

I. CHANGES RELATED TO GOVERNMENT COMPANY AND APPLICABILITY OF CAG:

Sub-sections (5) and (7) of section 139 of the 2013 Act provide for power of the Comptroller and Auditor-General (CAG) to appoint an auditor in a government company.

Further, sub-section (5) of section 143 of the Act provides for power to the CAG to conduct supplementary audit.

The latest changes pertaining to section 143 have been made in the wake of companies facing difficulties with regard to applicability of the provision.

Providing more clarity, the Ministry has now included "any company owned or controlled, directly or indirectly, by the central government, or by any state government or governments, or partly by the central government and partly by one or more state governments," in sub-section (5) of the section 143 after the words "in the case of a government company".

For such entities, CAG should appoint the auditor under and provide directions for the manner in which the accounts of the company are required to be audited, among others.

The changes have been made by way of Companies (Removal of Difficulties) Seventh Order, 2014, dated September 4, 2014.

In July, the Ministry had clarified that provisions regarding appointment of auditors by CAG for 'deemed government companies' would remain unchanged under the new Companies Act.

As per the 2013 Act, in case of a government company or any other company directly or indirectly owned or controlled by the central or state government, the CAG would appoint an auditor within 180 days from commencement of a financial year.

The 2013 Act also says that the first auditor for such companies would need to be appointed by the CAG within 60 days from the date of registration of the company.

In case the CAG does not appoint such an auditor within the said period, the company's board would have to appoint such an auditor within the next 30 days.

Under Section **139(8)(ii) of the 2013 Act**, Casual vacancy shall be filled by CAG within 30 days. If CAG fails to fill the vacancy within given time then BOD shall fill the vacancy within 30 days.