the whole, of the affairs of a company. It includes a director or any other person occupying the position of a manger, by whatever name called, and whether under a contract of service or not. It is to be noted that the provisions applicable to a managing director regarding his appointment, term of office and the number of companies which can be managed are also applicable to a 'manager'.

Disqualifications of a 'Manager' : A firm, body corporate (company) or association cannot be appointed as a 'Manager' of the company. Besides, the following persons cannot be appointed as manager of a company.

(1) A person who is an *undischarged insolvent* or who has at any time within the preceding 5 years been adjudged an insolvent.

(2) A person who suspends or who has at any time within the preceding 5 years *suspended payment to his creditors* or who has at any time within the preceding 5 years composition with them.

(3) A person who is or who has at any time within the preceding 5 years been *convicted by a court in India of an offence involving moral turpitude.*

The Central Government may, by notification in the Official Gazette, remove the above disqualifications, either generally or in relation to any company or companies specified in the notification.

Appointment of 'Manager' (Section 386) : *No company can appoint any person as 'manager', if he is either the manager or managing director of any other company.* Even then, if the company wants to employ him, then : (a) it must be approved by a resolution passed at the meeting; (b) specific notice of such appointment must be given to every director present in India; (c) it is approved by Central Government who will approve only if a *common manager* is necessary for the proper working of more than two companies.

Remuneration : The manager of a company may, subject to the provisions of Section 198 as applicable to the managing director, receive *remuneration either by way* of a *monthly payment, or by way of a specific percentage of the net profits* of the company or partly by one way partly by the other. Except with the approval of the Central Government, such remuneration shall not exceed in the aggregate 5% of the net profits (Sec. 387).

REVIEW QUESTIONS

1. Briefly state the provisions of the Companies Act regarding the appointment of the directors of a company.
2. "Directors of a company are not only its agents, but they are also in some sense trustees of the company", Discuss.
3. How can the directors of a company be removed from office before the expiry of their terms? Explain the procedure for filling the vacancy caused by the removal of a director.
4. What are the qualifications of a director? When is a person disqualified for appointment as a director of the company?
5. State the powers of the Board of Directors of a company and the restrictions on them.
6. Who is a managing director? How a managing director is appointed? Discuss disqualifications of managing director.
7. Write short notes on (a) whole time director; (b) Manager.

PRACTICAL PROBLEMS

1. Mr. Raman is already a director of fifteen companies. Can he be a Director in one additional company?

   (*Hint* : No. Mr. Raman cannot be the Director in 16 companies at the same time. Section 275 of the Amendment Act 2000 for details.)

2. A private company having two directors has just become a public company by virtue of Section 43-A of the Act. Is it obligatory for the company to appoint a third Director at once?

   (*Hint* : No. The Company need not appoint the third Director at all. Section 252(2) of the Act.)

3. It is necessary that the proposal for the nomination of a person to the position of director in a company be seconded by another shareholder in the meeting for that purpose?

   (*Hint* : No. The Companies Act, 1956, only speaks about proposal and not about seconding. Section 257).

4. The Articles of a company incorporated in 1998 provided that a Director should hold 200 shares of the value of Rs. 10 each as a qualification. At the Annual General Meeting of the company held in September, 2002, an ordinary resolution was passed increasing the share qualification to be held by the Directors to 600 shares. The company then issued notice to the Directors who did not hold 600 shares to acquire the additional qualification shares within one month. 'M', a Director, who has received the notice, seeks your advice. What advice would you give him?

   (*Hint* : 'M' can treat the alteration invalid on the ground that this alteration contravenes Section 279(2) and 270(3) of the Companies Act, 1956. Again, Articles are subordinate to the Companies Act, they cannot contain any contrary provision. 'M' is therefore, advised to treat the alteration as invalid).

5. A public limited company has 15 directors. Out of 15 directors, 4 directors are not subject to retirement by rotation. Examine its validity.

   (*Hint* : According to Section 255 of the Act, the Board constituted is valid. Section 255 for further details).

6. The Board of Directors of SKM Ltd. met only 3 times in the year 2001. A 4th meeting was adjourned twice due to lack of quorum. Is this a violation of Section 285 of the Act?

   (*Hint* : As per Section 288 of the Companies Act, 1956, it is not a violation of Section 285 of the Act).

7. P was appointed as the Managing Director of a company for a period of 5 years. The company for reasons of its financial difficulties decided to windup itself before the expiry of 5 years. P himself voted in favour of the resolution for voluntary winding up of the company. He later claimed compensation for his wrongful dismissal before the time fixed in his service agreement. Can he be allowed to claim damages for breach of agreement?

   (*Hint* : Yes. P is entitled to damages for breach of contract of service even if P was also a party to resolution, for voluntary winding up of the company. When he voted, he voted in the capacity of shareholder and thus, in the interest of the company as a whole).

CHAPTER - 27

MEETINGS AND RESOLUTIONS

CHAPTER OUTLINE

TYPES OF MEETINGS

- STATUTORY MEETING
- ANNUAL GENERAL MEETING
- EXTRA-ORDINARY GENERAL MEETING
- CLASS MEETING

REQUISITES OF A VALID MEETING

- NOTICE
- AGENDA
- CHAIRMAN
- MINUTES

RESOLUTIONS

- ORDINARY RESOLUTION
- SPECIAL RESOLUTION
- RESOLUTIONS REQUIRING SPECIAL NOTICE

It is at the meeting of the company that directors, members, creditors, etc., of a company express their will by passing resolutions. Such meetings are (I) Board of Directors Meeting (explained in the previous chapter) (2) Statutory, (3) Annual (General. (4) Extra-ordinary, (5) Class of shareholders and (6) Creditors

Types of Meetings

- Board of Directors Meeting
- Shareholders Meeting
- Creditors Meeting

- Statutory Meeting
- Annual General Meeting
- Extra-ordinary Meeting
- Class Meeting

Statutory Meeting

Every company limited by shares and every company limited by guarantee and leaving a share capital shall within a period of not less than one month and not more than six months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company. Such a meeting shall be called the 'Statutory Meeting". Section 165(1)]. This meeting is held once during the life lime of the company. A private company, an unlimited company or a company limited by guarantee and not having a share capital is not required to hold a statutory meeting. The notice for calling the meeting must he given ill least 21 days before the meeting. The notice convening the statutory meeting must specifically state that the meeting is the statutory meeting.

The object of such a meeting is to ensure that at an early date, the members may have an opportunity of ascertaining the precise position and prospect of the company. According to Palmer, "The object of the statutory meeting is to put the shareholders of the company at as early a date as possible in possession of all the important facts relating to the new company".

Annual General Meeting

Every company must in each year hold in addition to any other meeting, an annual general meeting. The notice convening the meeting must specify that it is a notice of the annual general meeting.

The first annual general meeting must be held within 18 months from the date of incorporation. In that case, the company is not required to hold an annual general meeting in the year of incorporation or in the following year. Thereafter, it must be held in each year and there shall not be a gap of more than fifteen months between two annual genera! meetings. However, the Registrar has the power to extend the time for holding the annual general meeting (except the first annual general meeting) by a period not exceeding three months.

Extraordinary General Meeting

Every general meeting of the company which is not statutory or the annual general meeting is an 'extraordinary general meeting'. This meeting is generally held for the purpose of dealing with any extraordinary matter, which cannot be postponed till the next annual general meeting. The extraordinary general meeting can be convened either by the directors whenever they think fit or on the requisition of the members of the company. Where the directors think fit to convene a meeting, they do so by resolution passed at a duly convened and constituted meeting of the

Board. If it any time sufficient number of directors to form a quorum are not present in India, any director or any two members of the company may call an extraordinary general meeting.

Class Meetings

Class meetings are generally held for obtaining the consent of a particular class of shareholders for altering their rights and privileges or for the conversion of one class into another. For instance, there may be a meeting of preference share holders for paying then- rate of dividend or investing them into equity shares.

REQUISITES OF A VALID MEETING

Proper authority : A meeting to be valid must be called by a proper authority. It is the Board who can normally convene a meeting. But under certain circumstances meetings can also be convened by the members. Company Law Board or the Central Government.

Notice : The second requirement of a valid meeting is that all those who are concerned with the business of the meeting and are entitled to attend it, are communicated of the date, time, place and business of the meeting. Such a communication is called Notice of the Meeting. 'Not less than 21 days' means that both the date of the meeting and the date on which it is served are lo be excluded, i.e. 21 days notice. Where the notice is sent by post. It shall be deemed to have been received at the expiration of forty-eight hours after the posting.

The requirement of '21 days notice' of the meeting overrides any provision in the articles for a shorter period. But the articles can validity provide for longer notice than the statutory minimum period.

Ordinary and Special business : Notice of meeting must contain a statement of nature of the business to betransacted in the meeting. Section 173 classifies the business into ordinary business and special business.

Ordinary business : The following business which is transacted at every annual general meeting is considered as ordinary business: (i) The consideration of accounts, balance sheet and the report of the Board of directors and auditors, (ii) The declaration of dividend. (iii) The appointment of directors in place of those of retiring, (iv) The appointment of and fixing the remuneration of auditors.

Special business : Any business other than ordinary business transacted at an annual general meeting and all business transacted at the statutory meeting and at any extraordinary general meeting is deemed as special business. In case of any items of special business to be transacted in the general meeting, an explanatory statement shall be annexed lo the notice of the meeting. That statement must set out all material facts concerning each such item of the business including, in particular the nature of the concern or the interest if any. Therein of any director and the manager.

Quorum. [Section 174] : Five members personally present in the case of public companies and two persons personally present in the case of private company will be the quorum for a meeting of the company. No proxy is counted in forming the quorum.

Minutes of the meeting : It is incumbent on the company to maintain minutes of proceedings of general meetings, moral obligation of the Board of Directors meeting and oilier meetings. Every company shall cause entries in the minutes of proceedings of every meeting within 30 days of the conclusion of every such meeting concerned.

RESOLUTIONS

Decisions of the company are made by resolutions of its members, passed at meetings of members. A proposal when passed and accepted by the members becomes resolution. Three kinds of resolutions are recognised by the Companies Act. I. Ordinary resolutions. 2. Special resolutions. 3. Resolutions requiring a special notice.

An ordinary resolution is one which is passed at a general meeting by a simple majority of members entitled to vote therein.

A resolution shall be a special resolution when - (a) intention to propose the resolutions as a special resolution has been duly specified in the notice; (b) the notice required under the Act (21 days) has been duly given; and (c) the votes casted in favour of the resolution by members entitled to vote either in person or by proxy are not less than three times the number of votes, if any, cast against the resolution.

A special resolution is .required for the following purposes .

1. To alter the provisions of the memorandum for changing the place of registered office from one State to another or objects of the company. [Section 17]. .
2. To change the name of the company. [Section 21].
3. To alter the articles of the company [Section 31].
4. To offer further issue of subscribed capital when shares are offered to outsiders. [Section 81].
5. To create reserve capital. [Section 99].
6. To reduce the share capital of the company. [Section 100].
7. To authorise payment of interest out of capital. [Section 208].
8. To request the Central Government to appoint inspectors for investigation of the affairs of the company. [Section 237]
9. To authorise payment of remuneration to directors who are not in the whole time employment of the company. [Section 309].
10. To make the liability of directors unlimited. [Section 323].
11 To have the company wound up by the Court. [Section 433].
12. To wind up the company voluntarily [Section 484].

In the above cases, the notice of intention to move the resolution shall be given to the company not less than 14 days before the meeting. In computing 14 days the day on which the notice is served and the day of the meeting are excluded. The company must, immediately after receiving the notice, give its members notice of the proposed resolution in the same manner as it gives notice of any meeting. If that is not practicable, the company must give notice either by advertisement in a local newspaper or in any other mode allowed by the articles at least 7 days before the meeting. [Section 190].

Resolutions requiring Special Notice : In addition to the above two types of resolutions, there is another class of resolution provided under the Companies Act which require a special notice to be given in respect of them. Special notice, is required in the following cases.

1. For the appointment of an auditor other than the retiring auditor. (Section 225).

2. For express resolution that the retiring auditor shall not be re-appointed. (Section 225).
3. For removing a director before the expiry of his term. (Section 284).
4. For appointing another person as director in place of the director removed. (Section 284).

In the above cases, the notice of intention to move the resolution shall be given to the company not less than 14 days before the meeting. In computing 14 days the day on which the notice is served and the day of the meeting are excluded. The company must, immediately after receiving the notice, give its members notice of the proposed resolution in the same manner as it gives notice of any meeting. If that is not practicable, the company must give notice either by advertisement in a local newspaper or in any other mode allowed by the articles at least 7 days before the meeting (Section 190).

REVIEW QUESTIONS

1. What are the various kinds of company meetings" Stale provisions of the Companies Act in relation to such meetings.
2. What do you understand by a statutory meeting?
3. What are the objects of holding an annual general meeting of a company?

3. What are the objects of holding an annual general meeting of a company?

4. What arc the different classes of resolutions which may be passed by a company" Give the instances of the business for which each class of resolution is required?
5. Mention the various resolutions and agreements which are required to be registered with the Registrar of Companies.
6. Write short notes on (a) Special Resolution); (b) Minutes of the meeting.

PRACTICAL PROBLEMS

1. A public limited company was incorporated in Tamilnadu State. The company wished to hold its Annual General Meeting in Delhi. Can it do so?

   (Hint - Read Section I C)6(2) of the Act. According to this Section, the meeting can be held either at Registered Officer or within the limits of same city, town or village of Tamilnadu only).

2. Can a company hold its Annual General Meeting or an Extraordinary General Meeting on a public holiday"

   {Hint : No. The company can never hold an Annual General Meeting on a public holiday).

3. By mistake, the Secretary of a company failed to send notice to 20 members of the company of a special resolution to be proposed at an annual general meeting. The special resolution was passed at the meeting. Discuss the validity.

   (Hint : The resolution is valid. Any accidental omission does not invalidate the proceeding of the meeting).

4. S, a member of a company, gives a proxy to M, in pursuance of which M attends the meeting) the company, after satisfying of all requirements of law. S himself attended the meeting and voted on a particular resolution. S's vote was rejected. Discuss the validity of M's vote.

   (Hint : The vote of S is valid. A proxy can act in the absence of his principal only).

5. The Articles of Association of a company require the instrument appointing a proxy to be received by the company 96 hours before the meeting. Is it a valid requirement?

   {Hint : No. It is not a valid requirement on the ground that 48 hours is the longest period prescribed by the Act)

Books of Account (Sec 209)

Section 209 of the Companies Act provides that ever)' company shall keep at its registered office or at such other place in India as the Board of director's thinks fit, proper books of account with respect to :

(a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure take place;

(b) all sales and purchases of goods by the company;

(c) the assets and liabilities of the company; and

(d) in the case of a company engaged in production, processing, manufacturing or mining activities, such particulars relating to utilisation of material or labour or to other items of cost as may be prescribed by the Central Government.

Where a company has a branch office, whether in India, or outside proper summarised returns of such branch office made up to dates at intervals of not more than three months are to be sent by the branch office to the registered office. {Sec 209 (2)]

The books of account must give a true and fair view of the state of affairs of the company and explain its transactions. Further they must be kept on accrual basis and according to the double entry system of accounting. [Sec 209 (3)]

Where Books of Account be kept? — The books of account should ordinarily be kept at the registered office of the company. These or any of these books of account may, how- ever be kept at any other place if the Board of directors so decides. When the Board so decides, the company must within seven days of the decision, notify the full address of the place to the Registrar.

Where a company has a branch office, whether in India or outside India, it is deemed to have complied with the above provisions, if proper books of account relating to the transactions effected at branch office are kept at that office. {Sec 209 (1) (2)}

Inspection of books — These books shall be open to inspection by any director during business hours as also by the Registrar or an officer authorised by the Central Government. It is now provided that the books of account relating to a period of at least 8 years immediately proceeding the current year or if the company has not been in existence For 8 year' then for the whole period of its existence shall be preserved in good order.

In case of default: In case of default on the part of any of the following persons ti secure compliance with the above requirements renders him liable in respect of each often to be punished with imprisonment up to 6 months or a fine up to Rs. 1,000 or with both The persons are - (i) Managing Agent or secretaries and treasurers or managing director of manager; (ii) partners in a managing agency firm or a firm of secretaries and treasurers (iii) every director, if they are a body corporate; (iv) every director of the company, if it has neither a managing agent nor secretaries and treasurers nor managing director nor manager. Further, it has been mentioned that if any person has been charged by any of the above' persons to comply with the requirements of the section and he makes a default, then he will be liable to the same punishment of imprisonment to six months or a fine up to Rs. 1,000 both, and the person so charging will be excused.

Annual Accounts and the Balance Sheet (Sec 210)

Section 210 requires that at every annual general meeting of the company, the Board of Directors must lay before the company a Balance Sheet and a Profit and Loss Account and in case of non-profit Companies, an Income and Expenditure Account should be submitted. The Profit and Loss Account or income and expenditure account shall relate, in the case of the first annual general meeting of the company, to the period from the date c incorporation to a day which shall not precede the day of the meeting by more than nine months. In the case of any subsequent annual general meeting of the company, it shall relate to the period beginning on the day immediately after the period for which the account was last submitted and ending with a day which shall not precede the day of the meeting b more than six months. {Sec 210 (3)].

The period to which the accounts aforesaid relate is referred to as the financial year. The financial year may be less or more than the Calendar year, but it shall not exceed fifteen months. It may extend to eighteen months, where special permission has been granted i that behalf by the Registrar. Every balance-sheet and very profit and Loss Account of company must give a "true and fair"' view of the affairs of die company and the company profit and Loss respectively at the end of the financial year to which they relate. The form the Balance-sheet and the details to be given in the profit and loss account are set out i Schedule VI to the Act. The requirements of this section will not apply to banking, insurance and electricity companies which are governed by their respective Acts.

Every Balance-Sheet and every Profit and Loss Account of a company must be duly signed on behalf of the Board of directors by the manager or secretary, if any, and not lei than two directors of the company. One of the directors who sign must be a Managing director where there is one (Sec 215). The Profit and Loss Account must be annexed to the balance-sheet and the auditor's report must be attached there to. If there is any separate special or supplementary report by the auditor, this report should also be attached in the balance-sheet. (Sec. 216)

Board's Report (Sec. 217)

A report by the Board of directors must be attached to every balance-sheet laid before the company in general meeting. The report must deal with:

(a) the state of the company's affairs

(b) the amounts, if any, which it proposes to carry to any reserves either in such balance-sheet or in a subsequent balance-sheet and

(c) the amount, if any, which it recommends shall be paid by way of dividend

(d) material changes affecting the financial position of the company which have occurred between the date of the balance-sheet and the date of the report and

(e) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed.

The Board's report must also deal with any changes which have occurred during the financial year;

(a) in the nature of the company's business

(b) in the company's subsidiaries or in the nature of business carried on by them and

(c) generally in die classes of business in which the company has an interest.

The Board's report should also include a statement showing the names of employees of the company getting remuneration at a rate which is not less than such sum per month as may be prescribed. The sum prescribed (effective from 18th September 1990) is Rs. 12,000/- or more. The statement should indicate whether any such employee is a relative of any director or manager of the company.

The Board is also bound to give the fullest information and explanation in its report, on every reservation, qualification or adverse remark contained in the auditor's report. The Board report must be signed by its chairman if he is authorised, in that behalf by the Board. Where the chairman is not authorised, die report is to be signed by such number of directors as are required to sign the Balance Sheet and Profit and Loss Account of the company.

Forms And Contents Of Balance-Sheet and Profit and Loss Account (Sec 211)

It has been stated in the Act that every Balance-Sheet of the company must be prepared in the form set out in PART I of Schedule VI or in such other form as may be approved by the central 'Government. It must give a 'true' and 'fair' view of the state of affairs of the company as at the end of the financial year.

Similarly, die profit and Loss Account of the company must fulfil the requirements of Part II of schedule VI. The Profit and Loss Account of the Company must give a true and fair view of the Profit or Loss of the company for the financial year.

The above provisions do not apply to insurance or banking company or electricity company or to any other companies where a form of Balance-Sheet and Profit and Loss Account has been specified under the Act governing such class of companies. Circulation of Accounts (Sec 219)

A copy of Profit and Loss Account, the balance-sheet, the auditor's report and every other document required by law must be sent at least 21 days before the meeting to every member of the company, to every trustee for die debenture holders and to every person so entitled.

If default is made in complying with the provisions of Section 219, the company and very officer of the company who is in default are liable for punishment which may extend to Rs. 500.

Filing of Accounts with the Registrar (Sec 220)

Under Section 220 it has been stated that three copies of the balance sheet along with reports and documents must be filed with die Registrar within 30 days from the date on which the balance-sheet and the profit an Loss Account were placed before a company at annual general meeting. Further, it has been mentioned that in any year where the annual general meeting has not been held, these documents shall be filed with the Registrar within 30 days from the latest day on or before which that meeting should have been held in accordance with the provisions of the companies Act 1956.

This provision has been provided to enable the shareholders and others to find out from the inspection of the balance-sheet, director's report and other documents, the affairs of the company and its financial condition.

AUDIT AND AUDITORS

The 'Audit' of a company is intended for the protection of the shareholders and the Auditor' is a person from whom it is expected that lie will examine the accounts maintained by the directors with a view to informing the shareholders of the true financial position of the company,

Appointment of Auditors (Sees 224, 224A and 225)

Every company must, at each annual general meeting appoint an auditor or auditors to hold office from the conclusion of the meeting to the conclusion of next annual general meeting and must within seven days of the appointment give intimation there of to the auditor so appointed, and such an auditor must within 30 days of the intimation of his appointment, inform the Registrar in writing that he has accepted the appointment or has refused it.

A retiring auditor must be re-appointed unless he is disqualified for appointment as auditor or he has expressed his unwillingness to be appointed or the company has passed a resolution against his re-appointment, or notice has been given to the company for the appointment of another person as auditor and that other person has become incapable of acting. If an auditor is not appointed or re-appointed at the annual general meeting, the company should notify the fact to the Central Government within seven days thereafter and there upon the Central Government may make the appointment.

Restrictions on Appointment

The maximum number of companies which an auditor can audit are - in the case of a person or firm holding appointment as auditor of a number of companies which have a paid-up capital of less than Rs. 25 lakhs; Twenty such companies, further, in any other case, twenty companies out of which not more than ten should be companies having a paid up share capital of Rs. 25 lakhs or more {(Sec 224 (]-C)].

Further, it has been stated that no company or its Board of directors, can appoint or re-appoint any such person who is in full-time employment elsewhere or firm as its auditors, if he or it already holds appointment as auditor of the specified number of companies. In the case of a firm of auditors, specified number of companies is construed as specified number of companies per partner of the firm who is not in full-time employment elsewhere {Sec224(l-B)].

First Auditors: The first auditors of a company arc appointed by the Board of directors within one month of the company's registration, and they shall hold office until the conclusion of the first annual general meeting, unless removed by the company at an earlier general meeting. An auditor other than the first auditor may be removed by die company in general meeting with the previous approval of the Central Government (Sec 224). For the appointment as auditor of a person other than the retiring auditor, special notice of fourteen days of the intention to move a resolution at the annual general meeting should be given to the company.

On receipt of such notice, the company should immediately send a copy there of to the retiring auditor, who is entitled to make a written representation of reasonable length, which the company should bring to the notice of the members otherwise the auditor is entitled to have his representation read out at the meeting.

Section 225 provides that if the auditor abuses the right so as to secure needless publicity for defamatory matter, the Company Law Board may, on application prohibit the circulation of die representation.

Casual Vacancy: [Sect 224 (6)] provides that the Board of directors may fill any casual vacancy in the office of an auditor. If any such vacancy continues, the remaining auditor or auditors may continue with the work. But where such vacancy is caused by the resignation of an auditor, the vacancy can only be filled by the company in general meeting. Any auditor appointed in a casual vacancy holds office until the conclusion of the next annual general meeting.

Remuneration of Auditors [Sec 224 (8)]

The remuneration of auditors is fixed in the general meeting. But in the case of an auditor appointed by the Board of directors or the Central Government, the remuneration may be fixed by the Board or the Central Government as the case may be. Any sums paid by the company in respect of the auditors expenses arc deemed to be included in the amount of remuneration. [Sec 224-(283)]

Removal of Auditors [Sec 224-225]

The First Auditors appointed by the Board can be removed by the company in a general meeting. In other cases, an auditor can be removed before the expiry of his term by the company in a general meeting provided the previous approval of the Central Government is obtained in that behalf. Special notice of such a resolution must be given and the procedure laid down above regarding the non-appointment of a retiring auditor must be followed.

Qualifications and Disqualifications of an Auditor [Section 226]

Only a person who is qualified as an auditor can be appointed as an auditor for any public or Private Company. It means a person shall not be qualified for appointment as auditor of a company unless he is a chartered Accountant within the meaning of the chartered Accountant within the meaning of the Chartered Accountants Act 1949.

A firm where of all the partners practising in India arc qualified for appointment as afôresaid may be appointed by its firm name to be auditor of a company, in which case any partner. So practising may act in die name of the firm.

Disqualifications — The following persons arc disqualified from being appointed as auditors of a company:

(a) a body corporate,

(b) an officer or employee of the company.

(c) a person who is a partner, or who is in the employment of an officer or employee of the company;

(d) a person who is indebted to the company for an amount exceeding one thousand rupees or who has given any guarantee or provided any security in connection with the indebtedness of any third person to the company for an amount exceeding one thousand rupees;

(e) a person who is a director or member of a private company or a partner of a firm, which is the managing agent or the secretaries and treasurers of the company;

(f) a person who is a director or the holder of shares exceeding five per cent in nominal value of the subscribed capital, of any body corporate which is the man- aging agent, or the secretaries and treasurers of the company.

But any shares held by such person as nominee or trustee for any third person and in which the holder has no beneficial interest shall be excluded in computing the percentage of shares held by him for the purpose of this clause.