



Section 8 Company

- A Non profit company aimed at promoting
- Commerce, Education, Science, Art, Sports, etc.
 - Profits are reinvested for objective
 - NO dividend payment allowed.

V.V. Imp:

Exemptions granted to section 8 company

1. General Meeting : AGM can be called within 14 days instead of 21 days.
2. Audited financials : can be sent 14 days before meeting instead of 21 days.
3. Minutes of meetings : Recording of minutes within 30 days allowed if articles provide for Confirmation by circulation.
4. Directors : can exceed 15 directors without a special resolution.
5. Independent Directors : NO requirement for independent director.
6. Board Meeting : only 1 board meeting in 6 month required, not 4 as in usual case.
7. Nomination & Remuneration Committee : NOT mandatory to constitute (Section 178) nomination or remuneration committee.

Advantages of Section 8 Company

1. Access to various tax benefit under Income Tax Act 1961 including section 80G.
2. Zero Stamp Duty over registering MOA and AOA.
3. Exempted from having suffix or prefix in name.
4. NO minimum capital requirement to incorporate.
5. Section 8 Co. possess a separate legal distinct entity.

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Specific laws and General laws

During Secretarial Audit, it is important for practicing Company Secretary to segregate (differentiate) laws applicable to company into

- ↳ Industry Specific [Company Act, SEBI, Banking, IROAI], and
- ↳ General laws [Labour law, Environment law]

Segregation should be based on following factors :

1. Key financial Parameters like Turnover, Paid up Share Capital, Net worth, Borrowing, etc.
2. Geographic location : Registered office, units, Divisions, branch, etc.
3. Registration with Authorities : SEZ, Sectoral Authority of IROAI
4. Company Status : listed / unlisted, Public / Private, Holding / subsidiary, Section 8
5. Business Segment (Type) : Manufacturing, trading, Services, e-commerce
6. Shareholder Agreement : Rights and obligation as per Joint Venture.
7. Employee Category : Women, Permanent / Contractual employees, etc.

Various Acts applicable to Industries

1. Trading and Retail Industry

Trading : Buying goods in bulk from manufacturer or Wholesaler and selling them to retailers.

Ex: Company import electronic item from China and sell them to retailers in India.

Retail Industry : Businesses that sell products directly to end consumers.

Ex: Reliance Fresh, DMart

Acts applicable

1. Legal Metrology Act 2009
2. Shops and Establishment Act & Rules
3. Food safety & Standards Act 2006
4. Consumer Protection Act 2019
5. Income Tax Act 1961
6. Goods and Service Tax 2017
7. Acts prescribed to retail activities

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2. IFSC and Bullion Exchange Industry

IFSC : Specialised zone offering financial services to resident and Non resident in Foreign Currency.

Ex: GIFT City

Bullion Exchange : Exchange for trading metals like gold & silver.

Acts applicable

1. SEZ Act 2005
2. SEBI Act 1992
3. FEMA 1991
4. Government Security Act 2006
5. Depositories Act 1996
6. Credit Information Company Act 2005

3. Startup

1. Competition Act 2002
2. FEMA 1999
3. Whistle Blower Protection Act 2014
4. Trade Union Act 1926
5. Companies Act 2013
6. LLP Act 2008

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4. Banking Company and NBFC
 1. Banking Regulation Act 1949
 2. Negotiable Instrument Act 1881
 3. Sale of goods Act 1930
 4. Foreign Contribution Regulation Act, 2010
 5. Prevention of Money Laundering, 2002
 6. Reserve Bank of India 1934
 7. Limitation Act 1963
 8. Indian Stamp Act 1899
 9. Right to Information Act 2005
 10. Securitisation and Reconstruction of financial Asset and Enforcement of Security Interest Act 2002

5. Insurance Sector

1. Insurance Act 1938
2. Insurance Regulatory and Development Authority Act 1999
3. Indian Contract Act 1872
4. Negotiable Instrument Act 1881
5. Limitation Act 1963

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6. Pharma Industry

1. Drugs and Cosmetic Act 1940
2. Pharmacy Act 1948
3. Drugs (Price Control) Order 1995
4. Legal Metrology Act 2009
5. Patent Act 1970
6. Consumer Protection Act 2019
7. Narcotic Drugs and Psychotropic Substance Act 1985

8. Telecom Industry

1. Telecommunication Act 2023
2. Information Technology Act 2000
3. Department of Telecommunication guidelines
4. New Telecom Policy 1999
5. Telecom Regulatory Authority of India 1997

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9. Housing Finance Company

1. National Housing Bank Act 1987
2. Housing Finance Company Direction 2010
3. Guideline on know your customer
4. Guideline on Asset Liability management
5. Guideline on Anti Money laundering measures
6. Corporate Governance Direction 2016
7. Auditor's Report Direction 2016
8. Master Directions of RBI, 2021

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10. Real Estate Company or Infrastructure Company

1. Real Estate Regulation and Development Authority Act 2016
2. Transfer of Property Act 1882
3. Registration Act 1908
4. Special Economic Zone Act 2005
5. Building and other Construction worker Act 1996
6. Interstate Migrant worker Act 1979
7. Public liability Insurance Act 1991
8. Forest Conservation Act 1980

11. Information and Technology Industry

1. Information Technology Act 2000
2. Patent Act 1970
3. Design Act 2000
4. Copyright Act 1957
5. Trademark Act 1999
6. Telecom Regulatory Authority of India 1997
7. Digital Personal Data Protection Act 2023

12. Media and Communication Industry

1. Right to Information Act 2005
2. Information Technology Act 2000
3. Telecom Regulatory Authority of India 1997
4. The Newspaper Act 1956
5. Cine workers and Cinema Theatre worker Act 1981
6. Registration of Newspaper 1956
7. Cinematograph Act 1952
8. The Press Bhaati Act 1990
9. Press Council Act 1978

↳ Imp.

13. Environment Law

1. Environment protection Act, 1986
2. Water (Prevention and Control of Pollution) Act, 1974
3. Airs (Prevention and Control of Pollution) Act, 1982
4. Hazardous Waste (Management and Handling) Rules
5. Plastic waste Management Rules
6. The Biodiversity Act, 2002
7. The Public Liability Insurance Act 1992

↳ Imp.

Effective Contract Management

- Contract lie at the core of running any business. Contract is required to ensure smooth functioning of work.
- All contracts are governed by provisions of Indian Contracts Act 1872.
- An agreement will be valid contract if it made by free consent with lawful consideration.
- Employee contract are most important while starting the venture.
- Contract management involves overseeing (management) agreement made with Supplier, Customer, Partners or Employee. Because if they are not managed properly, regulatory penalties can be enforced.