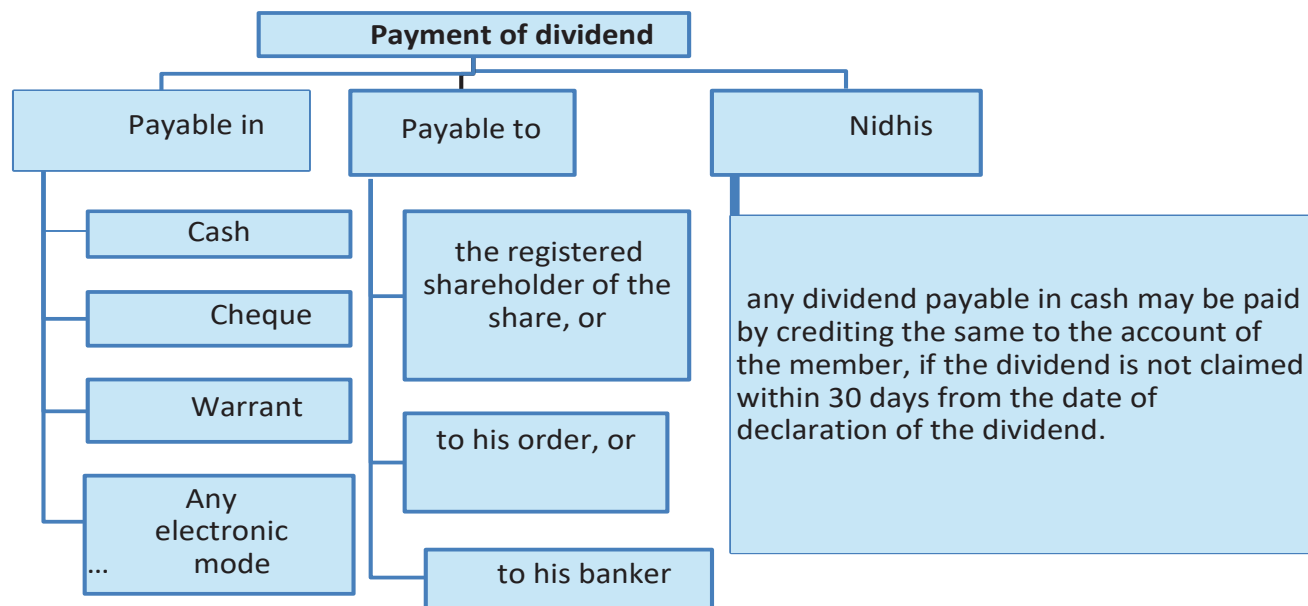
<p style="text-align: center;">Proportionate Dividend Section 51</p>	<ul style="list-style-type: none"> ● Company may pay dividend proportionate to the amount paid-up on each share ● Only if authorized by Articles ● Example - Some of the shareholders have paid Rs. 5 (face value Rs. 10). In case of declaration of dividend at the rate of 5 per share, company may pay 2.50 per share on these partly paid up shares if authorised by the articles.
<p style="text-align: center;">Mode of Payment</p>	<ul style="list-style-type: none"> ● "Cash only" means - Not in kind/other assets ● Can be paid by cash, cheque, dividend warrant, or electronic mode like NEFT etc.
<p style="text-align: center;">Time Limit for Payment Section 127</p>	<ul style="list-style-type: none"> ● Within 30 days from the date of declaration
<p style="text-align: center;">Posting of Dividend Warrants</p>	<ul style="list-style-type: none"> ● Posted at registered addresses within the same 30-day period.

Note: Dividends shall be paid only in cash. The exception to this is the capitalization of profits or reserves of a company for the purpose of issuing fully paid-up bonus shares or paying up any amount for the time being unpaid on any shares held by the members of the company.

But you may note that while Declaration of dividend does not affect the company's power to issue fully paid up bonus shares, such shares cannot be issued in lieu of dividend.

Applicability to Nidhi companies

- Mutual benefit company who transacts only with its members
- If the dividend is not claimed within 30 days from the date of declaration of the dividend then transfer it to the credit of the member's account (& not UDA)



5. PROHIBITION ON DECLARATION OF DIVIDEND

1. A company who fails to comply with the conditions of -

- **Section 73** : Acceptance of deposits from public
- **Section 74** : Repayment of deposits

Shall not, so long as failure continues, declare any dividend on its equity shares

2. Section 8 companies -

- Prohibited from paying dividend to its members as their profits are intended to be applied only in promoting the objects of the company.

1. The Board of Directors of Star Chemicals Limited is contemplating to. Declare interim dividend in the last week of July, 2022 but the company has incurred loss during the current financial year up to the end of June, 2022. However, it is noted that during the previous five financial years i.e., 2017-18, 2018-19, 2019-20, 2020-21, and 2021-22, the company had declared dividends at the rate of 8%, 10%, 9%, 11% and 10% respectively. Advise the Board as to the maximum rate at which they can declare interim dividend despite incurring losses during the current financial year.

(Nov 23)

- a. Maximum at the rate of 10%.
 - b. Maximum at the rate of 11%.
 - c. Maximum at the rate of 10.5%.
 - d. Maximum at the rate of 11.5%.
2. Dividend can be declared or paid for a financial year by a company out of:
- (i) Profits of that year after depreciation.
 - (ii) Profits of previous financial years after depreciation and remaining undistributed.
 - (iii) Money provided by Central or State Government in pursuance of a guarantee given by that government.
 - (iv) Capital contributed by Central or State Government in pursuance of an agreement.
- a. (i) or (ii)
 - b. (i) or (ii) or (iii)
 - c. (i) or (ii) or (iv)
 - d. (i) or (iv)

3. A company can declare dividend for a financial year out of profits of that year after providing depreciation in accordance with the provisions of:
- a. Income Tax Act
 - b. Schedule II of Companies Act
 - c. Either (a) or (b)
 - d. None of the above
4. A company cannot declare dividend for a financial year out of:
- a. Profits of that year after depreciation and free reserve
 - b. Profits of previous financial years after depreciation and remaining undistributed
 - c. Free reserve
 - d. Revaluation reserve
5. The amount which a company is mandatorily required to transfer to its reserves before declaration of dividend is:
- (April 22)**
- a. 5%
 - b. 7%
 - c. 10%
 - d. None of the above
6. Where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years and transferred by the company to:
- a. Free reserves
 - b. Capital reserves
 - c. Both (a) and (b)
 - d. None of the above

7. In case of inadequacy or absence of profits in any year, a company may declare dividend out of free reserves provided rate of dividend declared does not exceed:
- Average of dividend amount in 3 immediately preceding years
 - Average of dividend amount in 5 immediately preceding years
 - Average of dividend rates in 3 immediately preceding years
 - Either (a) or (c)
8. In case of inadequacy or absence of profits in any year, a company may declare dividend out of free reserves provided total amount to be drawn from accumulated profits does not exceed:
- 5% of paid-up share capital and free reserves
 - 10% of paid-up share capital and free reserves
 - 15% of paid-up share capital and free reserves
 - 20% of paid-up share capital and free reserves
9. In case of inadequacy or absence of profits in any year, a company may declare dividend out of free reserves provided the balance of reserves after such withdrawal shall not fall below:
- 15% of paid-up share capital
 - 15% of paid-up share capital and free reserves
 - 5% of paid-up share capital and free reserves
 - 10% of paid-up share capital and free reserves
10. 'Free reserves' has been defined in Section 2(43) the Companies Act to mean such reserves which are available for distribution as dividend. The reserves for this purpose are taken as per:
- Average of balance in audited balance sheet of company for 3 preceding years.
 - Average of balance in audited balance sheet of company for 5 preceding years.
 - Latest audited balance sheet of company.
 - Latest audited balance sheet of company including profit till the quarter preceding the date of declaration.
11. The Board of Directors of a company may declare interim dividend out of:
- The surplus in the profit and loss account
 - Profits of the financial year for which such interim dividend is sought to be declared
 - Profits generated in the financial year till the quarter preceding the date of declaration
 - Either or All of the above
12. The profits of X Ltd. for financial year 2019-2020 are inadequate but the directors still want to recommend dividend. X Ltd. have paid dividend in earlier years as follows:
 FY 2016-2017 @ 10%
 FY 2017-18 — NIL
 FY 2018-19 @ 5%
 Subject to compliance of other conditions, the maximum rate of dividend that can be paid by X Ltd. is:
- 7.5%
 - 5%
 - 2.5%
 - At any rate recommended by Directors

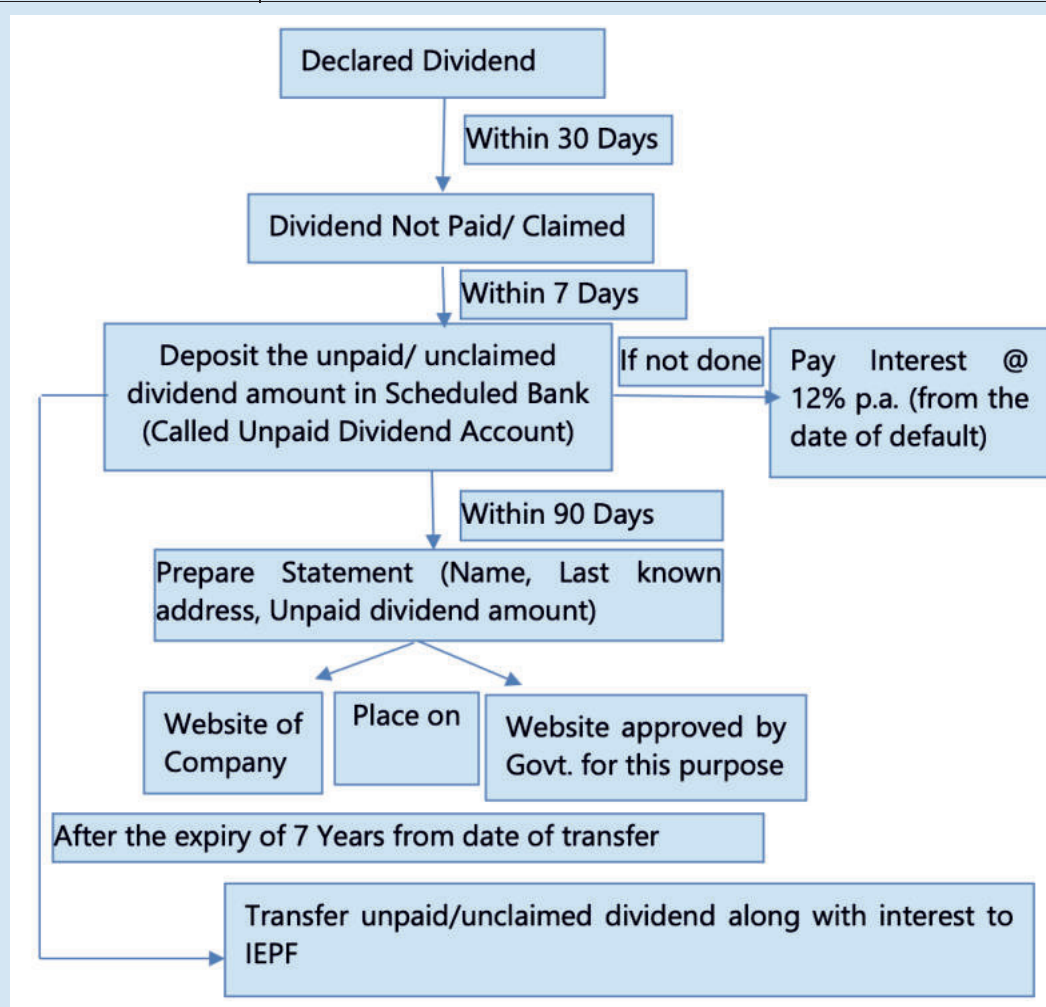
13. The profits of X Ltd. for financial year 2019-2020 are inadequate but the directors still want to recommend dividend. X Ltd. have paid dividend in earlier years as follows:
FY 2016-2017 — NIL
FY 2017-2018 — NIL
FY 2018-2019 @ 12%
Subject to compliance of other conditions, the maximum rate of dividend that can be paid by X Ltd. is:
- NIL
 - 4%
 - 10%
 - 12%
14. The profits of X Ltd. for financial year 2019-2020 are inadequate but the directors still want to recommend dividend. X Ltd. have not declared dividend in any earlier years. Subject to compliance of other conditions, the maximum rate of dividend that can be paid by X Ltd. is:
- 7.5%
 - 5%
 - 2.5%
 - At any rate recommended by Directors
15. The board of directors of ABC Ltd. declared an interim dividend of 7% on its equity shares in its meeting held on 13th April, 2020. The amount of dividend payable should be deposited in a separate bank within by:
- 12th May, 2020
 - 31st April, 2020
 - 18th April, 2020
 - 15th April, 2020
16. A company declared dividend at its Annual General Meeting held on 30th September, 2019. The company can make payment of dividend out of:
- A separate account to be maintained with a scheduled bank
 - A separate account to be maintained with Investor Education and Protection Fund
 - Normal current account of the company maintained with a scheduled bank
 - A separate account maintained of its director's
17. The company can make payment of dividend to:
- Registered shareholder only
 - Registered shareholder or to anyone as per mandate given by shareholder
 - Registered shareholder or anyone who has purchased shares from him
 - Registered shareholder in electronic mode only
18. In absence of any direction given to the company in case of joint shareholding, the dividend warrant should be sent to:
- First holder named in the register of members.
 - Last holder named in the register of members.
 - Legal representative of joint-shareholders.
 - Any of the joint holders with intimation to other shareholders.

19. A company can make payment of dividend to its shareholders by:
- Cheque or electronic transfer
 - Giving products manufactured by company of equal value
 - Issuing shares for equal amount
 - All of the above
20. A company declared dividend at its Annual General Meeting held on 31st May, 2020. It should be paid within:
- 14 Days
 - 21 Days
 - 30 Days
 - 45 Days
21. A company declared dividend at its Annual General Meeting held on 13th August, 2020. The amount of dividend payable needs to be deposited in a separate bank account by:
- 18th August, 2020
 - 19th August, 2020 (considering National Holiday on 15th August)
 - 31st August, 2020
 - 12th September, 2020
22. When the dividend is declared at the Annual General Meeting of the company, it is known as
- Final Dividend
 - Interim Dividend
 - Dividend on preference shares
 - Scrip Dividend
23. Amount to be transferred to reserves out of profits before any declaration of dividend is
- 5%
 - 7.5%
 - 10%
 - at the discretion of the company.
24. The Board of Directors of Vidyut Limited are contemplating to declare interim dividend in the last week of July, 2024 but the company has incurred loss during the current financial year up to the end of June, 2024. However, it is noted that during the previous five financial years i.e., 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24, the company had declared dividend at the rate of 8%, 9%, 12%, 11% and 10% respectively. Advise the Board as to the maximum rate at which they can declare interim dividend despite incurring loss during the current financial year.
- Maximum at the rate of 10%.
 - Maximum at the rate of 11%.
 - Maximum at the rate of 10.5%.
 - Maximum at the rate of 11.5%.

6. SEC 124 : UNPAID DIVIDEND ACCOUNT (UDA)

<p>Time Limit Transfer to UDA</p>	<ul style="list-style-type: none"> ● If a declared dividend is not paid or claimed within 30 days from its declaration, ● the company must transfer the amount to a separate Unpaid Dividend Account (UDA) within 7 days after the 30 days expire. ● The UDA must be opened in a scheduled bank.
<p>Statement of Unpaid Dividend</p>	<ul style="list-style-type: none"> ● Within 90 days of transferring the amount to UDA, the company must prepare a statement with names, last known addresses, and unpaid amounts for each person. ● This statement must be placed on the company's website (if any) and also on any other website approved by the Central Government.
<p>Interest on Delay in Transfer</p>	<ul style="list-style-type: none"> ● If the company fails to transfer the unpaid amount to UDA within the prescribed time, ● interest at 12% p.a. will be payable from the date of default ● for the benefit of the shareholders in proportion to the unpaid amounts.
<p>Claim by Shareholder</p>	<ul style="list-style-type: none"> ● Any person entitled to the unpaid dividend may apply to the company ● for payment of the amount claimed.
<p>Transfer to IEPF (after 7 years)</p>	<ul style="list-style-type: none"> ● Any money remaining unpaid or unclaimed for 7 years from the date of transfer to UDA ● must be transferred to the Investor Education and Protection Fund (IEPF) along with ● any accrued interest.
<p>Intimation to IEPF Authority</p>	<ul style="list-style-type: none"> ● The company must send a prescribed statement ● containing details of the transfer to the IEPF Authority, ● which will issue a receipt as proof of the transfer.
<p>Transfer of Shares to IEPF</p>	<ul style="list-style-type: none"> ● All shares related to unpaid dividends for 7 consecutive years or more ● will also be transferred to the IEPF along with a statement of details.
<p>Exception for Transfer of Shares</p>	<ul style="list-style-type: none"> ● If any dividend is claimed or paid on those shares during any 1 of the 7 years, ● then those shares will not be transferred to the IEPF.

Right to Reclaim Shares	<ul style="list-style-type: none"> The shareholder (or legal heir) can apply to IEPF to get back the shares transferred to IEPF following the prescribed procedure and submitting necessary documents.
Penalty for Company	<ul style="list-style-type: none"> If a company fails to comply with these provisions, it is liable to a penalty of ₹1 lakh, plus ₹500 per day for continuing default (maximum penalty ₹10 lakh).
Penalty for Officer in Default	<ul style="list-style-type: none"> The responsible officer is liable to a penalty of ₹25,000, plus ₹100 per day for continuing default (maximum penalty ₹2 lakh).



1. A company declared dividend at its Annual General Meeting held on 13th August, 2020. The company deposited the dividend payable amount to a separate bank account. However, there is some balance still lying unclaimed. The company should transfer this balance to Unpaid Dividend Account by:
 - a. 12th September, 2020
 - b. 19th September, 2020
 - c. 24th September, 2020
 - d. 30th September, 2020

2. The amount of dividend which is not paid or claimed out of Unpaid Dividend Accounts should be transferred to IEPF after the expiry of:
 - a. 7 Years
 - b. 9 Years
 - c. 5 Years
 - d. 3 Years

3. On 18th September 2019 XYZ Ltd. transferred unpaid/unclaimed Dividend amounting to 10 Lakh to the 'Unpaid Dividend Account'. After settlement of various dividend claims till 17th September 2026, 2 Lakh remains unpaid/unclaimed in the said account. The amount of 2 Lakh should be transferred to the Investor Education and Protection Fund (IEPF) by:
 - a. 17th September, 2026
 - b. 22nd September, 2026
 - c. 30th September, 2026
 - d. 17th October, 2026

7. SEC. 125 : INVESTOR EDUCATION AND PROTECTION FUND (IEPF)

- This fund being established by the Central Government,
- shall be credited with specified amounts and
- utilized for -
 - Refund of unclaimed and unpaid amounts,
 - promotion of investors' awareness and
 - protection of the interests of investors, etc.

The relevant provisions are discussed below:

7.1 Credit of Specified Amounts to the Fund		
S. No.	Source of Amount	Explanation
1.	Grants from Central Government	Amounts given by the Central Government through grants after approval by Parliament.
2.	Donations	Donations given by Central Govt., State Govts., companies, or any other institution for the benefit of investors.
3.	Amount from Unpaid Dividend Account (UDA)	Unpaid/Unclaimed dividends transferred from the Unpaid Dividend Account (UDA) of companies under Section 124(5).
4.	Amount in Central Govt. Revenue Account	Old unclaimed dividends under Section 205A(5) of the Companies Act, 1956 still lying with the Govt. before 2013 Companies Act.
5.	Existing IEPF Balance (under old law)	Amount lying in the old IEPF under Section 205C of Companies Act, 1956.
6.	Income from Investments	Interest or income earned on investments made from the IEPF.
7.	Amount from Disgorgement/Securities Disposal	Money collected by selling seized securities or disgorged amounts under Section 38(4) (for fraudulent share acquisition).
8.	Application Money due for Refund	Application money for securities not refunded for 7 years or more.
9.	Matured Deposits	Matured deposits (other than those with banks) unclaimed for 7+ years.
10.	Matured Debentures	Matured debentures (of companies) unclaimed for 7+ years.

11.	Interest on Above Amounts	Interest accrued on items H, I, and J above.
12.	Sale of Fractional Shares	Money from sale of fractional shares (from bonus shares, mergers, etc.) remaining unclaimed for 7+ years.
13.	Redemption Amount of Preference Shares	Unpaid redemption amount of preference shares unclaimed for 7+ years.
14.	Other Amounts as Prescribed in Rules	<p>Includes:</p> <ul style="list-style-type: none"> ● All amounts under Sec. 125(2) (as above) ● All shares transferred under Sec. 124(6) if dividend unpaid 7 years ● Resultant benefits (bonus, split, etc.) on such shares ● Grants, fees, and charges collected by the IEPF Authority ● Any other amounts decided by the Central Government ● Shares held by IEPF Authority under Sec. 90(9) (relating to beneficial owners not disclosed) ● Old amounts related to banking laws (like SBI Act, Banking Companies Act) ● All other sums collected by the Authority.
Rule 3 (3)		For term deposits & debentures, their unpaid interest must also be transferred along with the principal when due.
<p><i>Note: Disgorgement is the legally enforced repayment of ill-gotten gains imposed on wrongdoers by the courts. Funds that were received through illegal or unethical business transactions are disgorged, or paid back, often with interest and/or penalties to those affected by the action</i></p>		

7.2 Utilization of the Fund	
Sec. 125(3)	<p>The IEPF can be used for:</p> <ol style="list-style-type: none"> 1. Refund of unclaimed amounts like dividends, matured deposits & debentures, application money for shares, and interest on them 2. Investor education & awareness.

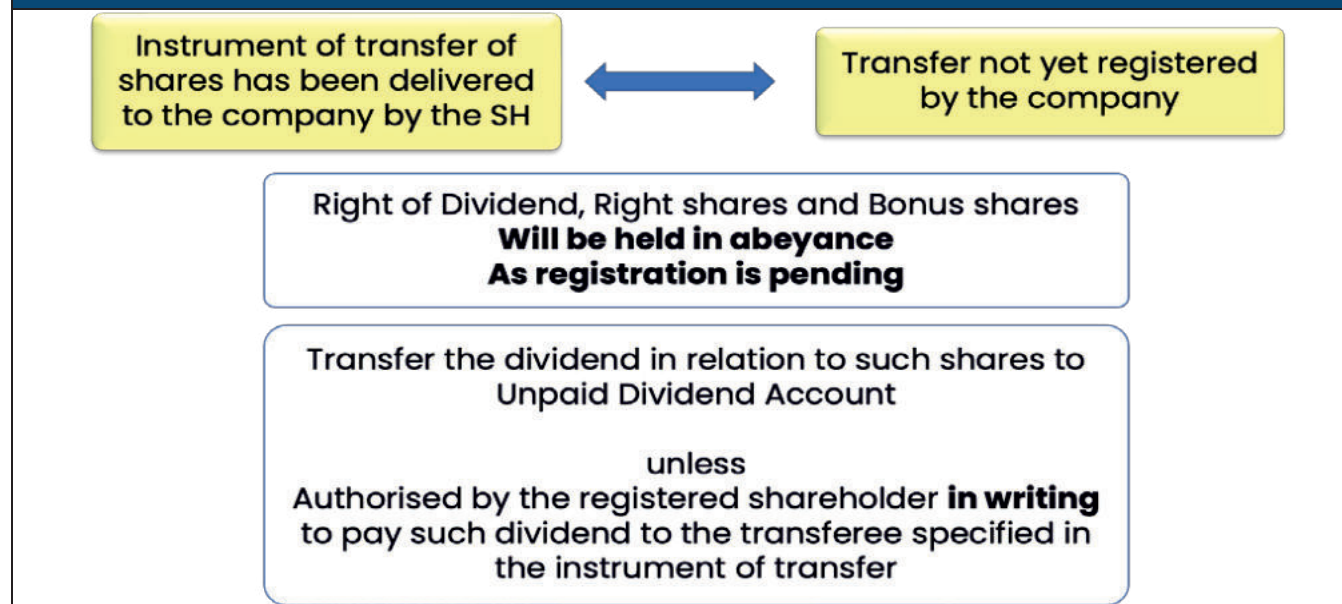
	<p>3. Distribution or Compensation of any disgorged amount to eligible and identifiable applicants (investors) when ordered by a court, for shares or debentures, shareholders, debenture-holders or depositors, if they lost money because of wrongful actions.</p> <p>4. Reimbursement of legal expenses for investors filing class action suits under Sec. 37 & 245.</p> <p>5. Other related purposes as per IEPF Rules, 2016.</p>
<p>Refund of Amount</p> <p>Clauses (a) to (d) of sub-section (2) of section 205C</p>	<ul style="list-style-type: none"> ● If someone's unclaimed amounts (like old dividends, deposits) were transferred to IEPF as per old laws (Companies Act, 1956), ● they can apply for refund under the rules of this section.
<p>How to Claim Refund</p>	<ul style="list-style-type: none"> ● Anyone entitled to these amounts can apply to the IEPF Authority for getting their money back.
<p>7.3 Other Provisions governing the IEPF</p>	
<p>Authority for IEPF</p>	<ul style="list-style-type: none"> ● The IEPF Authority manages the Fund. ● Constituted by MCA notification on 13.01.2016. ● Secretary of MCA is the ex-officio Chairperson of this Authority. ● Maximum of 7 members including a CEO who acts as convenor.
<p>Resources for the Authority</p>	<ul style="list-style-type: none"> ● The Central Government provides offices, officers, staff, and resources to help the IEPF Authority in its work.
<p>Consultation with CAG</p>	<ul style="list-style-type: none"> ● The IEPF Authority must maintain accounts of the Fund in consultation with CAG (Comptroller & Auditor General of India).
<p>Spending of Money</p>	<ul style="list-style-type: none"> ● IEPF Authority is responsible for spending the Fund money for the purposes mentioned in Section 125(3).
<p>Audit of the Fund</p>	<ul style="list-style-type: none"> ● CAG audits the accounts of the Fund at intervals decided by him. ● These audit reports are submitted to the Central Government.
<p>Annual Report of Authority</p>	<ul style="list-style-type: none"> ● IEPF Authority prepares an Annual Report every year on its activities. ● This report + CAG audit report is submitted to the Central Government, which then lays it before Parliament.

1. Which of the following amount is/are not required to be credited to IEPF?
 - a. Balance of Unpaid Dividend Account
 - b. Amount of matured deposits
 - c. Profit on sale of assets
 - d. Amount of matured debentures

2. The Investor Education and Protection Fund (IEPF) shall be managed by authority consisting of a chairperson and such other members, not exceeding:
 - a. Seven and a Chief Executive Officer
 - b. Seven including a Chief Executive Officer
 - c. Eight and a Chief Executive Officer
 - d. As the Central Government may fix as per approval of Parliament

3. The amount accumulated in the Investor Education and Protection Fund shall not be used for:
 - (a) refunds in respect of unclaimed dividends, matured deposits, matured debentures, application money due for refund and interest thereon.
 - (b) reimbursement of legal expenses incurred in pursuing class action suits under section 37 and 245.
 - (c) grants or donation to the Central Government for the purpose of investor's education and training.
 - (d) distribution of any disgorged amount among eligible and identifiable applicants who have suffered losses.

8. Section 126: RIGHT OF DIVIDEND RIGHTS SHARES AND BONUS SHARES TO BE HELD IN ABEYANCE PENDING REGISTRATION OF TRANSFER OF SHARES



Example: *The Directors of East West Limited proposed dividend at 15% on equity shares for the financial year 2023-2024. The company announced 7th September 2024 as the record date for payment of dividend. The dividend was approved in the Annual General Meeting held on 3rd September 2024.*

Mr. Binoy was the holder of 2000 equity of shares since 31st March, 2018, but he transferred the shares to Mr. Mohan in 2024, whose name has been entered in the register of members on 18th June, 2024. Who will be entitled to the above dividend?

Answer:

According to section 123, dividend shall be paid by a company only to the registered shareholder of such share.

Record date is the date announced by the company for determining entitlement to dividend. All those persons whose name is included in the register of members on that date shall be entitled to dividend.

In the instant case, on the date announced by the company as the record date, Mr. Mohan's name is present in the register of members (i.e. Mr. Binoy's name is NOT present therein). Therefore, the dividend should be paid to Mr. Mohan who is the registered shareholder on the record date.

1. The Directors of Silver tongue Solutions Limited proposed dividend at 18% on equity shares for the financial year 2018-2019. The same was approved in the Annual general body meeting held on 30th September 2019. The Directors declared the approved dividends. Mr. Jagan was the holder of 2000 equity of shares on 31st March, 2019, but he transferred the shares to Mr. Rajiv on 8th August 2019. Mr. Rajiv has sent the shares together with the instrument of transfer to the company for registration of the shares in his favour only on 25th September 2019. The registration of the transfer of shares is pending on 30th

September 2019. With respect to the dividend declared the correct action to be taken by the company is:

- (a) Pay the dividend to Mr. Jagan
- (b) Pay the dividend to Mr. Rajiv
- (c) Transfer the dividend in relation to such shares to the Unpaid Dividend Account
- (d) Transfer the dividend in relation to such shares to the Investor Education and Protection Fund.

9. Section 127: PUNISHMENT FOR FAILURE TO DISTRIBUTE DIVIDENDS WITHIN 30 DAYS

Time limit for distribution of dividends and punishment for failure to distribute dividend on time with certain exemptions from punishments:

Time Limit	→ Within 30 days from the date of declaration.
Posting of Warrants	→ Posting within 30 days absolves the company, even if not received by the shareholder.
Offence Committed When	→ Failure to post dividend warrants within 30 days → Offence under Sec 127.
Non-Receipt	→ No punishment if posted properly but not received by shareholder within 30 days.
Punishment for Default	<p>1 Director (knowingly party to default):</p> <p>→ Imprisonment up to 2 years</p> <p>→ Fine: ₹1,000 per day of default (Payable to the Government)</p> <p>2 Company → Interest @ 18% p.a. for default period. (Payable to the members)</p>
Exemption from Punishment	
<p style="text-align: center;">Under the following cases -</p> <p style="text-align: center;">Where the company has failed to pay declared dividend within 30 days of declaration, no offence shall be deemed to have been committed and therefore, no punishment is attracted -</p>	

- **O** – By **Operation** of law.
- **D** – Shareholder gave **directions** but those cannot be complied and the same has been **communicated** to him.
- **D** – **Dispute** regarding right to receive.
- **A** – Lawfully **adjusted** against any other sum due from shareholder.
- **D** – Not due to **default** of company.

- a. where the dividend could not be paid by reason of the operation of any law;
- b. where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with and the same has been communicated to him;
- c. where there is a dispute regarding the right to receive the dividend;
- d. where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder;
- e. where, for any other reason, the failure to pay the dividend or to post the warrant within the prescribed period of 30 days was not due to any default on the part of the company.

Example: *Mr. Alok, holding equity shares of face value of Rs. 10 lakh, has not paid Rs. 80,000 towards call money due on shares. Can the dividend amount payable to him be adjusted against such dues? Give reasons for your answer.*

Answer: *Yes. As per clause (d) of Proviso to Section 127, where the dividend is declared by a company and there remains calls in arrears or any other sum due from a member, then the dividend can be lawfully adjusted by the company against any such dues.*

Thus, the action of the company adjusting dividend payable to Mr. Alok towards call money due on shares amounting to Rs. 80,000 is justified and therefore, no punishment is attracted.

Note: *Applicability of Section 127 to Nidhis*

In terms of Notification No. GSR 465 (E), dated 05-06-2015, Section 127 dealing with punishment shall apply to the Nidhis, subject to the following modification:

In case the dividend payable to a member is Rs. 100 or less, it shall be sufficient compliance of the provisions of the section 127, if the declaration of the dividend is announced in the local language in one local newspaper of wide circulation and announcement of the said declaration is also displayed on the notice board of the Nidhis for at least 3 months.

1. In case a company fails to pay declared dividends or fails to post dividend warrants within 30 days of declaration, company shall be liable to pay simple interest at the rate ofduring the period for which such default continues.
 - (a) 6% p.a.
 - (b) 12% p.a.
 - (c) 15% p.a.

2. If the dividend has not been paid within 30 days from the date of declaration, the company shall be liable to pay simple interest for the period for which such default continues at the rate of:
 - a. 6% p.a.
 - b. 12% p.a.
 - c. 18% p.a.
 - d. 24% p.a.

3. ABC Ltd. declared a dividend of 5% on its equity shares in the Annual General Meeting held on 13th August, 2020. The company posted a dividend warrant to one of its shareholders on 10th September, 2020 at the address recorded in its register of members. However, the dividend warrant never reached the shareholder and was lost in post. The shareholder contends that company has committed a default in payment of dividend and it should pay interest thereon. What is the correct provision as per Companies Act?
 - a. The company is liable to pay interest @ 18% p.a. for the delay.
 - b. The directors of company are required to pay fine of 1,00,000.
 - c. The company is liable to pay fine of 1,000 per day for period of default.
 - d. The company posted the dividend warrant within prescribed time limit and it is not responsible for loss of the same in postage.

4. Mr. Anand, holding equity shares of face value of 10 Lakh, has not paid 50,000 towards call money due on these shares. The company has declared a dividend @12% on the equity shares. The amount payable to Mr. Anand shall be:
 - a. 1,20,000
 - b. 70,000
 - c. 1,00,000
 - d. NIL until the shareholder pays his calls in arrear.

SOME BASICS OF DIVIDEND

What is Dividend? – 2(35)

- **What** : It is a distribution or an apportionment of profits
- **By** : A Company
- **To** : Share Holders
- **When** : Yearly or whenever declared

Types – Interim and Final

- Who will Propose or recommend: **BOD**
- Approval / Declared : **By shareholders.**
- **Where** : **In AGM**
- **How ?** : **By passing Ordinary**

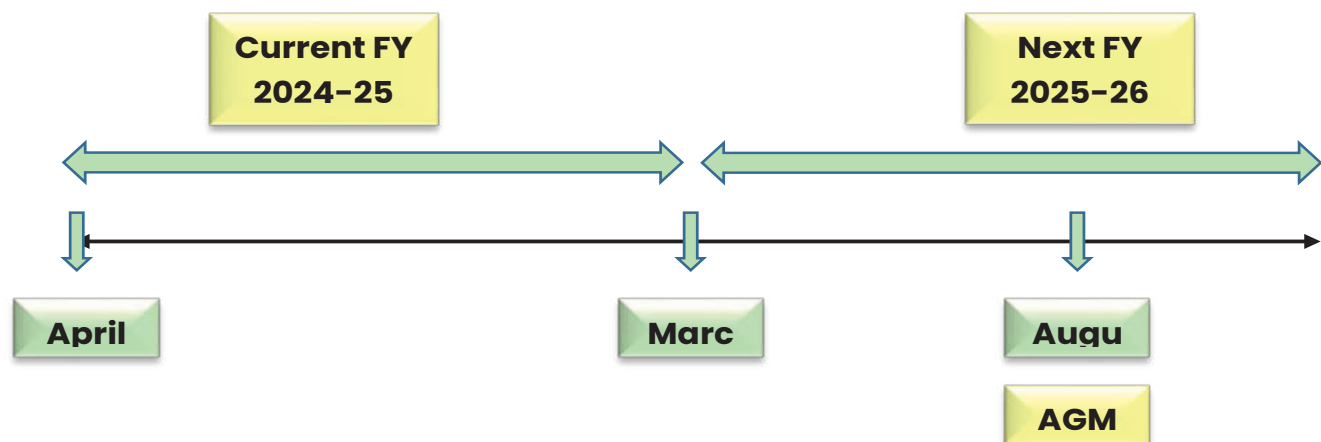
Dividend ONCE DECLARED
IT IS A LIABILITY
for the company
and if UNPAID then it's a violation and
company will be PENALISED AS PER
SECTION 127

Dividend cannot be declared at a
higher rate, then what board has
recommended.
Rate can be Equal or less than the
recommended rate

Why Dividend ?

- To protect the interest of the Shareholders
- Dividend adds value to the goodwill of the company in the eyes of investors.

INTERIM AND FINAL DIVIDEND TIMELINE



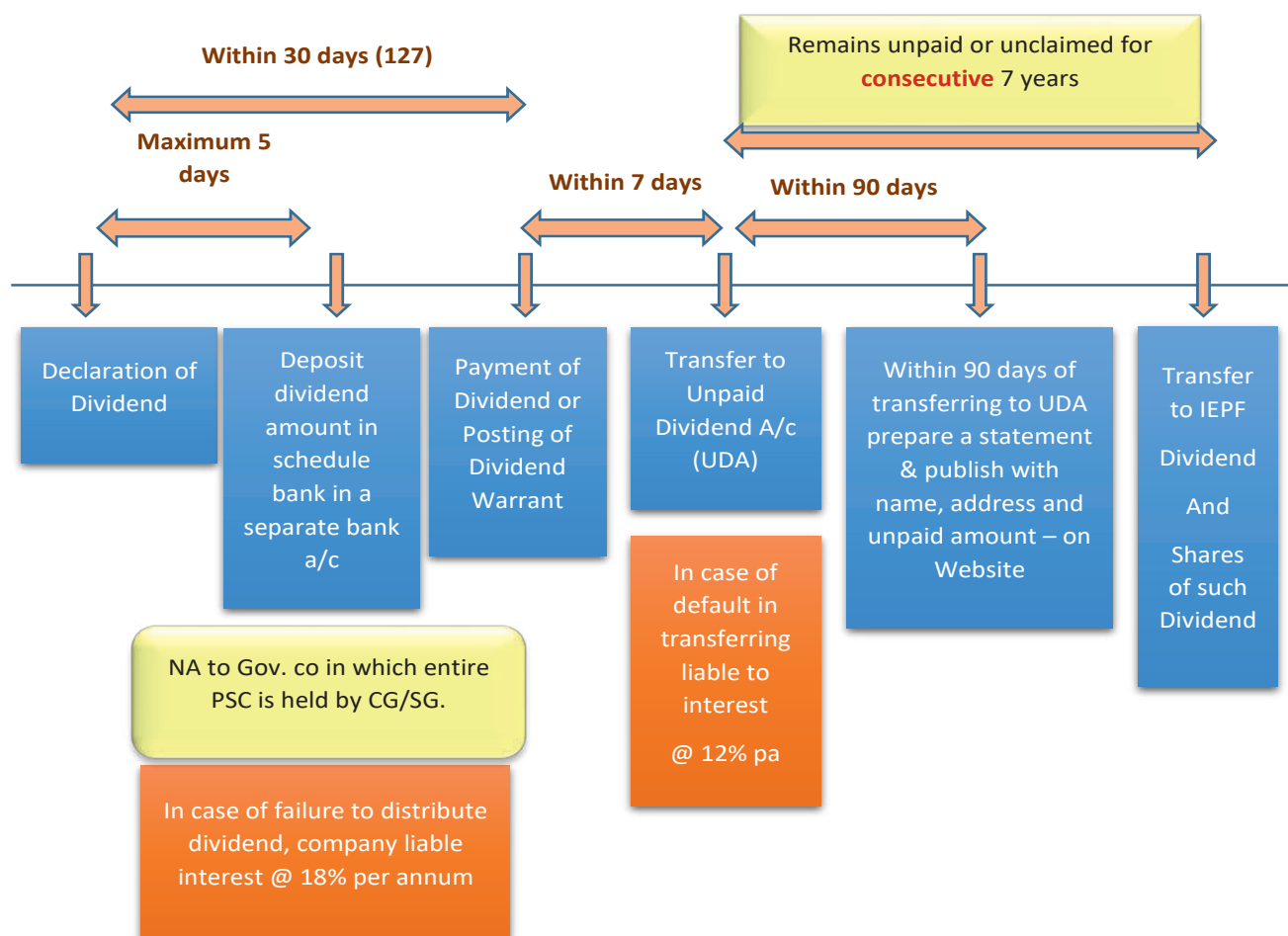
SUMMARY OF INTERIM DIVIDEND – 123(3)

- Once declared can be revoked if consent of all shareholders
- **Dividend includes Interim dividend also as per section 2(35).**
- **During any FY** or at **anytime** during the period from closure of FY and holding of the AGM
- Interim dividend can be declared –
 - Out of surplus in P&L account (Accumulated profits) and
 - Out of current FY profits (year for which dividend is sought to be declared)
 - Out of Profit till the latest quarter ended in which dividend is sought to be declared.
 - Deposit of such amount in a separate bank account in Scheduled bank in 5 days.

However, - In case of LOSS

- If company incurred loss during the Current FY up to the end of quarter immediately preceding the date of declaration of interim dividend then :
- Rate of dividend cannot be more the average of three immediately preceding years.

Summary of Interim Dividend – 123(3)



Problem Kya Hai? Question Bank

ICAI Module Descriptive Questions

Section 123 Declaration and Payment of Dividends

1. Alex limited is facing loss in business during the financial year 2023-2024. In the immediate preceding three financial years, the company had declared dividend at the rate of 7%, 11% and 12% respectively. The Board of Directors has decided to declare 12% interim dividend for the current financial year atleast to be in par with the immediate preceding year. Is the act of the Board of Directors valid?

Solution:

As per Section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

According to the given facts, Alex Ltd. is facing loss in business during the financial year 2023-2024. In the immediate preceding three financial years, the company declared dividend at the rate of 7%, 11% and 12% respectively. Accordingly, the rate of dividend declared shall not exceed 10%, the average of the rates $(7+11+12=30/3)$ at which dividend was declared by it during the immediately preceding three financial years.

The act of BOD to declaration of interim dividend at rate 12% during the FY 23-24 is not valid.

Section 123

2. YZ Medical Instruments Limited is a manufacturing company & has proposed a dividend @ 10% for the year 2023-2024 out of the profits of current year. The company has earned a profit of ₹ 910 crore during 2023-2024. The company does not intend to transfer any amount to the general reserves out of the profits. Is YZ Medical Instruments Limited allowed to do so? Comment.

Solution:

According to section 123 of the Companies Act, 2013 a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company. Such transfer is not mandatory and the percentage to be transferred to reserves is at the discretion of the company.

As per the given facts, YZ Medical Instruments Limited has earned a profit of ₹ 910 crore for the financial year 2023-2024. It has proposed a dividend @ 10%. However, it does not intend to transfer any amount to the reserves of the company out of the profits of current year.

As per the provisions stated above, the amount to be transferred to reserves out of profits for any financial year is at the discretion of the company acting through its Board of Directors. Therefore, at its discretion, if YZ Medical Instruments Limited decides not to transfer any profit to reserves before the declaration of dividend at 10%, it is legally allowed to do so.

Section 123

3. Referring to the provisions of the Companies Act, 2013, examine the validity of the following:

The Board of Directors of ABC Tractors Limited proposes to declare dividend at the rate of 20% to the equity shareholders, despite the fact that the company has defaulted in repayment of public deposits accepted before the commencement of this Act.

Solution:

Section 123(6) of the Companies Act, 2013, specifically provides that a company which fails to comply with the provisions of section 73 (Prohibition of acceptance of deposits from public) and section 74 (Repayment of deposits, etc., accepted before the commencement of this Act) shall not, so long as such failure continues, declare any dividend on its equity shares.

In the given instance, the Board of Directors of ABC Tractors Limited proposes to declare dividend at the rate of 20% to the equity shareholders, in spite of the fact that the company has defaulted in repayment of public deposits accepted before the commencement of the Companies Act, 2013. Hence, according to the above provision, declaration of dividend by the ABC Tractors Limited is not valid.

Section 8 Prohibition on Declaration of Dividend

4. Alpha Herbals, a Section 8 company is planning to declare dividend in the Annual General Meeting for the Financial Year ended 31-03-2024. Mr. Chopra is holding 800 equity shares as on date. State whether the act of the company is according to the provisions of the Companies Act, 2013.

Solution:

According to Section 8(1) of the Companies Act, 2013, the companies licenced under Section 8 of the Act (Formation of companies with Charitable Objects, etc.) are prohibited from paying any dividend to their members. Their profits are intended to be applied only in promoting the objects for which they are formed.

Hence, in the instant case, the proposed act of Alpha Herbals, a company licenced under Section 8 of the Companies Act, 2013, which is planning to declare dividend, is not according to the provisions of the Companies Act, 2013.

Section 124 Time Limits on Dividend

5. The Board of Directors of Future Fashions Limited at its meeting recommended a dividend on its paid-up equity share capital which was later on approved by the shareholders at the Annual General Meeting. Thereafter, the directors at another meeting of the Board passed a board resolution for diverting the total dividend to be paid to the shareholders for purchase of certain short-term investments in the name of the company. As a result, dividend was paid to shareholders after 45 days.

Examining the provisions of the Companies Act, 2013, state whether the act of directors is in violation of the provisions of the Act and if so, state the consequences that shall follow for the above violative act.

Solution:

According to section 124 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid or claimed within 30 days from the date of the declaration, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in any scheduled bank to be called the Unpaid Dividend Account.

Further, according to section 127 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within 30 days from the date of declaration to any entitled shareholder, every director of the company shall, if he is knowingly a party to the default, be liable for punishment.

In the present case, the Board of Directors of Future Fashions Limited at its meeting recommended a dividend on its paid-up equity share capital which was later on approved by the shareholders at the Annual General Meeting. Thereafter, the directors at another meeting of the Board decided by passing a board resolution for diverting the total dividend to be paid to the shareholders for purchase of certain short-term investments in the name of the company. As a result, dividend was paid to shareholders after 45 days.

- (i) Since, declared dividend has not been paid within 30 days from the date of the declaration to any shareholder entitled to the payment of dividend, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in any scheduled bank to be called the Unpaid Dividend Account.
- (ii) The Board of Directors of Future Fashions Limited has violated section 127 of the Companies Act, 2013 as it failed to pay dividend to shareholders within 30 days due to its decision to divert the total dividend to be paid to shareholders for purchase of certain short-term investments in the name of the company.

Consequences: The following are the consequences for violation of the above provisions:

- (a) Every director of the company shall, if he is knowingly a party to the default, be punishable with maximum imprisonment of two years and shall also be liable for a minimum fine of rupees one thousand for every day during which such default continues.
- (b) The company shall also be liable to pay simple interest at the rate of 18% p.a. during the period for which such default continues.

Section 127 Consequences for delay or default in payment

6. The Annual General Meeting of ABC Bakers Limited held on 30th May, 2024, declared a dividend at the rate of 30% payable on its paid-up equity share capital as recommended by Board of Directors. However, the company was unable to post the dividend warrant to Mr. Ranjan, an equity shareholder, up to 25th July, 2024. Mr. Ranjan filed a suit against the company for the payment of dividend along with interest at the rate of 20 percent per annum for the period of default. Decide in the light of provisions of the Companies Act, 2013, whether Mr. Ranjan would succeed? Also, state the directors' liability in this regard under the Act.

Solution:

Section 127 of the Companies Act, 2013 lays down the penalty for non- payment of dividend within the prescribed time period of 30 days. According to this section where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within 30 days from the date of declaration of dividend to any shareholder entitled to the payment of dividend:

- (i) every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment maximum up to two years and with minimum fine of rupees one thousand for every day during which such default continues; and
- (ii) the company shall be liable to pay simple interest at the rate of 18% per annum during the period for which such default continues.

Therefore, in the given case Mr. Ranjan will not succeed if he claims interest at 20% interest as the limit under section 127 is 18% per annum.

Section 127

7. PQ Ltd. declared and paid 10% dividend to all its shareholders except Mr. Kumar, holding 500 equity shares, who instructed the company to deposit the dividend amount directly in his bank account. The company accordingly remitted the dividend, but the bank returned the payment on the ground that the account number as given by Mr. Kumar doesn't tally with the records of the bank. The company, however, did not inform Mr. Kumar about this discrepancy. Comment on this issue with reference to the provisions of the Companies Act, 2013 regarding failure to distribute dividend.

Solution:

Section 127 of the Companies Act, 2013 provides for punishment for failure to distribute dividend on time. One of such situations is where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with and the same has not been communicated to the shareholder.

In the instant case, PQ Ltd. has failed to communicate to the shareholder Mr. Kumar about non-compliance of his direction regarding payment of dividend. Hence, the penal provisions under section 127 will be attracted.

Section 127

8. Star Computers Limited declared and paid dividend in time to all its equity holders for the financial year 2023-24, except in the following two cases:
- (i) Mrs. Sheela Bhatt, holding 250 shares had mandated the company to directly deposit the dividend amount in her bank account. The company, accordingly remitted the dividend but the bank returned the payment on the ground that there was difference in surname of the payee in the bank records. The company, however, did not inform Mrs. Sheela Bhatt about this discrepancy.
 - (ii) Dividend amount of ₹ 50,000 was not paid to the successor of Late Mr. Mohan, in view of the court order restraining the payment due to family dispute about succession.

You are required to analyse these cases with reference to provisions of the Companies Act, 2013 regarding failure to distribute dividends.

Solution:

- (i) Section 127 of the Companies Act, 2013 provides for punishment for failure to distribute dividend on time. One of such situations is where a shareholder has given directions to the company regarding the payment of the dividend and those directions could not be complied with but the non-compliance was not communicated to him.

In the given situation, the company has failed to communicate to the shareholder Mrs. Sheela Bhatt about non-compliance of her direction regarding payment of dividend. Hence, the penal provisions under section 127 will be applicable.

- (ii) Section 127, inter-alia, provides that no offence shall be deemed to have been committed where the dividend could not be paid by reason of operation of law.

In the present case, the dividend could not be paid because it was not allowed to be paid by the court until the matter was resolved about succession. Hence, there will not be any liability on the company and its directors, etc.

RTP, MTP and PYQ Descriptive Questions

Section 2(35) Dividend

- Green Ltd., a power generating company, attracted numerous investors due to its strong growth potential. Mr. Arju, one of the investor purchased a significant number of shares in Green Ltd., expecting regular returns in the form of dividends. Over the years, Green Ltd. performed well and consistently declared dividends. However, in 2023-2024, despite reporting profits, the board of directors decided not to distribute dividends, citing the need to reinvest earnings for future expansion.

Seeing this, Mr. Arju argued that as a shareholder, he had an absolute right to receive dividends. He believed that since the company was in profitable state, dividends should be mandatorily distributed. He raised his concerns at the Annual General Meeting (AGM), questioning the board's decision. Looking at the given scenario, assess the argument of Mr. Arju in the light and support of the relevant legislation.

(MTP May 25)

Solution:

Law : Section 2(35) of the Companies Act, 2013, defines the term “dividend” as any distribution of profits by a company to its shareholders, whether in cash or in kind, out of free reserves available for the purpose.

The above statement implies that shareholders do not have an inherent or guaranteed right to receive dividends from a company.

The decision to declare dividends lies with the board of directors, subject to shareholder approval and legal provisions under the Companies Act, 2013. The board of directors has the authority to recommend dividends. If they believe distributing dividends is not in the best interest of the company, they may choose not to declare them, even if the company has sufficient profits. Shareholders cannot force the company to declare dividends.

Thereby, the distribution of dividends is subject to multiple considerations, including the company's profitability, legal compliance, and the board's discretion. The Companies Act, 2013, ensures that dividends are declared in a financially responsible manner, protecting both the company and its investors. Since shareholders cannot demand dividends as a matter of right, it is evident that dividends are not an absolute right but a discretionary benefit provided when the company deems it appropriate.

Conclusion: As per the stated facts, Mr. Arju argued that as a shareholder, he had an absolute right to receive dividends. He believed that since the company was in profitable state, dividends should be mandatorily distributed. His expectation of dividends was based on his investment, but the law does not guarantee an absolute right to dividends. The board has the authority to withhold dividends if it deems reinvestment necessary for the company's long-term growth. Therefore, while shareholders have a reasonable expectation of returns, they do not possess an unconditional entitlement to dividends.

Therefore, the argument of Mr. Arju is invalid in the light of the legal provision given in section 123 of the Companies Act, 2013.

Section 123 Declaration and Payment of Dividends

2. The Directors of East West Limited proposed dividend at 15% on equity shares for the financial year 2017-2018. The same was approved in the Annual general body meeting held on 24th October 2018. The Directors declared the approved dividends. Mr. Binoy was the holder of 2000 equity of shares on 31st March, 2018, but he transferred the shares to Mr. Mohan, whose name has been registered on 18th June, 2018. Who will be entitled to the above dividend?

(MAY 2019)**Solution:**

Law: Payment of dividend: According to section 123(5) of the Companies Act, 2013, dividend shall be payable only to the registered shareholder of the share or to his order or to his banker.

Conclusion: As said in the question, East West Limited proposed dividend for Financial Year 2017-2018. Mr. Binoy was the holder of 2000 equity shares on 31st March, 2018. He transferred the shares to Mr. Mohan, whose name was registered on 18th June 2018 in the register of members. Since, Mr. Mohan became the registered shareholder before the declaration of dividend in the Annual General Meeting of the company held on 24th October, 2018 he will be entitled to the dividend.

Section 51

3. Energy Mills Ltd. has issued equity shares with a face value of ₹10 per share. Mr. Amit and Mr. Burman are both friends. Mr. Amit holds 1,000 fully paid-up shares (₹10 per share paid), while Mr. Burman holds 1,000 partly paid-up shares (₹5 per share paid). When the company declares a 10% dividend, a dispute arises and Mr. Burman expects the same dividend amount as paid to Mr. Amit. However, the company insists on paying dividends based on the actual amount paid-up on the shares as mentioned in AOA.

In the light of the given provisions under the Companies Act, 2013, elucidate the legal position in the following situation:

- (i) Whether the company's decision to distribute dividends based on the paid-up amount is legally valid? How does the Companies Act, 2013 regulate dividend distribution in such cases?
- (ii) What role does the Articles of Association play in determining this situation?

(MTP May 25)**Solution:****Law:**

- (i) The Companies Act, 2013, under Section 51, provides two possible ways for distributing dividends:
 - (a) Equal Dividend on All Shares
 - (b) Proportional Dividend Based on Paid-up Amount

- (ii) Section 51 of the Companies Act, 2013. It states that the company if so authorised by article, may be permitted to pay dividends in proportion to the amount paid-up on each share. The Board of Directors of a company may decide to pay dividends on pro rata basis if all the equity shares of the company are not equally paid-up.

Conclusion: According to the given scenario

- (i) Mr. Amit has 1,000 shares \times ₹ 10 (fully paid) = ₹ 10,000 10% of 10,000 = ₹ 1000
 (ii) Mr. Burman has 1,000 shares \times ₹ 5 (partially paid) = ₹ 5,000 10% of 5000 = ₹ 500

Hence Mr. Amit receives ₹ 1,000 as he holds fully paid-up shares, whereas Mr. Burman receives ₹ 500, as his shares are partly paid-up (₹ 5 per share instead of ₹ 10).

Hence following shall be the answer to the questions:

- (i) The decision of the company to distribute dividends in proportion to the paid-up amount on shares is legally valid, provided that its Articles of Association (AOA) explicitly permit such a practice.
 (ii) The Articles of Association play a crucial role in deciding how dividends are paid. If the AOA is silent on the matter, dividends must be paid equally on all shares of the same class. If the AOA expressly allows, dividends may be paid in proportion to the paid-up value of shares.

Section 123

4. Vishal Limited has paid dividend consistently every year at the rate of 10% on its equity share capital in the last 5 years (2015-2016 to 2019-2020). The company has incurred loss in the current financial year (FY 2020-2021). It still wants to declare dividend for the FY 2020-2021. Whether the company can do so? Explain.

(RTP May 2022)

Solution:

As per second proviso to Section 123(1) of the Companies Act, 2013 read with Rule 3 of the Companies (Declaration and Payment of Dividend) Rules, 2014, where in any year there is absence of profit or there are no adequate profits for declaring dividend, the company may declare dividend out of the profits of any previous year transferred by it to the free reserves, only in accordance with the procedure laid down.

However, such declaration shall be subject to the following conditions:

- (a) The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by the company in the three years immediately preceding that year.
 Provided that this sub-rule shall not apply to a company, which has not declared any dividend in each of the three preceding financial year.
 (b) The total amount to be drawn from such accumulated profits shall not exceed 10% of the sum of its paid-up share capital and free reserves as appearing in the latest audited financial statement.

- (c) The amount so drawn shall first be utilized to set off the losses incurred in the financial year in which dividend is declared and only thereafter, any dividend in respect of equity shares shall be declared.
- (d) The balance of reserves after such withdrawal shall not fall below 15% of its paid-up share capital as appearing in the latest audited financial statement.

Hence, if the company wants to pay dividend in the current financial year, it can do so if all the above conditions have been fulfilled.

Section 123

5. MNP Ltd. has a paid up share capital of ₹ 10 crore and free reserves of ₹ 50 crore, as on 31st March, 2019. The company made a loss of ₹ 40 lakh after providing for depreciation for the year ended 31st March, 2019 and as a result, the company was not in a position to declare any dividend for the said year out of profits. However, the Board of directors of the company announced the declaration of dividend of 20% on the equity shares payable out of free reserves. The average dividend declared by the company in the last three years is 25%. Referring to the provisions of the Companies Act, 2013, examine the validity of declaration of dividend.

(RTP MAY 2020)

Solution:

Law: As per Second Proviso to Section 123 (1), in the event of inadequacy or absence of profits in any financial year, a company may declare dividend out of the accumulated profits of previous years which have been transferred to the free reserves. However, such declaration shall be subject to the following conditions as per Rule 3 of Companies (Declaration and Payment of Dividend) Rules, 2014.

- (i) The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by the company in the immediately preceding three years. Provided that this sub-rule shall not apply to a company, which has not declared any dividend in each of the 3 preceding financial year.
- (ii) The total amount to be drawn from free reserves shall not exceed one-tenth i.e., 10% of its paid-up share capital and free reserves as per the latest audited financial statement.
- (iii) The amount so drawn shall first be utilized to set off the losses incurred in the financial year in which dividend is declared and only thereafter, any dividend in respect of equity shares shall be declared.
- (iv) After such withdrawal from free reserves, the residual reserves shall not fall below 15% of its paid-up share capital as per the latest audited financial statement.

Conclusion:

Companies (Declaration and Payment of Dividend) Rules, 2014

Particulars	Calculation	Amount
1. Maximum Dividend Rate = Average Dividend rate during immediately preceding 3 F.Y.	25% (given)	2.5 cr (25% of 10 cr)
3. Maximum Amount to be drawn out of FR = 10% of (PUSC+ FR) Less:- Set-off the losses incurred in the current financial year(condition 3)	=10% of 60cr = 6cr (40 lacs)	5.6 cr
4. Minimum balance in FR after withdrawal = 15% of PUSC So, Maximum Amount that can be drawn from FR = Less: - Set-off the losses incurred in the current financial year	=15% of 10 cr = 1.5 cr =50cr -1.5cr = 48.5cr (40 lacs)	48.1 cr
Maximum dividend that can be paid =LOWEST of the Three		2.5 cr = 25%

Thus, the company can declare Maximum dividend at 20% . Taking into account all the conditions, it can be said that declaration of dividend by MNP Limited is valid.

Section 123

6. AB Limited is a public company having its registered office in Coimbatore. The company has incurred a net loss of ₹ 20 lakhs in the Financial Year (FY) 2019-20. The Board of Directors (BOD) wants to declare dividend for the FY 2019-20. The balances of the company as per the latest audited financial statements are as follows:

- (i) Equity Share Capital (₹ 10 each) - 100 lakhs
- (ii) General Reserve - 150 lakhs
- (iii) Debenture redemption Reserve - 50 lakhs

The company has not declared any dividend in the preceding three financial years. Decide whether AB Limited is allowed to declare dividend or not for the FY 2019-20 by explaining the relevant provisions of the Companies Act in this regard.

If allowed to declare dividend then state the maximum amount of dividend that can be paid by AB Limited as per the Section 123 of Companies Act 2013. (2 + 2 = 4 Marks)

(Nov 2020)

Solution :**Law:** Same like above question

Conclusion- In the given case, AB Limited has not made adequate profits during the current year ending on 31st March, 2020, but it still wants to declare dividend. Therefore, Rule 3 of the Companies (Declaration and Payment of Dividend) Rules, 2014 will be applied as follows:

Particulars	Calculation	Amount
1. Maximum Dividend Rate = Average Dividend rate during immediately preceding 3 F.Y. this sub-rule does not apply since it has not declared any dividend in each of the 3 preceding financial year.	Not Applicable	Not Applicable
2. Maximum Amount to be drawn out of FR = 10% of (PUSC + FR) Less :- Set-off the losses incurred in the current financial year	=10% of [100+150] = 25 Lacs (20 lacs)	5 lacs
3. Minimum balance in FR after withdrawal = 15% of PUSC Therefore, Maximum Amount that can be drawn from FR = Less :- Set-off the losses incurred in the current financial year	=15% of 100 = 15 Lacs 150 -15 = 135 Lacs (20 lacs)	115 lacs
Maximum dividend that can be paid =LOWEST of the Three		5 lacs = 5%

Hence, by following above provisions, AB Limited is allowed to declare dividend for the FY 2019-2020 and the maximum amount of dividend that can be paid is ₹ 5 Lakhs.

Section 123

7. A company has accumulated Free Reserves of ₹75 lakhs during last five years. It has not declared any dividend during these years. Now, the company proposes to appropriate a part of this amount for making payment of dividend for current year in which it has earned a profit of ₹ 12 lakhs. The Board proposes a payment of dividend of ₹30 lakhs i.e. 30% on the paid up capital. Examine, as per the provisions of the Companies Act, 2013, whether, the proposal of the company is valid?

(PYQ Nov 2022)**Solution:****Law:** Law same like above question**Conclusion-**

Calculations For Each Condition

Particulars	Calculation	Amount
1. Maximum Dividend Rate = Average Dividend rate during immediately preceding 3 F.Y. this sub-rule does not apply since it has not declared any dividend in each of the 3 preceding financial year.	Not Applicable	Not Applicable
2. Maximum Amount to be drawn out of FR = 10% of (PUSC + FR) Less :- Set-off the losses incurred in the current financial year	=10% of [100+75] = 17.5 Lacs (Nil)	17.5 lacs
3. Minimum balance in FR after withdrawal = 15% of PUSC	=15% of 100 = 15 Lacs	
Therefore, Maximum Amount that can be drawn from FR = Less :- Set-off the losses incurred in the current financial year	75 -15 = 60 Lacs (Nil)	60 lacs
Maximum dividend that can be paid =LOWEST of the Three		17.5 lacs = 17.5%

Thus, the company can declare a dividend of ₹ 17.5 lakh i.e. at a rate of 17.5% on its paid-up capital of ₹ 100 lakh.

Hence, the proposal of company for payment of dividend of ₹ 30 lakh i.e. 30% on the paid up capital in the current year in which it has earned a profit of ₹ 12 lakh, is invalid.

Section 123

8. YZ Medical Instruments Limited is a manufacturing company & has proposed a dividend @ 10% for the year 2023-2024 out of the profits of current year. The company has earned a profit of ₹ 910 crore during 2023-2024. The company does not intend to transfer any amount to the general reserves out of the profits. Is YZ Medical Instruments Limited allowed to do so? Comment.

(module)(NOV 2018)(MTP NOV 2020)

Solution:

Law: According to section 123 of the Companies Act, 2013 a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company. Such transfer is not mandatory and the percentage to be transferred to reserves is at the discretion of the company.

Conclusion: As per the given facts, YZ Medical Instruments Limited has earned a profit of ₹ 910 crore for the financial year 2023-2024. It has proposed a dividend @ 10%. However, it does not intend to transfer any amount to the reserves of the company out of the profits of current year.

As per the provisions stated above, the amount to be transferred to reserves out of profits for any financial year is at the discretion of the company acting through its Board of Directors. Therefore, at its discretion, if YZ Medical Instruments Limited decides not to transfer any profit to reserves before the declaration of dividend at 10%, it is legally allowed to do so.

Section 123

9. Referring to the provisions of the Companies Act, 2013, examine the validity of the following:
The Board of Directors of ABC Tractors Limited proposes to declare dividend at the rate of 20% to the equity shareholders, despite the fact that the company has defaulted in repayment of public deposits accepted before the commencement of this Act.

(Module)(NOV 2019)

Solution:

Law: Section 123(6) of the Companies Act, 2013, specifically provides that a company which fails to comply with the provisions of section 73 (Prohibition of acceptance of deposits from public) and section 74 (Repayment of deposits, etc., accepted before the commencement of this Act) shall not, so long as such failure continues, declare any dividend on its equity shares.

Conclusion: In the given instance, the Board of Directors of ABC Tractors Limited proposes to declare dividend at the rate of 20% to the equity shareholders, in spite of the fact that the company has defaulted in repayment of public deposits accepted before the commencement of the Companies Act, 2013. Hence, according to the above provision, declaration of dividend by the ABC Tractors Limited is not valid.

Section 8 Prohibition on Declaration of Dividend

10. Alpha Herbals, a Section 8 company is planning to declare dividend in the Annual General Meeting for the Financial Year ended 31-03-2024. Mr. Chopra is holding 800 equity shares as on date. State whether the act of the company is according to the provisions of the Companies Act, 2013. (module)

Solution:

Law: According to Section 8(1) of the Companies Act, 2013, the companies licenced under Section 8 of the Act (Formation of companies with Charitable Objects, etc.) are prohibited from paying any dividend to their members. Their profits are intended to be applied only in promoting the objects for which they are formed.

Conclusion: Hence, in the instant case, the proposed act of Alpha Herbals, a company licenced under Section 8 of the Companies Act, 2013, which is planning to declare dividend, is not according to the provisions of the Companies Act, 2013.

Section 123

11. Alex limited is facing loss in business during the financial year 2023-2024. In the immediate preceding three financial years, the company had declared dividend at the rate of 7%, 11% and 12% respectively. The Board of Directors has decided to declare 12% interim dividend for the current financial year atleast to be in par with the immediate preceding year. Is the act of the Board of Directors valid?

(Module)(MTP MAY 2020)(MTP MAY 2019) (5 Marks) (MTP M 21)

Solution:

Law: Interim Dividend

As per Section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

Conclusion: According to the given facts, Alex Ltd. is facing loss in business during the financial year 2023-2024. In the immediate preceding three financial years, the company declared dividend at the rate of 7%, 11% and 12% respectively. Accordingly, the rate of dividend declared shall not exceed 10%, the average of the rates $(7+11+12=30/3)$ at which dividend was declared by it during the immediately preceding three financial years.

Therefore, the act of the Board of Directors as to declaration of interim dividend at the rate of 12% during the F.Y 2023-2024 is not valid.

Section 123

12. Sunday Ltd. is a listed entity engaged in the business of providing engineering solutions to clients across the country. The company followed consistent growth over the years. Rate of Declaration of dividend in immediately preceding three financial years were 15%, 20%, and 25%.

Unfortunately, due to obsolescence of a special part of machinery, company incurred losses in current financial year.

Even though, during the financial year 2023-24, the company declared interim dividend of 10% on the equity shares. The Board of Directors of the company approved the financial result for the financial year 2023-24 in its meeting held on 5th August, 2024, and recommended a final dividend of @15% in this board meeting.

The general meeting of the shareholders was convened on 31st August, 2024. The shareholders of the company demanded that since interim dividend @10% was declared by the company, so the final dividend should not be less than 20%. It was also submitted that rate of declaration of dividend in immediately preceding three years were 15%, 20% and 25%, but the Company Secretary emphasised that final dividend cannot be increased.

Advise whether the decision of Company Secretary is correct? What should be correct rate of final dividend?

Justify your answer with reference to provisions of the Companies Act, 2013.

(MTP Sept 24)

Solution:

Law: Interim dividend: As per section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year in which such interim dividend is sought to be declared.

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

Final dividend: The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board. [Clause 80 of Table F in Schedule I]

Conclusion: According to the given facts, Sunday Ltd. incurred losses in current financial year 2023-24. It is also provided that, in the immediately preceding three financial years, the company declared dividend at the rate of 15%, 20% and 25% respectively. Accordingly, the rate of dividend declared shall not exceed 20%, the average of the rates $(15+20+25=60/3)$ at which dividend was declared by it during the immediately preceding three financial years.

Board of Directors of Sunday Ltd. recommended a final dividend @15% for financial year 2023-24 in the meeting held on 5th August 2024. It was approved in the general meeting. However, shareholders demanded that since Interim dividend was at the rate of 10%, so final dividend should not be less than 20%. The general meeting cannot declare the dividend at a rate higher than the rate of dividend recommended by the Board.

Yes, the decision of Company Secretary that final dividend cannot be increased beyond the rate of 15% as recommended in the Board Meeting, is correct.

Section 123

13. ESPN Heavy Engineering Ltd. is a listed entity engaged in the business of providing engineering solutions to clients across the country. The company followed consistent growth over the years. Rate of Declaration of dividend in immediately preceding three financial years were 15%, 20%, and 25%.

Unfortunately, due to obsolescence of a special part of machinery, company incurred losses in current financial year.

Even though, during the financial year 2021-22, the company declared interim dividend of 10% on the equity shares. The Board of Directors of the company approved the financial result for the financial year 2021-22 in its meeting held on 5th August, 2022, and recommended a final dividend of @15% in this board meeting.

The general meeting of the shareholders was convened on 31 st August, 2022. The shareholders of the company demanded that since interim dividend @10% was declared by the company, so the final dividend should not be less than 20%. It was also submitted that Rate of Declaration of dividend in immediately preceding three years were 15%, 20% and 25%, but the Company Secretary emphasised that final dividend cannot be increased.

- (i) Whether company can declare interim dividend, if company incurred losses during the current financial year? What should be correct rate interim dividend?
- (ii) Do you think decision of Company Secretary is correct? What should be correct rate of final dividend?

Justify your answer with reference to provisions of the Companies Act, 2013.

(PYQ May 2023)

Solution:**Law:**

Interim dividend: As per section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

Final dividend: The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board. [Clause 80 of Table F in Schedule I]

Conclusion: Accordingly, following shall be the answers:

- (i) **Interim dividend:** According to the given facts, ESPN Heavy Engineering Ltd. incurred losses in current financial year 2021-2022. In the immediately preceding three financial years, the company declared dividend at the rate of 15%, 20% and 25% respectively.

Accordingly, the rate of dividend declared shall not exceed 20%, the average of the rates $(15+20+25=60/3)$ at which dividend was declared by it during the immediately preceding three financial years.

Yes, as per law company can declare interim dividend, even if company incurred losses during current financial year. Dividend to be declared shall be given at the rate not exceeding 20%.

- (ii) **Final dividend:** Board of Directors of the Company recommended a final dividend @15% for financial year 2021-2022 in the meeting held on 5th August 2022. It was approved in the general meeting. However, shareholders demanded that since Interim dividend was at the rate of 10%, so final dividend should not be less than 20%. The general meeting cannot declare the dividend at a rate higher than the rate of dividend recommended by the Board.

Yes, the decision of Company Secretary that final dividend cannot be increased beyond the rate of 15% as recommended in the Board Meeting, is correct.

Section 124 Time Limits on Dividend

14. RST Ltd. declared dividend at the rate of 20% for the financial year 2017-2018 in the AGM scheduled on 15th June 2018. As RST Ltd. is left with certain unpaid and unclaimed dividend, it transferred amount of unpaid and unclaimed dividend to UDA (unpaid dividend account). After remaining unpaid and unclaimed for more than 2 years in the UDA, some of the entitled shareholders made liable RST Ltd. for noncompliance of section 124, and claimed for their unpaid dividend amount. RST Ltd. denies saying that there were certain legal issues on the entitlement of the dividend amount to the respective shareholders. State in the light of the given facts, whether the allegation marked by shareholders and claim for the divided amount, against RST Ltd. is justifiable?

(RTP MAY 2019)

Solution:

Law: As per section 124 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid/claimed to/by shareholder within 30 days from the date of the declaration, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount of dividend which remains unpaid/unclaimed to the Unpaid Dividend Account.

The company shall, within a period of 90 days of making any transfer of an amount, prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the web-site of the company, if any, and also on any other web-site approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed.

Conclusion: Accordingly, in the given situation, RST Ltd. failed to give statement of Unpaid/unclaimed dividend and so liable for the said noncompliance of section 124 of the Companies Act, 2013. Any person claiming to be entitled to any money transferred under section

124(1) to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed. Since RST Ltd. failed to comply with the requirements of this section as to the preparing of a statement of unpaid dividend, so shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to 5 lakh rupees.

Section 124

15. Manish, a shareholder of a company has not claimed his dividends from the company for the last 10 years due to different reasons. He wants to know whether he will be able to recover the dividends declared by the company for all these years. Explain to him, the relevant legal provisions.

(PYQ Jan 2025)

Solution:

Law: Section 124 of the Companies Act, 2013 contains the provisions relating to Unpaid Dividend Account (UDA).

Unpaid or Unclaimed Dividend to be transferred to the Unpaid Dividend Account.

Where a dividend has been declared by a company but has not been paid or claimed within 30 days from the date of declaration, the company shall, within 7 days from the expiry of the said period of 30m days, transfer the total amount of unpaid or unclaimed dividend to a special account called the 'Unpaid Dividend Account' which shall be opened in any scheduled bank.

If any money transferred to this Unpaid Dividend Account remains unpaid or unclaimed for a period of seven years from the date of transfer of such account, it shall be transferred by the company along with interest accrued thereon to the Investor Education and Protection Fund established under section 125(1) of the Companies Act, 2013 maintained and administered by the Central Government.

As per section 124(6) of the Act, all shares in respect of which the dividend has not been paid or claimed for 7 consecutive years or more shall be transferred by the company in the name of Investor Education and Protection Fund along with a statement containing the prescribed details.

Conclusion: As per the facts of the question, Manish, a shareholder of the company has not claimed his dividends from the company for the last 10 years. Eventually, after expiry of the 7th consecutive year, the shares of Manish along with the dividends due to him for the last 10 years would have been already transferred by the company to the Investor Education and Protection Fund along with a statement containing the prescribed details.

Therefore, Manish should claim his shares along with the dividends due from IEPF in accordance with the prescribed procedure and on submission of prescribed documents.

Section 125 IEPF

16. X-Sale Ltd. declared a dividend in 2015, but some shareholders did not claim it. As per the Companies Act, 2013, the unclaimed dividend was transferred to the Unpaid Dividend Account. After 2022, the unclaimed amount was transferred to the Investor Education and Protection Fund (IEPF).

On the basis of above given facts answer the following question-

(i) Define IEPF and write what amounts are credited to the IEPF?

(MTP MAY 2019)

(ii) How is the IEPF utilized?

(iii) What steps should Mr. Victor, the shareholder take to reclaim his dividend?

(MTP May 25) (MTP Sep. 23)

Solution:

(i) The Investor Education and Protection Fund (IEPF) is a fund established by the Central Government under Section 125 of the Companies Act, 2013. It is meant to collect and utilize unclaimed or unpaid amounts related to investments, such as dividends, matured deposits, and debentures, and to promote investor awareness and protection.

The following amounts inter alia are credited to the IEPF:

- a. Unpaid dividends that remain unclaimed for seven years.
- b. Matured deposits and debentures unclaimed for seven years.
- c. Proceeds from fractional shares due to mergers or bonus issues.
- d. Application money for securities that were never allotted and remained unclaimed.
- e. Interest accrued on unclaimed deposits and debentures.
- f. Donations, grants, and income from investments of the fund.

(ii) IEPF is utilized in the following manner:

The IEPF safeguards investor interests by holding unclaimed dividends, matured deposits, and debentures.

It allows investors to reclaim their money after proper verification.

The fund is also used for investor education, awareness programs, and legal reimbursements for class action suits.

It prevents companies from misusing unclaimed funds and ensures they remain accessible to rightful owners.

(iii) Mr. Victor can recover his unclaimed dividend by following the proper procedure.

Mr. Victor must visit the IEPF portal and download Form IEPF-5. He should fill in all the required details in the Form. After submission, the company will verify and forwards the claim to the IEPF Authority. Upon successful verification the IEPF Authority will process the refund, and Mr. Victor will receive his unclaimed dividend.

Section 127 Consequences for Delay or Default in Payment

17. Anoj Limited declared a final dividend to its shareholders at the Annual General Meeting on 1st August, 2024. As per the decision, the dividend payment was to be made within the stipulated 30- day period. However, due to internal financial constraints, the company failed to pay the declared dividend and did not dispatch the dividend warrants to the shareholders within the required timeframe. The default continued until 15th October, 2024, leading to shareholder complaints.

In light of this scenario, what specific punishments and liabilities could the company and the directors face due to this failure to pay the declared dividend within the 30-day period? Give your answer as per the provisions of the Companies Act, 2013.

(MTP Jan 25)**Solution:**

According to section 127 of the Companies Act, 2013, in case a company fails to pay declared dividends or fails to post dividend warrants within 30 days of declaration, following punishments are applicable:

Every director of the company shall be punishable with imprisonment of up to two years, if he is knowingly a party to the default. And, he shall also be liable to pay minimum fine of ₹ 1,000 for every day during which such default continues.

The company shall be liable to pay simple interest at the rate of 18% p.a. during the period for which such default continues.

Section 127

18. The Annual General Meeting of ABC Bakers Limited held on 30th May, 2024, declared a dividend at the rate of 30% payable on its paid-up equity share capital as recommended by Board of Directors. However, the company was unable to post the dividend warrant to Mr. Ranjan, an equity shareholder, up to 25th July, 2024. Mr. Ranjan filed a suit against the company for the payment of dividend along with interest at the rate of 20 percent per annum for the period of default. Decide in the light of provisions of the Companies Act, 2013, whether Mr. Ranjan would succeed? Also, state the directors' liability in this regard under the Act.

(module)(MTP NOV 2019)**Solution:**

Law: Penalty for non- payment of dividend

Section 127 of the Companies Act, 2013 lays down the penalty for non- payment of dividend within the prescribed time period of 30 days.

According to this section where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within 30 days from the date of declaration of dividend to any shareholder entitled to the payment of dividend:

- (a) Every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment maximum up to two years and with minimum fine of rupees one thousand for every day during which such default continues; and
- (b) the company shall be liable to pay simple interest at the rate of 18% per annum during the period for which such default continues.

Conclusion: Therefore, in the given case Mr. Ranjan will not succeed if he claims interest at 20% interest as the limit under section 127 is 18% per annum

Section 127

19. The Board of Directors of Future Fashions Limited at its meeting recommended a dividend on its paid-up equity share capital which was later on approved by the shareholders at the Annual General Meeting. Thereafter, the directors at another meeting of the Board passed a board resolution for diverting the total dividend to be paid to the shareholders for purchase of certain short-term investments in the name of the company. As a result, dividend was paid to shareholders after 45 days. Examining the provisions of the Companies Act, 2013, state whether the act of directors is in violation of the provisions of the Act and if so, state the consequences that shall follow for the above violative act. **(module)**

Solution:

Law:

- (i) According to section 124 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid or claimed within 30 days from the date of the declaration, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in any scheduled bank to be called the Unpaid Dividend Account.

Further, according to section 127 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within 30 days from the date of declaration to any entitled shareholder,

- (a) Every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment maximum up to two years and with minimum fine of rupees one thousand for every day during which such default continues; and
- (b) the company shall be liable to pay simple interest at the rate of 18% per annum during the period for which such default continues.

Conclusion: In the present case,

- (i) Since, declared dividend has not been paid within 30 days from the date of the declaration to any shareholder entitled to the payment of dividend, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount to Unpaid Dividend Account and since company paid them after 45 days company will also be liable to pay simple interest @18% p.a for delayed period
- (ii) The Board of Directors of Future Fashions Limited has violated section 127 as it failed to pay dividend to shareholders within 30 days due to its decision to divert the total dividend to be paid to shareholders for purchase of certain short-term investments in the name of the company. So they will be liable to punishment mentioned above.

Section 127

20. PQ Ltd. declared and paid 10% dividend to all its shareholders except Mr. Kumar, holding 500 equity shares, who instructed the company to deposit the dividend amount directly in his bank account. The company accordingly remitted the dividend, but the bank returned the payment on the ground that the account number as given by Mr. Kumar doesn't tally with the records of the bank. The company, however, did not inform Mr. Kumar about this discrepancy. Comment on this issue with reference to the provisions of the Companies Act, 2013 regarding failure to distribute dividend.

(module)(MAY 2019)

Solution :

Law: Section 127 of the Companies Act, 2013 provides for punishment for failure to distribute dividend on time. One of such situations is where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with and the same has not been communicated to the shareholder.

Conclusion: In the instant case, PQ Ltd. has failed to communicate to the shareholder Mr. Kumar about non-compliance of his direction regarding payment of dividend. Hence, the penal provisions under section 127 will be attracted.

Section 127

21. Star Computers Limited declared and paid dividend in time to all its equity holders for the financial year 2023-24, except in the following two cases:

- (i) Mrs. Sheela Bhatt, holding 250 shares had mandated the company to directly deposit the dividend amount in her bank account. The company, accordingly remitted the dividend but the bank returned the payment on the ground that there was difference in surname of the payee in the bank records. The company, however, did not inform Mrs. Sheela Bhatt about this discrepancy.
- (ii) Dividend amount of ₹ 50,000 was not paid to the successor of Late Mr. Mohan, in view of the court order restraining the payment due to family dispute about succession. You are required to analyse these cases with reference to provisions of the Companies Act, 2013 regarding failure to distribute dividends.

(module).(MTP NOV 2019)

Solution :**Conclusion:**

- (i) Section 127 of the Companies Act, 2013 provides for punishment for failure to distribute dividend on time. One of such situations is where a shareholder has given directions to the company regarding the payment of the dividend and those directions could not be complied with but the non-compliance was not communicated to him. In the given situation, the company has failed to communicate to the shareholder Mrs. Sheela Bhatt about non-compliance of her direction regarding payment of dividend. Hence, the penal provisions under section 127 will be applicable
- (ii) Section 127, inter-alia, provides that no offence shall be deemed to have been committed where the dividend could not be paid by reason of operation of law. In the present case, the dividend could not be paid because it was not allowed to be paid by the court until the matter was resolved about succession. Hence, there will not be any liability on the company and its directors, etc

Section 127

22. Sun Light Limited was incorporated on 22nd January 2019 with the objects of providing software services. The Company adopted its first financial year as from 22nd January 2019 to 31st March 2020. The financial statement for the said period, after providing for depreciation in accordance with Schedule II of the Companies Act, 2013 revealed net profit. The Board of Directors declared 20% interim dividend at their meeting held on 7th July 2020, before holding its first Annual General Meeting. In the light of the provisions of the Companies Act, 2013 and Rules made thereunder:

(4 Marks) (Nov 2020)

- (i) Whether the Company has complied due diligence in declaring interim dividend?
- (ii) Whether the Company can declare dividend in case it was registered under Section 8 of the Companies Act, 2013?
- (iii) What are the penal consequences in case of failure to pay the interim dividend?

Solution:**Law:**

- (i) According to section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend.
- (ii) According to section 8 (1) of the Companies Act, 2013, a company having licence under Section 8 (Formation of companies with charitable objects, etc.) is prohibited from paying any dividend to its members. Its profits are intended to be applied only in promoting the objects for which it is formed.

Conclusion:

In the instant case,

- (i) Sun Light Limited has complied due diligence in declaring interim dividend as the Interim Dividend was declared by Board of Directors at their meeting held on 7th July, 2020 before holding its first Annual General Meeting. Also, the financial statement revealed net profit so the interim dividend can be paid out of profits of the financial year ending 31st March, 2020.
- (ii) If company is sec 8 company it is prohibited to distribute dividend
- (iii) Penal consequences: According to section 127 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within thirty days from the date of declaration to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment which may extend to two years and with fine which shall not be less than one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of eighteen per cent per annum during the period for which such default continues.

Section 127

23. Smart Limited declared dividend at its Annual General Meeting held on 31-07-2023. The dividend warrant to Mr. A, a shareholder was posted on 22nd August, 2023. Due to postal delay Mr. A received the warrant on 5th September, 2023 and encashed it subsequently. Can Mr. A initiate action against the company for failure to distribute the dividend within 30 days of declaration under the provisions of the Companies Act, 2013?

(MTP May 24)(MTP Oct. 23)

Solution :

Law: Section 127 of the Companies Act, 2013, requires that the declared dividend must be paid to the entitled shareholders within the prescribed time limit of 30 days from the date of declaration of dividend. In case dividend is paid by issuing dividend warrants, such warrants must be posted at the registered addresses within the prescribed time. Once posted, it is immaterial whether the same are received within 30 days by the shareholders or not.

Conclusion: In the given question, the dividend was declared on 31.07.2023 and the dividend warrant was posted within 30 days from date of declaration of dividend (posted on 22nd August, 2023). It is immaterial if Mr. A has received it on 5th September 2023 (i.e., after 30 days from 31.07.2023). Hence, Mr. A cannot initiate action against the company for failure to distribute the dividend within 30 days of declaration.

Section 127

24. The Director of Happy Limited proposed dividend at 12% on equity shares for the financial year 2016-17. The same was approved in the annual general meeting of the company held on 20th September, 2017. The Directors declared the approved dividends. Analysing the provisions of the Companies Act, 2013, give your opinion on the following matters:

- (i) Mr. A, holding equity shares of face value of 10 lakhs has not paid an amount of Rs. 1 lakh towards call money on shares. Can the same be adjusted against the dividend amount payable to him?
- (ii) Ms. N was the holder of 1,000 equity shares on 31st March, 2017, but she has transferred the shares to Mr. R, whose name has been registered on 20th May, 20-17. Who will be entitled to the above dividend?

(RTP MAY 2018)

Solution :**Law:**

- (i) The given problem is based on the proviso provided in the section 127 (d) of the Companies Act, 2013. As per the law where the dividend is declared by a company and there remains calls in arrears and any other sum due from a member, in such case no offence shall be deemed to have been committed where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder.
- (ii) According to section 123(5), dividend shall be payable only to the registered shareholder of the share or to his order or to his banker.

Conclusion: As per the facts given in the question,

- (i) Mr. A is holding equity shares of face value of ₹ 10 Lakhs and has not paid an amount of ₹ 1 lakh towards call money on shares. Referring to the above provision, Mr. A is eligible to get ₹ 1.20 lakh towards dividend, out of which an amount of ₹ 1 lakh can be adjusted towards call money due on his shares. ₹ 20,000 can be paid to him in cash or by cheque or in any electronic mode.
According to the above mentioned provision, company can adjust sum of ₹ 1 lakh due towards call money on shares against the dividend amount payable to Mr. A.
- (ii) Facts in the given case state that Ms. N, the holder of equity shares transferred the shares to Mr. R whose name has been registered on 20th May 2017. Since, he became the registered shareholder before the declaration of the dividend in the Annual general meeting of the company held on 20th September 2017, so, Mr. Raj will be entitled to the dividend.

Section 127

25. (i) Mr. Bindra is holding 950 equity shares of Bio safe Herbals, a section 8 company. Bio safe Herbals is planning to declare dividend in the Annual General Meeting for the Financial Year ended 31-03-2020. Examine whether the act of the company is in accordance with the provisions of the Companies Act, 2013.
- (ii) Kiara, holder of 5000 equity shares of ₹ 100 each of Kanpur Leather Shoes Limited did not pay final call of ₹ 10 per share. Kanpur Leather Shoes Limited declared dividend @ 10%. Examine with reference to relevant provisions of the Companies Act, 2013, the amount of dividend Kiara should receive.

(RTP MAY 2021)

Solution:**Law:**

- (i) According to Section 8(1) of the Companies Act, 2013, the companies licenced under Section 8 of the Act (Formation of companies with Charitable Objects, etc.) are prohibited from paying any dividend to their members. Their profits are intended to be applied only in promoting the objects for which they are formed.

Hence, in the instant case, the proposed act of Bio safe Herbals, a company licenced under Section 8 of the Companies Act, 2013, which is planning to declare dividend, is not in accordance to the provisions of the Companies Act, 2013.

- (ii) As per the proviso to section 127 of the Companies Act, 2013, no offence will be deemed to have been committed by a director for adjusting the calls in arrears remaining unpaid or any other sum due from a member against the dividend declared by the company.

Conclusion: Thus, as per the given facts, Kanpur Leather Shoes Limited can adjust the unpaid call money of ₹ 50,000 against the declared dividend of 10%, i.e. $5,00,000 \times 10/100 = 50,000$. Hence, call money of ₹ 50,000 not paid by Kiara can be adjusted fully from the entitled dividend amount of ₹ 50,000 payable to her.

Section 127

26. Karan was holding 5000 equity shares of ₹ 100 each of M/s. Future Ltd. A final call of ₹ 10 per share was not paid by Karan. M/s. Future Ltd. declared dividend of 10%. Examine with reference to relevant provisions of the Companies Act, 2013, the amount of dividend Karan should receive. **(NOV 2018)**

Solution:

Law: As per the proviso to section 127 of the Companies Act, 2013, no offence will be said to have been committed by a director for adjusting the calls in arrears remaining unpaid or any other sum due from a member from the dividend as is declared by a company.

Conclusion: Thus, as per the given facts, M/s Future Ltd. can adjust the sum of ₹ 50,000 unpaid call money against the declared dividend of 10%, i.e. $5,00,000 \times 10/100 = 50,000$. Hence, Karan's unpaid call money (₹ 50,000) can be adjusted fully from the entitled dividend amount of ₹ 50,000/-.

27. ABC Ltd. has declared dividend of ₹ 2/- per equity share in the general meeting. Mr. Suresh is holding 5000 equity shares of ₹ 10 face value each, on which ₹ 10,000 towards call money is due. Whether the dividend amount payable to him be adjusted against such dues as per the provisions of the Companies Act, 2013? Give reasons for your answer. **(PYQ May 2022)**

Solution:

Law: As per clause (d) of proviso to section 127 of the Companies Act, 2013, where the dividend is declared by a company and there remains calls in arrears or any other sum due from a member, then the dividend can be lawfully adjusted by the company against any such dues.

Conclusion: Thus, ABC Ltd. can adjust the call money dues from Mr. Suresh of ₹ 10,000 against the dividend amount payable to him of ₹ 10,000 (5000 shares x ₹ 2/- per share).