



**THE COMPANIES ACT, 2017**

**COMMENTARY**

**Audit | Tax | Advisory |  
Business Services & Outsourcing**



## A BRIEF CONTAINING SIGNIFICANT CHANGES IN NEW COMPANIES ACT 2017

The Companies Act, 2017 (Act) has been promulgated on 30<sup>th</sup> May, 2017. This Act has repealed the Companies Ordinance, 1984 (Ordinance), except for Part VIII A of the Ordinance consisting of sections 282A to 282 N along with all related or connected provisions of the repealed Ordinance, which are applicable to Non-banking Finance Companies.

The major focus of the new Act is the facilitation to the corporate sector and other stakeholders as well as strengthening of the regulatory framework, abolishing unnecessary requirements, maximum emphasis on the use of technology, a softer regime for companies without public stakes and protection of the interest of shareholders.

The Act also facilitates regulation of public sector companies and protection of interest of creditors. Other features include the introduction of use of technological advancements by allowing communication between company and its members and the company and Securities & Exchange Commission of Pakistan (SECP and the Registrar) through electronic means, passing of resolution by members through circulation, minimum regulatory requirements for single member companies, ineligibility of persons not holding a National Tax Number as per the provisions of Income Tax Ordinance 2001 to become a director, added responsibilities for the directors and auditors, additional safeguards for the creditors and investors, improved regime for winding up proceedings, prevention of offenses relating to fraud, money laundering and terrorist financing and incorporation of Free Zone company and agricultural promotion company.

In a positive development, a lot of filing, registration and winding up requirements have been simplified with a proactive thrust towards automation, i.e. e-filing and a simple one-page memorandum having principal line of business and prohibitory clauses has been introduced. Keeping in view the importance of Islamic Finance, the concepts of "Shariah-compliant Company" and "Shariah-compliant security" have also been introduced.

In this commentary, we have highlighted key changes made by the Act, either by amendments to the previous ordinance or by introduction of new provisions.

This commentary does not impart any legal opinion and is not an exhaustive account of all amendments made. We have attempted to highlight substantive amendments in order to facilitate an easy understanding of the new Act.

We hope that this report will help you to understand the new requirements of the Act.



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SECTION  
(CLAUSE)

KEY CHANGES IN COMPANIES ACT 2017

PART I - PRELIMINARY

Definitions

Section 2(1)

**Advocate**

New Definition included in Companies Act.

Advocate shall have the same meaning as assigned to it in section 2 of the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973);

Section 2 (4)

**Associated companies and associated undertakings**

Amendment in definition.

The definition of associated companies and associated undertakings has been amended to exclude companies interconnected by virtue of directorship of a person appointed as an independent director. This change will help in bringing the definition in line with definition of related parties in International Accounting Standard 24 - Related party transactions: IAS 24 provided that the two entities are not related parties simply because they have a director or other member of management personnel in common.

Section 2 (7)

**Beneficial ownership of shareholders or officer of a company**

New definition.

"Beneficial ownership of shareholders or officer of a company" means ownership of securities beneficially owned, held or controlled by any officer or substantial shareholder directly or indirectly, either by:

- a) him or her;
- b) the spouse of an officer of a company, not being herself or himself an officer of the company.
- c) the minor son or daughter of an officer where "son" includes step-son and "daughter" includes step-daughter; and "minor" means a person under the age of eighteen years;
- d) in case of a company, where such officer or substantial shareholder is a shareholder, but to the extent of his proportionate shareholding in the company.

Provided that "control" in relation to securities means the power to exercise a controlling influence over the voting power attached thereto.

Provided further that in case the substantial shareholder is a non-natural person, only those securities will be treated beneficially owned by it, which are held in its name

**Explanation.**

For the purpose of this Act –substantial shareholder, in relation to a company, means a person who has an interest in shares of a company as follows:

- a) the nominal value of which is equal to or more than ten per cent of the issued share capital of the company; or
- b) which enables the person to exercise or control the exercise of ten per cent or more of the voting power at a general meeting of the company;

**SECTION  
(CLAUSE)  
Section 2 (9)**

**KEY CHANGES IN COMPANIES ACT 2017**

**Body corporate**

Amendment in the definition.

The definition has been further elaborated to include the following:

- a) A company incorporated under this Ordinance or company law;
- b) A company incorporated outside Pakistan; and
- c) Statutory body declared as body corporate in the relevant statute

**Section 2 (11)**

**Books of accounts**

Amendment in the definition.

Books of accounts has been further elaborated to include the following:

- a) all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;
- b) all sales and purchases of goods and services by the company;
- c) all assets and liabilities of the company; and
- d) items of cost in respect of production, processing, manufacturing or mining activities;

**Sec 2 (24)**

**Debentures**

Amendment in definition.

Term finance certificates or any other instrument of Company evidencing a debt whether constituting a mortgage or charge on the assets has been included in definition of Mortgage.

**Section 2 (29)**

**Employees' stock option**

New definition included.

It means the option given to the directors, officers or employees of a company or of its holding company or subsidiary company or companies, if any, which gives such directors, officers or employees, the right to purchase or to subscribe for shares of the company at a price to be determined in the manner as may be specified.

**Sec 2 (30)**

**Expert**

New definition included.

Expert includes; an engineer, a valuer, an actuary, a chartered accountant or a cost and management accountant and any other person who has the power or authority to issue a certificate in pursuance of any law for the time being in force or any other person notified as such by the Commission.

**Section 2 (31)**

**Financial institution**

Amendment in definition.

The whole definition remains unchanged except for an additional point excluding the State Bank of Pakistan from the definition of Financial Institution.



**SECTION  
(CLAUSE)  
Section 2(33)**

**KEY CHANGES IN COMPANIES ACT 2017**

**Financial statements**

New definition included.

Financial statements in relation to a company, includes the following:

- a) a statement of financial position as at the end of the period;
- b) a statement of profit or loss and other comprehensive income or in the case of a company carrying on any activity not for profit, an income and expenditure statement for the period;
- c) a statement of changes in equity for the period;
- d) a statement of cash flows for the period;
- e) notes, comprising a summary of significant accounting policies and other explanatory information;
- f) comparative information in respect of the preceding period; and
- g) any other statement as may be prescribed.

**Section 2(35)**

**Foreign company**

New definition included.

Foreign company means any company or body corporate incorporated outside Pakistan, which—

- a) has a place of business or liaison office in Pakistan whether by itself or through an agent, physically or through electronic mode; or
- b) conducts any business activity in Pakistan in any other manner as may be specified.

**Section 2 (32)**

**Financial period**

New definition Included.

Financial period in relation to a company or any other body corporate, means the period (other than financial year) in respect of which any financial statements thereof are required to be made pursuant to this Act.

**Section 2 (42)**

**Mortgage or charge**

New definition included.

Mortgage or Charge means an interest or lien created on the property or assets of a company or any of its undertakings or both as security.

**Section 2(43)**

**Net worth**

New definition included.

Net worth means the amount by which total assets exceed total liabilities.

**Section 2(46)**

**Ordinary resolution**

New definition Included.

Ordinary resolution means a resolution passed by a simple majority of such members of the company entitled to vote as are present in person or by proxy or exercise the option to vote through postal ballot, as provided in the articles or as may be specified, at a general meeting.

**SECTION  
(CLAUSE)  
Section 2(47)**

**KEY CHANGES IN COMPANIES ACT 2017**

**Postal ballot**

New definition included.

It means voting by post or through any electronic mode:

Provided that voting through postal ballot shall be subject to the provision in the articles of association of a company, save as otherwise provided in this Act.

**Section 2(48)**

**Prescribed**

New definition included.

Prescribed means prescribed by rules made by the Federal Government under this Act.

Whereas definition in repealed Ordinance of "Prescribed" was defined:

as respects the provisions of this Ordinance relating to the winding up of companies and other matters requiring to be determined or decided by the Court, prescribed by rules made by the Supreme Court in consultation with the High Courts or, where the Supreme Court advises the Federal Government to do so, by the Federal Government in consultation with the High Courts; and as regards the other provisions of this Ordinance, prescribed by rules or regulations made by the Federal Government [or the Commission as the case may be] after previous publication in the official Gazette.

**Section 2(48)**

**Promoter**

New definition included.

Promoter means a person-

- a) who is named as a subscriber to the memorandum of association of a company; or
- b) who has been named as such in a prospectus; or
- c) who has control over affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or
- d) in accordance with whose advice, directions or instructions the board of the company is accustomed to act.

Provided that—

- i. nothing in sub-clause (d) shall apply to a person who is acting merely in a professional capacity; and
- ii. nothing contained in sub-clause (d) shall apply to the Commission, registrar or any authorised officer by virtue of enforcement or regulation of the provisions of this Act or any rules, regulations, instructions, directions, orders thereof.

**Section 2(53)**

**Public interest company**

New definition included.

Public interest company means a company which falls under the criteria as laid down in the Third Schedule to this Act or deemed to be such company under section 216.



**SECTION  
(CLAUSE)  
Section 2(54)**

**KEY CHANGES IN COMPANIES ACT 2017**

**Public sector company**

New definition included.

Public sector company means a company, whether public or private, which is directly or indirectly controlled, beneficially owned or not less than fifty-one percent of the voting securities or voting power of which are held by the Government or any agency of the Government or a statutory body, or in respect of which the Government or any agency of the Government or a statutory body, has otherwise power to elect, nominate or appoint majority of its directors and includes a public sector association not for profit, licensed under section 42.

Provided that nomination of directors by the Commission on the board of the securities exchange or any other entity or operation of any other law shall not make it a public sector company.

**Section 2 (55)**

**Redeemable capital**

Amendment in definition.

The definition amended to include Sukuk and other forms of finances other than investment in share capital of the company.

**Section 2(64)**

**Shariah compliant company**

New definition included.

Shariah compliant company means a company which is conducting its business according to the principles of *Shariah*.

**Section 2 (68)**

**Subsidiary company**

Subsidiary Company or Subsidiary, in relation to any other company (that is to say the holding company), means a company in which the holding company:

- a. controls the composition of the board; or
- b. exercises or controls more than one-half of its voting securities either by itself or together with one or more of its subsidiary companies.

Provided that such class or classes of holding companies shall not have layers of subsidiaries beyond such numbers, as may be notified.

**Explanation** For the purposes of this clause:

- a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (a) or sub-clause (b) is of another subsidiary company of the holding company;
- b) (ii) the composition of a company's board shall be deemed to be controlled by another company if that other company by exercise of power exercisable by it at its discretion can appoint or remove all or a majority of the directors;
- c) (iii) the expression **company** includes a body corporate;
- d) (iv) **layer** in relation to a holding company means its subsidiary or subsidiaries.

**SECTION**                      **KEY CHANGES IN COMPANIES ACT 2017**

**(CLAUSE)**

**Section 2 (70)**

**Turnover**

Turnover means the aggregate value of sale, supply or distribution of goods or on account of services rendered, or both, net of discounts, if any, held by the company during a financial year.

**Section 2 (73)**

**Voting right**

Voting right means the right of a member of a company to vote on any matter in a meeting of the company either in person or through video-link or by proxy or by means of postal ballot, Provided that attending of meeting through video-link shall be subject to such facility arranged by the company and in the manner as may be specified, save as otherwise provided in the Act.

**Section 3**

**Non-trading companies with purely provincial objects**

The Act shall apply to non-trading companies objects of which are confined to a single province. The powers conferred on the Minister Incharge of the Federal Government or Commission may be exercised by the Minister Incharge of the Provincial Government.

In the event if a non-trading company formed on above basis extends its activities beyond the territorial limits of the respective provinces then it will attract penal provision under the Act.

**PART II - JURISDICTION OF COURT**

**Section 5**

**Jurisdiction of the court and creation of benches**

The jurisdiction of the court has been simplified and reinforced. No Civil Court or any other Court shall have jurisdiction to entertain any suit or proceeding respect of any matter which the High Court having jurisdiction in the places at which the registered office of the Company is situated is empowered to determine. There shall be in each High Court, one or more benches, each to be known as Company Bench. Also a new provision has been added to provide the office of ‘Registrar of the Company Bench’ in each of the High Courts.

The new provision relating to Registrar is reproduced below:

(5) There shall be a Registrar to be known as “Registrar of the Company Bench” duly notified by the Chief Justice of the respective High Court who shall be assisted by such other officers as may be assigned by the Chief Justice of the respective High Court.

(6) The Registrar of Company Bench shall perform all the functions assigned to it under the Act including all ministerial and administrative business of the Company Bench such as receipt of petitions, applications, written replies, issuance of notices, service of summons and such other functions or duties as may be prescribed under section 423.

(7) The Chief Justice of respective High Courts, if deemed appropriate, may also establish a Secretariat in each Company Bench of the respective High Court in such form and manner to provide secretarial support and to perform such functions as may be prescribed under section 423.

**SECTION  
(CLAUSE)  
Section 6**

**KEY CHANGES IN COMPANIES ACT 2017**

**Procedure of the court and appeal**

Detailed procedure of filing of written submissions to the Court has been laid down. Such written submission shall be filed with the Registrar of Company Bench. No adjournment shall be granted once the Court has fixed a date of hearing except in exceptional circumstance beyond the control of the party. The petition proceeded before the Court shall be decided within a period of 120 days (this period was 90 days in the repealed Ordinance).

The provisions of the Qanun-e-Shahdat Order 1984 and the Code of Civil Procedure, 1908 shall not apply to the proceedings, except to such extent as the Court may determine in its discretion.

Any person aggrieved by any judgment or final order of the Court may, file a petition for leave of appeal in the Supreme Court within 60 days.

**Section 7**

**Powers and functions of the Commission**

The Commission shall exercise such powers and perform functions as conferred on it by or under the 2017 Act.

Powers and functions of the Commission under the 2017 Act shall be in addition to and not in derogation of the powers and functions of the Commission under the Securities and Exchange Commission of Pakistan Act 1997.

**PART IV-INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO**

**PROVISIONS WITH RESPECT TO NAMES OF COMPANIES**

**Section 10**

**Prohibition of certain names**

Enabling provision has been added empowering the Commission to restrict the use of any word or expression in the name of a company. Registrar can also reject or change any name if it is identical with or resembles too closely to the name of a company; inappropriate; undesirable; deceptive or designed to exploit or offend the religious susceptibilities of the people.

A name of the company shall be deemed deceptive if it is not commensurate with its principal line of business. No Company shall be registered by a name which contains any words which suggest the establishment of a modaraba management company or to float a modaraba or any other business requiring license from the commission without such license.

An enabling provision is also introduced for the reservation of a name for a period of 60 days.

**Section 11**

**Rectification of name of a company**

The time period for rectification of name has been reduced from 30 days to 21 days.

**Section 13**

**Registration of change of name and effect thereof**

The time frame for mentioning the old name with the new name has been reduced from 1 year to 90 days.

**SECTION  
(CLAUSE)  
Section 14**

**KEY CHANGES IN COMPANIES ACT 2017**

**Mode of forming a company**

- Three or more persons may form a public company
- Two or more persons may form a private company One person may form a single member company.

A company formed may be a company with or without limited liability, that is:

- (a) a company limited by shares;
- (b) company limited by guarantee; or
- (c) an unlimited company.

**GENERAL PROVISIONS WITH RESPECT TO REGISTRATION OF MEMORANDUM AND ARTICLES**

**Section 16**

**Registration of memorandum and articles**

The section has been reframed to include and combine all matters relating to filing and registration of memorandum & articles, certificate of incorporation and its effects etc.

A new subsection has been introduced to allow a period of 30 days to appeal against a refusal order for registration of the memorandum.

**Section 17**

**Effect of memorandum and articles - new concept**

All money payable by a subscriber in pursuance of his undertaking in the memorandum of association against the shares subscribed shall be payable in cash within 30 days from the date of incorporation of the company. The same shall be informed to the registrar with 45 days from the date of incorporation accompanied by a certificate by a practicing chartered accountant or a cost and management accountant verifying the receipt of money so subscribed.

Any violation of this section shall be an offence liable to a penalty of level 1 on the standard scale.

**COMMENCEMENT OF BUSINESS BY A PUBLIC COMPANY**

**Section 19**

**Commencement of business by a public company**

In this section following changes are incorporated:

- The word “debenture” is deleted since the company cannot exercise borrowing powers unless the requirements for the commencement of business are complied.
- The requirement of minimum subscription has been explained as follows:

“Minimum subscription”, means the amount, if any, fixed by the memorandum or articles of association as minimum subscription upon which the directors may proceed to allotment or if no amount is so fixed and specified, the whole amount of the share capital other than that issued or agreed to be issued as paid up otherwise than in cash.

**REGISTERED OFFICE AND PUBLICATION OF NAME**

**Section 21**

**Registered office publication of name**

Time frame for reporting the change in registered office has been reduced to 15 days from 28 days.

## SECTION KEY CHANGES IN COMPANIES ACT 2017

### (CLAUSE) Section 22

#### Publication of name by a company

The requirement of publication of name along with the *incorporation number* outside the registered office in a conspicuous position is mandatory as per new Act.

The requirement of mentioning telephone number, fax number, email and website address on letterhead and, all its documents, notices and other official publications have been added along with the display of certified copy of certificate of incorporation at every place of business.

### Section 23 Company to have a common seal

Penalty for contravention of this section has been amended to a penalty not exceeding of level 1 on the standard scale of the Act.

### Section 24 Penalties For Non-Publication of Name

Penalty on violation of section 23 has been amended from fixed amount of liability to a penalty of not exceeding level 1.

### Sections 26 Business and objects of company

The new Act defines principal line of business which means the business in which substantial assets are held or likely to be held or substantial revenue is earned or likely to be earned by a company, whichever is higher. Companies are allowed to undertake all lawful businesses except restricted and prohibited businesses. A concept of principal line of business is introduced in this section and that it should always be commensurate with the name of the company. The existing companies shall continue with their existing memorandum of association and the object stated at serial number 1 of the object clause shall be treated as the principal line of business. If the object stated at serial number 1 of the object clause is not the principal line of business of the company, all such companies shall be required to intimate to the Registrar their principal line of business within such time from the commencement of this Act and on the Form as may be specified. A copy of the revised memorandum of association mentioning the principal business at serial number 1 of the object clause shall also be furnished to the Registrar.

Any change in principal line of business shall be reported to the Registrar within 30 days from the date of change.

The existing companies or the companies to be formed to carry on or engage in any business which is subject to a license or registration, permission or approval shall mention the businesses as required under the respective law and the rules and regulations made thereunder.

## MEMORANDUM AND ARTICLES OF ASSOCIATION

### Section 32 Alteration in Memorandum

As per new Act Memorandum of Association can be altered for changes in following clauses:

- Change in principal line of business
- Adopt any business activity or any change there in which is subject to license, registration, approval and permission under any Law.

Commission approval for alteration of Memorandum is mandatory except for change in principal line of business clause. A copy of the memorandum of association as altered pursuant to the order under this section shall within thirty days from the date of the order be filed by the company with the Registrar as

against the ninety days under the Companies Ordinance 1984.

**SECTION  
(CLAUSE)  
Section 36**

**KEY CHANGES IN COMPANIES ACT 2017**

**Registration of articles**

A new sub-section has been inserted which states that if a company contravenes the provisions of its articles of association, the company and every officer of the company shall be liable to a level 1 penalty on the standard scale.

**Section 38**

**Alteration in articles of association**

The time period for submission of altered Articles of Association to the Registrar has been changed to thirty days.

**Sections 42 to 44**

**Associations not for profit**

New requirements are as follows:

That the company's objects and activities shall not be against the laws, public order, security, sovereignty and national interests of Pakistan.

A separate format for the association to be licensed under this section has been prescribed.

The Commission has power to revoke the license on certain grounds and new sections have been included which describe the effects of revocation of license and penal provisions.

**CONVERSION OF A COMPANY OF ANY CLASS INTO A COMPANY OF OTHER CLASS AND RELATED MATTERS**

**Sections 46 to 50**

**Conversion of companies**

The process for change from public to private, private to single member company, unlimited to limited liability, limited by guarantee to limited by shares and vice versa, for each of the categories has been set out in detail in these sections. Such conversion requires the Company to pass a special resolution and seek prior approval of the Commission.

**SERVICE AND AUTHENTICATION OF DOCUMENTS**

**Sections 53 to 55**

**Service Of Documents On Commission, Registrar, Company And Member**

Courier service and electronic means have been added as the mode of service, as well as the enabling provision empowering the Commission to prescribe any other manner is also included. The requirement to publish in the notice in a newspaper has been deleted.

**PART V-PROSPECTUS, ALLOTMENT, ISSUE AND TRANSFER OF SHARES AND OTHER SECURITIES**

**Section 57**

**Prospectus**

The Act requires the company to get its prospectus duly signed by every person who is named therein as a director or proposed director of the company and has been filed with the Registrar on or before the date of its publication.

In the event of contravention of this section the company and every person who is a party to the issue shall be penalized on a level not exceeding level 2.

**SECTION  
(CLAUSE)**                      **KEY CHANGES IN COMPANIES ACT 2017**

**ALLOTMENT**

**Section 68**                      **Repayment of money received for shares not allotted**

The provision has been simplified and the time frame for the refund of money will be specified. Previously, the company was required to take a decision within ten days of the closure of the subscription lists as to what applications have been accepted and refund the money within ten days of the date of such decision. The rate of surcharge has been enhanced from 1.5 % to 2 % per month, in case the refund is not made within the stipulated time.

**Section 70**                      **Return as to allotments**

The time period for filing of return of allotment to the Registrar has been increased from 30 days to 45 days. In case of shares issued in cash, a new requirement of filing a report from the auditors (or a practicing chartered accountant or a cost and management accountant in case where appointment of auditor is not mandatory) to the effect that the consideration has been received and shares have been allotted. Shares issued to subscribers of memorandum at the time of formation of the company do not require the filing of return of allotment. The procedure of filing the return of allotment for issues of shares for consideration other than cash has been simplified. Moreover, the Registrar may extend the said period of 45 days in a particular case.

**CERTIFICATE OF SHARES AND OTHER SECURITIES**

**Section 71**                      **Limitation of time for issue of certificates**

The Act reduces the time limit for every company for the issue of certificates from 90 days to 30 days after the allotment of any of its share and other securities and ensure delivery of the certificates to the person entitled thereto at his registered address.

Any violation of this section shall be an offence liable to a penalty of level 1 on the standard scale.

**Section 72**                      **Shares in book-entry form only**

A company having share capital shall have shares in book entry form only. Existing company shall replace its physical shares with book entry form within 4 years from the commencement of this Act. The Commission may, extend the period for another 2 years. Companies or class of companies as may be notified by the Commission shall be exempted from this provision.



**Section 73 Duplicate certificates**

The time for issuance of a duplicate certificate has been reduced from 45 to 30 days and for conveying the reasons of not issuing the duplicate certificate reduced to 20 days.

Any violation of this section shall be an offence liable to a penalty of level 1 on the standard scale.

If a company with intent to defraud issues a duplicate certificate it shall be punishable with fine extending to one hundred thousand rupees and every officer of the company who is a party to such issue shall personally be liable with heavy penalty or imprisonment or with both.

**SECTION (CLAUSE) KEY CHANGES IN COMPANIES ACT 2017**

**TRANSFER OF SHARES AND OTHER SECURITIES**

**Section 74 and 75 Transfer**

The time period for transfer of shares is reduced from 45 to 15 days. In case of conversion into book-entry form, the company shall, register such transfer in the name of the central depository, within 10 days of application.

Time frame for notifying the defect in the transfer application / transfer deed has been reduced from 30 to 15 days.

**Section 76 Restriction on transfer of shares by the members of a Private Company**

This is a new section which restricts the right of transfer of shares in a private company by members and provides a process to enable members to transfer their shares in a private company. The main points of this section are highlighted below:

- (1) A member of a private company desirous to sell any shares held by him shall intimate to the Board his intention through a notice.
- (2) On receipt of such notice, the Board, within a period of ten days, shall offer those shares for sale to the members in proportion to their existing shareholding.
- (3) The letter of offer for sale specifying the number of shares to which the member is entitled, price per share and limiting a time, within which the offer, if not accepted, be deemed as declined, shall be dispatched to the members through registered post or courier or through electronic mode.
- (4) If the whole or any part of the shares offered is declined or is not taken, the Board may offer such shares to the other members in proportion to their shareholding.
- (5) If all the members refuse to accept the offer or if any shares are left over, such shares may be sold to any other person as determined by the member, who initiated the offer.

**Section 77 Notice of refusal to transfer**

Time frame for notifying the refusal to transfer application / transfer deed has been reduced from 30 to 15 days.

Any violation of this section shall be an offence liable to a penalty of level 2 on the standard scale.

**Section 79**      **Transfer to nominee of a deceased member**

This section has been framed to bring it in line with Islamic shariah. It states that nomination can only be made to relatives of the member i.e spouse, father, mother, sister, brother and son or daughter as the provisions of the Ordinance did not restrict the nomination. The Act states that the person nominated shall be deemed to be a member in the event of death of the member. Further it states that if the deceased person was a director of a company not being a listed Company, the nominee shall act as director of the company to protect the interest of the legal heirs.

**Section 80**      **Appeal against refusal for registration of transfer**

The transferor or transferee may file an appeal with the Commission against refusal of transfer by the company. The Commission may decide the matter by hearing the parties concerned and issue necessary order. If a company defaults in effecting the order of the Commission within 15 days of the receipt of the order, every director and officer of the company shall be liable to a penalty of level 3 on the standard scale.

**SECTION**      **KEY CHANGES IN COMPANIES ACT 2017**  
**(CLAUSE)**

**COMMISSION, DISCOUNT AND PREMIUM**

**Section 82**      **Power to issue shares at a discount**

The issue of shares at a discount must be authorised by special resolution passed in the general meeting of the company. The resolution must specify the number of shares to be issued, rate of discount, and price per share.

In case of listed companies discount shall only be allowed if the market price is lower than the par value of the shares for a continuous period of past 90 trading days immediately preceding the date of announcement by the Board; and the issue of shares at discount must be sanctioned by the Commission. No approval of Commission is required for a discount up to 10%.

**INVITATION OF DEPOSITS**

**Section 84**      **Prohibition on acceptance of deposits from public**

Only specialized companies (i.e Banking companies and such other company or class of companies or such deposits as the Commission may notify) are allowed to raise deposit from public. A company shall be punishable in the event it accepts or invites any deposit where such contravention relates to the acceptance of any deposit, with penalty which shall not be less than the amount of the deposit so accepted and where such contravention relates to the invitation for any deposit, to a penalty of level 3 on the standard scale.

In addition to the fine on the company, every officer of the company which is in default shall be punishable with imprisonment for a term which may extend to 2 years and shall also be liable to fine which may extend to PKR 5 million.

**Section 85**      **Alteration Of Share Capital**

Condition of a special resolution to increase / consolidate / divide share has been made mandatory in this section.

Any violation of this section shall be an offence liable to a penalty of level 1 on the standard scale.

**PART VI - REGISTRATION OF MORTGAGES, CHARGES, ETC**

**Section 100 Requirement to register a mortgage or charge**  
The term “charge” shall now include mortgage or pledge. Under the Ordinance a pledge over movable properties was not required to be registered.

A company that creates a charge must file the particulars together with a copy of instrument, with the Registrar for registration within a period of 30 days after the date of its creation (previously this period was 21 days).

**Section 104 Endorsement of certificate of registration on debenture or certificate of debenture stock**

Only one change has been made in the case where certificate of debenture or debenture stock is issued in the book-entry form, appropriate disclosure in pursuance of this section shall be made in the manner as may be specified.

**SECTION (CLAUSE)**

**Section 106 Modification in the particulars of mortgage or charge**

The following section has been inserted.

Whenever the terms or conditions or extent or operation of any mortgage or charge registered under this Part are modified, it shall be the duty of the company to send to the Registrar the particulars of such modification together with a copy of the instrument evidencing such modification.

**Section 108 Rectification of register of mortgages**

A copy of the order passed under this section duly certified by the Commission or its authorized officer shall be forwarded to the concerned Registrar within 7 days from the date of the order as compared to 21 days as provided in the Ordinance.

**Section 109 Company to report satisfaction of charge**

The period of intimation to registrar by company has been increased from 21 days to 30 days.

**Section 111 Punishment for contravention**

The violation of section 100 - 112 shall be liable to penalty at level 1 on standard scale.

**RECEIVERS AND MANAGERS**

**Section 113 (1) Registration of appointment of receiver or manager**

Where in order to ensure enforcement of security of a company’s property, a person obtains an order for the appointment of a receiver or manager, or appoints such a receiver or manager under any powers contained in any instrument, he shall within seven days of the order or of the appointment under the powers contained in the instrument file a notice of the fact with the Registrar as compared to within 15 days in Ordinance.

**Section 113 (2)** The following new clause has been inserted.

Where a person appointed as a receiver or manager under this section ceases to act as such, the person who had obtained the order or appointed such a receiver or manager pursuant to the powers contained in any instrument shall on ceasing of the receiver or manager, give the Registrar a notice to that effect within seven days as compared to 15 days in Ordinance.

**Section 113 (5)** The penalty of violation has been amended to be at level 1 on standard scale as compared to not exceeding Rs 200 for every day in the Ordinance.

**Section 114 (4)** **Filing of accounts of receiver or manager**

The penalty of violation has been amended to be at level 1 on standard scale as compared to not exceeding Rs. 2,000 and further not exceeding Rs. 100 for every day in the Ordinance.

#### **PART VII MANAGEMENT AND ADMINISTRATION**

**Section 118** **MEMBERS OF A COMPANY**

A complete and comprehensive definition of “member” has been inserted in the statute, with clarity that on the registration of a company, the subscribers of the memorandum shall become its members.

### **SECTION (CLAUSE) KEY CHANGES IN COMPANIES ACT 2017**

#### **REGISTER AND INDEX OF MEMBERS**

**Section 119 (3)** **Register of members**

The following clause has been inserted in the Act.

In the case of joint holders of shares or stock in a company, the company’s register of members shall state the names of each joint holder. In other respects joint holders shall be regarded for the purposes of this Part as a single member and the address of the person named first shall be entered in the register.

**Section 119 (4)** The penalty of violation under this section has been amended to be at level 1 on standard scale as compared to not exceeding Rs 200 for every day in the Ordinance.

**Section 120** **Index of members**

New requirement for maintenance of index of members has been introduced for the companies which have more than 50 members and shall contain the prescribed information, unless the register of members is in such a form as to constitute in itself an index.

**Section 122 and 123** **Index of members and debenture holder**

Separate sections have been introduced to maintain the index of members and debenture-holders.

**Section 124** **Rights to inspect and require copies**

The certified copies requested under this section shall now be issued within a period of five working days as compared to ten working days, mentioned in the Ordinance, excluding the days on which the transfer book of the company is closed.

**Section 125 Power to close register**

Requirement for advertisement for publication of notice for closure of register of members for companies other than listed companies has been done away with while retaining a requirement for service of notice to that effect. Moreover, the period of closure of register has been reduced from 45 days to 30 days in a year, with further period of 15 days to be allowed by the Commission on application of the Company.

**Section 127 Punishment for fraudulent entries in and omission from register**

Penal provisions have been changed, the term of imprisonment has been increased from one year to 3 years and the amount of fine has been increased from Rs. 10,000 to Rs. 1,000,000.

**Section 130 Annual return on Form 'A' or Form 'B'**

Previously listed companies were required to file annual return containing specified particulars within 45 days from the date of annual general meeting with further extension of fifteen days on application made by company to registrar. However, under the Act the time period for filing of return is reduced to 30 days from the date of annual general meeting. Further exemption from filing of annual return is provided to private companies having paid up capital not more than Rs. 3,000,000 and single member company, unless there is a change in the membership or directorship.

**SECTION  
(CLAUSE)**

**KEY CHANGES IN COMPANIES ACT 2017**

**MEETINGS AND PROCEEDINGS**

**Section 131**

**Statutory Meeting**

Now the statutory meeting shall be convened within a period of 180 days from the date at which company is entitled to commence business or within nine months from the date of its incorporation whichever is earlier. Under the Ordinance the statutory meeting was required to be held within a period of not less than 3 months nor more than 6 months, from the date of commencement of business. Where first annual general meeting of a company is decided to be held earlier no statutory meeting shall be required. Further statutory report is required to be certified by the Chief Executive Officer and at least one Director, and in case of listed company also by the Chief Financial Officer.

## Sections 132, 133 and 134 Annual General Meeting / Extraordinary General Meeting

Now within period of 16 months from the date of its incorporation a company is required to hold its first annual general meeting. Previously it was required to be held within a period of 18 months from the date of incorporation. Subsequent meetings are required to be held every year within a period of 120 days from the date of closure of financial year. The requirement of holding the subsequent annual general meeting within 15 months after the holding of its last preceding annual general meeting is no longer applicable.

Further single member company is exempted from the requirements to hold annual general meeting.

Previously it was expressly stated that notice of an extraordinary general meeting be sent to the members at least 21 days before the date of the meeting and in case of an emergency affecting the business of the company, the registrar on application of directors authorize such meeting be held at such shorter notice as specified. However, such requirement is no longer specified. Further for companies other than listed companies if all members entitled to attend and vote at any extra ordinary general meeting so agree the meeting may be held at a shorter notice.

The AGM can now be held in the city nearest to the city in which the registered office is situated. In case of listed companies, if members holding ten percent of capital, are resident in any other city, the company shall provide the facility of video-link to such members for attending AGM. The request for the same shall be received 7 days before the date of the meeting. A notice issued for the AGM should specify the option of video-link to such members.

On a poll, votes may be given either personally or through video-link or by proxy or through postal ballot. The person attending the meeting through video link is to be counted for the purpose of quorum.

## Section 135 Quorum of General Meeting

- (1) The quorum requirement of a general meeting also takes into account members attending through video-link in addition to members present personally.
- (2) The quorum of a company not having share capital shall be as provided in its articles.
- (3) Contravention or default in case of a listed company is liable to a penalty of level 2 on the standard scale and in case of any other company to a penalty of level 1 on the standard scale.

## Section 137 (1) Proxies

(a)

The provision on proxies shall continue to be not applicable in the case of a company not having a share capital unless the articles of the company provide otherwise. These powers under the articles were not available in the Ordinance.

## SECTION (CLAUSE) KEY CHANGES IN COMPANIES ACT 2017

Section 137 (10) The violation has been amended to penalty at level 2 in case of a listed company and level 1 on standard scale, in case of any other company as compared to not exceeding Rs 5,000 for listed company and Rs 2,000 for any other company under the Ordinance.

## Section 140 (1) Notice Of Resolution

The notice of a general meeting shall state the general nature of each business proposed to be considered and dealt with at a meeting and in case of a special resolution shall be accompanied by the draft resolution.

**Section 140 (2) (b)** The members having not less than 10% voting power in the company may give notice of a resolution and such resolution together with the supporting statement, if any, which they propose to be considered at the meeting, shall be forwarded so as to reach the company with the requisition of the meeting and in any other case at least 10 days before the meeting; and the company shall forthwith circulate such resolution to all the members as compared to 15 days before the meeting under the repealed Ordinance.

**Section 140 (3)** The violation has been amended to penalty at level 2 in case of a listed company and level 1 on standard scale in case of any other company, as compared to not exceeding Rs 5,000 for listed company and Rs 2,000 for any other company, under the Ordinance.

**Sections 143 Demand for poll**

Before or on the declaration of the result of the voting on any resolution on a show of hands, a poll may be ordered by the chairman or on a demand by the members present in person or through video-link or by proxy, where allowed, and having not less than one-tenth of the total voting power.

**Section 144 Poll through secret ballot**

This is a new provision whereby the chairman of the meeting shall take a poll by secret ballot of his own motion or on a demand made by the members present in person or through video-link or by proxy, where allowed, and having not less than one-tenth of the total voting power.

**Sections 148 Punishment for default in complying with provisions of section 147**

The penalty for default in holding a meeting has been amended to penalty at level 3 on standard scale, against a fine which may extend to Rs 10,000 and in case of continuing default, may extend to Rs 2,000 for every day, in the Ordinance.

**Sections 149 Resolution through circulation**

This is a new provision which allows the members of a private company or a public unlisted company (having not more than 50 members) to pass a resolution (ordinary or special) by circulation signed by all the members entitled to receive notice of a meeting.

Such a resolution shall be valid and effective and a members' agreement to a written resolution, passed by circulation, once signed, may not be revoked. The resolution shall be noted at the subsequent meeting of members and made part of the minutes of such meeting.

**Sections 150 (1) Filing of resolution**

Every special resolution passed by a company shall, within 15 days from the passing thereof, be filed with the registrar duly authenticated by a director or secretary of the company. Whereas the Ordinance requires authentication by the Chief executive or secretary of the company.

**SECTION (CLAUSE) KEY CHANGES IN COMPANIES ACT 2017**

**Sections 150 (4)** The contravention for filing of special resolution has been amended to penalty at level 1 on standard scale, against a fine of Rs 100 per day under the Ordinance. And the contravention for embodiment or annexure of copy of articles issued, and forwarding to members at their request, has been amended to penalty at level 1 on standard scale, against a fine of Rs 1,000 for each default that was prescribed under the Ordinance.



**Sections 151 (4) Records of resolutions and meetings**

The records of resolutions and meetings must be kept at the registered office of the company from the date of the resolution, meeting or decision simultaneously in physical and electronic form and it shall be preserved for at least 20 years in physical form and permanently in electronic form. The Ordinance did not specify the time limit to retain the records of meeting and resolution.

**Sections 151 (5)** The contravention in compliance has been amended to penalty at level 1 on standard scale. The penalty was Rs 5,000 and a further fine of Rs 100 for every day under the Ordinance.

**Sections 152 (3) Inspection of records of Resolutions and Meetings**

Refusal to allow inspection of records of resolution and meetings has been amended to penalty at level 1 on standard scale, as against Rs 1,000 and further Rs 50 per day under the Ordinance.

**APPOINTMENT AND REMOVAL OF DIRECTORS**

**Section 153 Ineligibility of certain persons to become Director**

- (a) The criteria specified in the Ordinance shall continue with the addition that a person not holding a National Tax Number as per the provisions of Income Tax Ordinance 2001 is ineligible to become a director unless the Commission grants exemption.
- (b) A person representing a creditor or other special interests by virtue of contractual arrangements and a person representing a member which is not a natural person are eligible to be a director even if he is not a member of the company.
- (c) An individual engaged in the business of brokerage, or is a spouse of such person or is a sponsor, director or officer of a corporate brokerage house cannot be a director of a listed company.

**Section 154 Minimum number of directors**

Provisions under the Ordinance with regard to minimum number of directors shall continue in the Act. Additionally, public interest companies shall be required to have female representation on their Board as may be specified by the Commission, and only natural person shall become a director.

**Section 155 Number Of Directorships**

The requirement of Code of Corporate Governance for restricting the directorships in more than 7 listed companies excluding listed subsidiaries has been included in the Act.

Casual vacancy of director in case of listed company should be filled within 90 days.  
In case of companies other than listed companies the number of directorship will be notified later.

**Section 156 Compliance with the Code Of Corporate Governance**

The Commission is expected to provide a framework to ensure good corporate governance practices, compliance and matters incidental and axillary for companies or class of companies in a manner as may be specified.

**SECTION (CLAUSE) KEY CHANGES IN COMPANIES ACT 2017**

**Section 157 (2) First directors and their term**

The following clause is newly inserted.

The number of first directors can be increased by appointing additional directors by the members in a general meeting. This facility was not available under the Ordinance. The first directors shall hold office until the election of directors in the first annual general meeting of the company.

**Section 158 (2) Retirement of first and subsequent directors  
(3) and (4)**

The retiring directors shall continue to perform their functions and make arrangements for the election of directors, and in case of any impediment report to the Registrar within 45 days before the due date of the annual general meeting or extraordinary general meeting, as the case may be, in which elections are to be held. The period prescribed for reporting the said impediment was 15 days of the expiry of the term in the Ordinance.

**Section 159 Procedure for election of directors.**

The procedure laid down in the Ordinance has been adopted in the Act.

**Section 160 Powers of the court to declare election of directors invalid**

The requirements have been made more stringent. Under the Ordinance members holding at least 20% of voting power were eligible to file such application with the Court.

Now the Court may, on the application of members holding 10% of the voting power in the company, made within 30 days of the date of election, declare election of all directors or any one or more of them invalid if it is satisfied that there has been material irregularity in the holding of the elections and matters incidental or relating thereto.

**Section 161 Term of office of directors**

The term of office of directors shall continue to be 3 years under the Act. A proviso has been inserted which provides that the term of office of directors of a company limited by guarantee and not having share capital may be a period of less than 3 years as provided in the articles of association of the company.

**Section 162 Fresh election of directors in case of unlisted companies**

A member having acquired, after the election of directors, the requisite shareholding to get him elected as a director on the Board of a company not being a listed company, may require the company to hold fresh election of directors.

Provided that the number of directors fixed in the preceding election shall not be decreased.

The Board shall within 1 month of receipt of requisition, proceed to hold fresh election of directors of the company.

**Section 165 Certain provisions not to apply to directors representing special interests**

For the purpose of nominating directors representing special interests, the number of votes computed in the manner set out in the Act as are proportionate to the number of votes required to elect the director if they had offered themselves for election, shall stand excluded from the total number of votes available to the nominating body at an election of directors, which may be proportionate to their voting power required to elect directors at an election of directors of a company.

**SECTION  
(CLAUSE)  
KEY CHANGES IN COMPANIES ACT 2017**

**Section 166 Manner of selection of independent directors and maintenance of databank**

A new section has been inserted, whereby an independent director is required to be selected from a data bank (containing names, addresses and qualifications of persons eligible and willing to act as independent directors). The data bank will be maintained by any institute, body or association as notified by the Commission. However, the responsibility of exercising due diligence before selecting a person from the data bank shall lie with the company.

The independent director shall be elected in the same manner as the other directors are elected and the statement of material facts annexed to the notice of the general meeting called for the purpose shall indicate the justification for choosing the appointee for appointment as independent director.

No individual shall be selected for the data bank without his consent in writing.

The definition of independent director as per Code of Corporate Governance has been included in the Act.

**Section 167 Consent to act as director to be filed with company**

The consent given to the company shall be filed with the registrar within fifteen days thereof, previously it was fourteen days in the Ordinance.

**Section 171 Vacation of office by the directors**

The section has been amended and a director shall cease to hold office if he absents himself from 3 consecutive Board meetings and the condition 'if a director absents himself from all the meetings of the directors for a continuous period of three months' has been retracted.

**DISQUALIFICATION OF DIRECTORS BY THE COMMISSION**

**Section 172 Disqualification orders**

This is a new provision whereby the Commission has been empowered to make, on its own motion or upon a complaint received in this regard, a disqualification order against a person from holding the office of a director of a company for a period upto 5 years from the date of the order. The circumstances under which such order may be passed by the Commission are listed in this section.

**Section 173 Personal liability for company's debts where person acts while disqualified**

A new section has been added highlighting that an individual who is disqualified by Commission for being a director still acts as a director of the company or is involved in the management of the public interest company, shall be personally responsible for all the relevant debts during that time.

**Section 174 Prohibition on assignment of office by directors**

The relaxation available under the Ordinance to a director to assign the office and approved by the company through special resolution is no longer available. The provisions relating to appointment of alternate director shall continue to be applicable.

**Section 175 Penalty for unqualified person acting as director**

If a person who is not qualified to be a director or chief executive or who has otherwise vacated the office of director or chief executive represents himself as a director or chief executive, or allows or causes himself to be described as such, shall be liable to a penalty of level 1 on the standard scale.

**SECTION (CLAUSE) KEY CHANGES IN COMPANIES ACT 2017**

**Section 176**      **Proceedings of the board**

Following paras are newly added.

This section has been amended to include the participation of directors by video conferencing or by other audio visual means to be counted for the purposes of quorum.

If at any time, there are not enough directors to form a quorum to fill a casual vacancy; all the remaining directors shall be deemed to constitute a quorum for this limited purpose.

The quorum for a meeting of the board of other than listed company shall be as provided in the articles.

**Section 177**      **Ineligibility of bankrupt to act as director**

If any person being un discharged insolvent acts as chief executive or director of a company, he shall be liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding Rs. 100,000, or to both, as compared to Rs 10,000 in the Ordinance.

**Section 179**      **Passing of resolution by the directors through circulation**

This is a new provision whereby a resolution in writing signed by all the directors or the committee of directors entitled to receive notice of a meeting of the directors or committee of directors shall be as valid and effectual as if it had been passed at a meeting of the directors or the committee of directors duly convened and held.

Further, a directors' agreement to a written resolution passed by circulation, once signed, may not be revoked.

**Section 181**      **Protection to independent and non-executive directors**

This is a new provision which protects independent and non-executive directors. Such director will be held liable, only in respect of such acts of omission or commission by a listed company or a public sector company which had occurred with his knowledge, attributable through board processes, and with his consent or connivance or where he had not acted diligently. The definition of non-executive director is also included in this section.

**Section 182**      **Loans to directors: requirement of members' approval**

This provision has been revised as follows:

Unless such transaction has been approved by a resolution of the members of the company, a company shall not:

- make a loan to a director of the company or of its holding company; or to any of his relatives ;
- give a guarantee or provide security in connection with a loan made by any person to such a director; or to any of his relatives.

Further in case of listed company, Commission's approval shall be required for sanctioning such loan.

This shall not be applicable for a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan.

Every person party to any contravention of this provision is punishable with fine of Rs. 1,000,000 or with simple imprisonment for 1 year.

**SECTION  
(CLAUSE)**

**KEY CHANGES IN COMPANIES ACT 2017**

**Section 183****Powers of board**

The directors can exercise following additional powers by means of resolution passed in the meeting:

- to take over a company or acquire a controlling or substantial stake in another company; and
- any other matter which may be specified.

Necessary explanations have been added for “undertaking” and “sizeable part” for the sake of clarity.

Restriction for disposal of “undertaking” and “sizeable part” has been added for listed company, from selling or otherwise disposing of the undertaking, which results in or may lead to closure of business operation or winding up of the company, without there being a viable alternate business plan duly authenticated by the Board.

Any resolution passed under this provision shall stand lapsed if not implemented within one year.

Default in complying with requirement of this section shall attract a penalty of level 2 on the standard scale.

**Section 184****Prohibition regarding making of political contributions**

The quantum of fine has increased.

A company shall be liable to a penalty of level 2 on the standard scale for making political contributions, which are prohibited.

Further, every director and officer of the defaulting company shall be punishable with imprisonment of 2 years and shall also be liable to a fine of Rs. 1,000,000.

**Section 185****Prohibition regarding distribution of gifts**

Contravention or default in complying with the prohibition on the distribution of gifts by a company to its members in a meeting shall attract a penalty of level 1 on the standard scale.

**CHIEF EXECUTIVE****Section 186-187****Appointment of subsequent chief executive**

The subscribers to the memorandum shall determine the name of the first chief executive and the particulars shall be submitted along with incorporation documents.

The first chief executive shall hold office till the 1<sup>st</sup> AGM of the company.

The Federal Government has been empowered to appoint Chief executive of a Public Sector Company in such a manner as may be specified under this Act.

The subsequent chief executive for the next term of 3 years shall be appointed by the directors within 14 days from the date of elections.

The Chief Executive appointed on casual vacancy shall hold that office till the directors elected in the next election appoint a chief executive.

**SECTION  
(CLAUSE)****KEY CHANGES IN COMPANIES ACT 2017**

**Section 190 Removal of chief executive**

Notwithstanding anything contained in this section, the Government or an authority or a person authorized by it shall have the power to remove chief executive of a company where more than seventy-five percent of the voting rights are held by the Government.

**Section 192 Chairman in a listed company**

New section has been inserted which is in line with the requirement of Code of Corporate Governance requiring the board of listed companies to appoint the chairman from amongst the non-executive directors within 14 days from the date of election of directors, who shall hold office for a period of three years unless he earlier resigns, becomes ineligible or disqualified under any provision of this Act or removed by the directors.

The chairman and the chief executive shall not be the same individual except where provided for under any other law and the board is required to clearly define their respective roles and responsibilities.

The chairman shall be responsible for leadership of the board and ensure that the board plays an effective role in fulfilling its responsibilities.

Every financial statements of the company is required to contain a review report by the chairman on the overall performance of the company and effectiveness of the role played by the board in achieving the company's objectives.

**Section 193 Penalty**

Any contravention or default in complying with requirements of sections 186 to 192 shall be an offence liable to a penalty of level 2 on the standard scale and the person may also be debarred by the authority which imposes the penalty from becoming a director or chief executive of a company for a period not exceeding five years.

**Section 194 Public company required to have secretary**

Requirement for appointing a company secretary having the specified qualifications has been extended to all public companies instead of listed companies only mentioned in the Ordinance. SMCs have been exempted from appointing company secretary.

**REGISTER OF DIRECTORS AND OTHER OFFICERS**

**Section 197 Register of directors, officers**

The register of directors and officers shall continue to be maintained in the registered office of the company. The time period within which every company is required to file with the registrar a return in respect of the appointment of directors and officers, including the chief executive, company secretary, chief financial officer, auditors and legal adviser or any change therein, shall be within 15 days from the date of appointment or any change (Previously it was 14 days).

Any contravention of this provision shall be an offence liable to a penalty of level 1 on the standard scale.

Any person who fraudulently or without sufficient cause enters in, or omits from the register of directors the name or other particulars of any person, shall be punishable with imprisonment of 3 years or with fine of Rs. 1,000,000, or with both.

**SECTION  
(CLAUSE)**

**KEY CHANGES IN COMPANIES ACT 2017**

**Section 198**      **Rights to inspect**

The section has empowered the company to fix the fee for inspection and obtain copy of the minutes and other documents instead of its being prescribed by the Commission.

The particulars of applicant and the purpose for which information is to be used should be mentioned in the request made by the applicant.

Failure to comply with the requirements to allow for the inspection of the register of directors will attract a penalty of level 1 on the standard scale.

**MISCELLANEOUS PROVISIONS REGARDING INVESTMENTS, CONTRACTS OFFICERS AND SHAREHOLDINGS, TRADING AND INTERESTS**

**Section 199**      **Investments in associated companies and undertaking**

The following clause is newly inserted.

The directors of the investing company shall certify that the investment by way of loans and advances is made after due diligence and financial health of the borrowing company is such that it has the ability to repay the loan as per the agreement.

The section also provides requirement of special resolution in case of increase in the amount or any change in the nature of investment or the terms and conditions.

**Section 204**      **Duties of directors**

This section has been newly inserted in order to define the duties of directors.

- 1) A director of a company shall act in accordance with the articles of the company.
- 2) A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees the shareholders the community and for the protection of environment.
- 3) A director of a company shall discharge his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.
- 4) A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.
- 5) A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.
- 6) A director of a company shall not assign his office and any assignment so made shall be void.

In addition to the preceding sub-sections, the Commission may provide for the extent of duties and the role of directors as may be specified.

Without prejudice to any other action that may be taken under this Act or any other law, any contravention or default in complying with requirements of this section shall be an offence liable to a penalty of level 1 on the standard scale.

**Section 205**      **Disclosure of interest by director**

New definition for 'Relatives of a director' has been inserted, which includes the following:

- (a) the director's spouse;
- (b) the director's children, including the step children;
- (c) the director's parents.

**SECTION (CLAUSE)**      **KEY CHANGES IN COMPANIES ACT 2017**



**Section 206 Interest of officers**

The quantum of penalty has increased. Any contravention or default in complying with the requirement under this section shall attract a penalty of level 1 on the standard scale.

**Section 207 Interested director not to participate or vote in proceedings of board**

Following clauses are newly inserted.

- a) A director of a listed company who has a material personal interest in a matter that is being considered at a board meeting shall not be present while that matter is being considered.
- b) If majority of the directors are interested in any contract or arrangement entered into, or to be entered into, by or on behalf of the company, the matter shall be laid before the general meeting for approval.

**Section 208 Related party transactions**

This is a new section defining 'related party' in line to those contained in Code of Corporate Governance.

The expression —'related party' includes-

- i. A director or his relative;
- ii. A key managerial personnel or his relative;
- iii. A firm, in which a director, manager or his relative is a partner;
- iv. A private company in which a director or manager is a member or director;
- v. A public company in which a director or manager is a director or holds along with his relatives, any shares of its paid up share capital;

(vi) Anybody corporate whose chief executive or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;

(vii) Any person on whose advice, directions or instructions a director or manager is accustomed to act:

Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

(viii) Any company which is—

- (a) A holding, subsidiary or an associated company of such company; or
- (b) A subsidiary of a holding company to which it is also a subsidiary;

(xi) Such other person as may be specified.

A company may enter into any contract or arrangement with a related party only in accordance with the policy approved by the board, subject to such conditions as may be specified, with respect to-

- (a) Sale, purchase or supply of any goods or materials;
- (b) Selling or otherwise disposing of, or buying, property of any kind;
- (c) Leasing of property of any kind;
- (d) Availing or rendering of any services;
- (e) Appointment of any agent for purchase or sale of goods, materials, services or property; and
- (f) Such related party's appointment to any office or place of profit in the company, its subsidiary company or associated company:

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Furthermore, the section states that every contract or arrangement entered into under sub-section (1) shall be referred to in the board's report to the shareholders along with the justification for entering into such contract or arrangement.

The Commission may specify the record to be maintained by the company with regards to transactions undertaken with the related party.

Where any contract or arrangement is entered into by a director or any other employee, without obtaining the consent of the board or approval by a special resolution in the general meeting under sub-section (1) and if it is not ratified by the board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement shall be voidable at the option of the board and if the contract or arrangement is with a related party to any director, or is authorized by any other director, the directors concerned shall indemnify the company against any loss incurred by it.

Without prejudice to anything contained in sub-section (4), it shall be open to the company to proceed against a director or any employee who had entered into such contract or arrangement in contravention of the provisions of this section for recovery of any loss sustained by it as a result of such contract or arrangement.

Any director or any other employee of a company, who had entered into or authorised the contract or arrangement in violation of the provisions of this section shall be liable-

- (a) In case of listed company, be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than five million rupees, or with both; and
- (b) In case of any other company, to a penalty of level 2 on the standard scale.

Provided that where majority of the directors are interested in any of the above transactions, the matter shall be placed before the general meeting for approval as special resolution:

Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business on an arm's length basis.

#### **Section 209**

#### **Register of contracts or arrangements in which directors are interested**

The following clause has been newly inserted.

Every director shall, within a period of 30 days of his appointment, or relinquishment of his office, as the case may be, disclose to the company the particulars relating to his concern or interest in the other associations which are required to be included in the register, or such other information relating to himself as may be specified.

However, register of contracts or arrangements in which directors are interested for the sale, purchase or supply of any goods, materials or services if the value of such goods and materials or the cost of such services does not exceed Rs. 500,000 in the aggregate in any year, previously this limit was Rs 2,000.

#### **Section 210**

#### **Contract of employment with directors**

New section has been inserted which requires maintaining the contracts of employment of director and such contracts will be open for members' inspection.

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**Section 211 Restriction on non-cash transactions involving directors**

This is a new provision whereby a company is prohibited from entering into an arrangement by which (i) a director of the company or its holding, subsidiary or associated company or a person connected with him acquires or is to acquire assets for consideration other than cash, from the company; or (ii) the company acquires or is to acquire assets for consideration other than cash, from such director or person so connected; unless prior approval for such arrangement is accorded by a resolution of the company in general meeting.

If the director or connected person is a director of its holding company, approval under this sub-section shall also be required to be obtained by passing a resolution in general meeting of the holding company.

**Section 213 Disclosure to members of directors' interest in contract appointing chief executive or secretary**

A director of a company who is concerned or interested, in any appointment or contract for the appointment of a chief executive, whole-time director or secretary of the company shall disclose the nature of his interest or concern at a meeting of the board in which such appointment or contract is to be approved and the interested director shall not participate or vote in the proceedings of the board.

The time period to provide a copy of a contract entered into by a company for the appointment of a chief executive, whole-time director or secretary is required to be provided within 7 days of the request received by the company.

The quantum of penalty has increased. Any contravention or default in complying with the requirement under this section shall attract a penalty of level 1 on the standard scale.

**Section 214 Contracts by agents of company in which company is undisclosed principal**

The quantum of penalty has increased. If any such officer or other agent makes default in complying with the requirements of this section, such officer or agent shall be liable to a penalty of level 1 on the standard scale.

**Section 215 Liability for undesired activities of the shareholders**

The section is newly inserted to prescribe the code of conduct for the members, as follows:

1. A member of a company shall act in good faith while exercising its powers as a shareholder at the general meetings and shall consider the benefit of all the members.
2. Without prejudice to his rights under this Act, a member of the company shall not exert influence or approach the management directly for decisions which may lead to create hurdle in the smooth functioning of management.
3. Any shareholder who fails to conduct in the manner provided in this section and as specified by the Commission shall be guilty of an offence under this section and shall be liable to a penalty not exceeding level 1 on the standard scale.

**Section 216 Company deemed to be a public interest company in certain circumstances**

This new section provides that a company shall be deemed to be a company with public interest as envisaged in the Third Schedule:

- if its ordinary shares are owned by such number of persons as may be specified and whose assets exceed the value specified. Disclosure and reporting requirements for public interest companies would have to be complied with.
- The Commission may by order, exempt such companies from the requirements of this section if the Commission determines that such exemption is in the interest of the public.

Provided that, such order shall be posted on the official website of the Commission.

**Section 218 Employees' provident funds, contributory retirement funds and securities.**

This provision has been amended to include contributory pension fund and contributory retirement funds.

The contributory funds are required to be deposited by the company in special account opened in a scheduled bank or National Saving Schemes within 15 days from the date of deposit, and no portion thereof should be utilized by the company, except for breach of contract of service on the part of employee and after notice to the employee concerned.

The schemes where the available funds can be invested have also been defined.

The trustees of the funds are required to have appropriate representation from the members of the funds.

**Section 219 Penalty for contravention of section 217 or 218**

The quantum of penalty has increased. Any contravention or default in complying with the requirements of sections 217 or 218 shall attract a penalty of level 1 on the standard scale and shall also be liable to pay the loss suffered by the depositor of security or the employee, on account of such contravention.

**ACCOUNTS OF COMPANIES**

**Section 220 Books of account, to be kept by company**

This provision has been amended. Every company is required to prepare and keep at its registered office books of account, relevant books and papers, financial statements for every financial year which give a true and fair value of the state of affairs of the company and that of its branch office.

Where a company has a branch office in or outside Pakistan, proper books of account relating to the transactions effected at the branch office are required to be kept at the office and proper summarized returns are required to be sent periodically by the branch office to the company at its registered office.

In the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director.

The penalty for failure to comply with the requirements of this section has increased. Every director, chief executive, chief financial officer of the company who has by his act or omission been the cause of such default shall:

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- in respect of a listed company, be punishable with imprisonment for a term of up to 2 years and with fine being in the range of Rs 500,000 to Rs 5,000,000, and with a further fine of up to Rs 10,000 for every day after the first during which the default continues; and
- in respect of any other company, be punishable with imprisonment of up to 1 year and with fine of up to Rs 100,000.

**Section 221 Inspection of books of accounts by Commission**

This provision has been amended to allow any officer making the inspection of the books of accounts, to inter alia take possession of such documents and retain them for thirty days if there are reasonable grounds for believing that they are evidence of the commission of an offence.

**Section 222 Default in compliance with provisions of section 221**

Any person in default in providing the books of account for inspection to officer appointed by Commission shall be punishable with imprisonment for a term of up to 180 days and with fine which may extend to one hundred thousand rupees.

**Section 223 Financial statements**

The first financial statement must be laid at the AGM within 16 months (previously this was 18 months) from the date of incorporation of the company, thereafter, within 120 days following the close of financial year. This can be extended by 30 days, by the Commission for listed company and in any other case by the registrar.

The condition for audit is not applicable to a private company having paid up capital not exceeding Rs. 1,000,000 or such other amount of paid up capital as may be notified.

For a listed company, the provision for sending the financial statements electronically and posting it on Company's website have been added.

This section shall not apply to Single Member Company, however, audit of financial statements having paid up capital exceeding Rs. 1,000,000 should be carried out.

**Section 224 Classification of companies**

The companies are classified into different categories as specified in the Third Schedule. The schedule also lays down the applicable financial reporting framework for each category.

**Section 225 Contents of financial statements**

The financial statements shall inter alia comply with the financial reporting standards notified by the Commission and shall be prepared in accordance with the requirements contained in the Third Schedule for different categories of companies.

This section shall not apply to insurance or banking company or to any other class of companies for which the requirements of financial statements are specified in the law regulating such class of companies.

The Commission may grant exemption to any company or any class of companies if it is in the public interest so to do, from compliance with all or any of the requirements of the relevant Schedule.

Any company that intends to make unreserved compliance of IFRS issued by the IASB is now permitted to do so.

The penalty provisions set out under section 220 shall apply in the event of default in complying with this section

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#### Section 226 **Duty to prepare directors' report**

In addition to the requirement of the board to prepare a directors' report for each financial year of the company (which requirement is no longer applicable to a private company having the paid up capital of up to Rs. 3,000,000), the Commission may direct such class or classes of companies to prepare and submit a statement of compliance.

The directors in their report should give greater emphasis to the matters that are significant to the undertakings included in the consolidation. Contravention or default in complying with requirements of this section shall be an offence liable to a penalty of level 1 on the standard scale.

#### Section 227 **Contents of directors' report and statement of compliance**

This provision has been amended to list items which are required to be specifically stated in a directors' report of a public company or a private company which is a subsidiary of a public company and in the case of listed company, to the extent necessary for an understanding of the development, performance or position of the company's business as well as the names of persons who any time during the financial year were directors of the company.

The directors' report and statement of compliance must be approved by the board and signed by the chief executive and a director of the company.

Whoever contravenes any of the provisions of this section shall be:

- in respect of a listed company, punishable with imprisonment for a term of 2 years and with fine of up to Rs 500,000 and with a further fine of up to Rs. 10,000 for every day after the first during which the default continues; and
- in respect of any other company, punishable with imprisonment for a term of 1 year and with fine of up to Rs 100,000.

#### Section 228 **Consolidated financial statements**

Exemption from preparing consolidation is granted to a private company and its subsidiary, provided the paid up capital of both do not exceed Rs. 1,000,000.

Further interim financial statements of a subsidiary company prepared in cases where financial year of a subsidiary precedes the day on which the holding company's financial year ends by more than 3 months, is no longer required to be reviewed by the auditors of that subsidiary.

#### Section 232 **Approval and authentication of financial statements**

The financial statements, including consolidated financial statement, if any, must be approved by the Board of the company and signed on behalf of the Board by the chief executive and at least one director of the company, and in case of a listed company also by the chief financial officer which is new requirement.

In case of a private company having a paid up capital not exceeding Rs. 1,000,000, the financial statements shall also be accompanied by an affidavit executed by the chief executive if the financial statements are signed by him or by any of the directors if the accounts has been signed by two directors, as the case may be, that the financial statements have been approved by the Board.

The requirement to add a statement with financials that the chief executive is for the time being not in Pakistan has been removed.

The financial statements of a single member company shall be signed by one director. This was missing in the Ordinance.

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#### **KEY CHANGES IN COMPANIES ACT 2017**

**Section 233 Copy of financial statements to be forwarded to the registrar**

The financial statements shall be filed by the company with the registrar within 30 days from the date of the Annual General Meeting in case of a listed company and within 15 days in case of any other company. Nothing in this section shall apply to a private company having the paid up capital not exceeding Rs. 10,000,000 (This was Rs. 7,500,000 under the Ordinance).

Any contravention or default in complying with requirements of this section shall be an offence liable to a penalty of level 2 on the standard scale in the case of a listed company and to a penalty of level 1 on the standard scale in the case of any other company.

**Section 234 Filing of unaudited financial statements**

This provision requires a private company having a paid up capital not exceeding Rs. 1,000,000 to file the duly authenticated financial statements, whether audited or not, with the registrar within 30 days from the holding of such meeting.

Any contravention or default in complying with requirement of this section shall be an offence liable to a penalty of level 1 on the standard scale.

**Section 235 Right of member of a company to copies of the financial statements and the auditor's report**

This provision provides that the copy of the financial statement requested and paid for by a member of the company, should be provided within 7 days of the request received by the company. In previous Ordinance no such timeline was prescribed. Contravention of this requirement shall attract a penalty of level 1 on the standard scale.

**Section 236 Penalty for improper issue, circulation or publication of Financial Statements**

The quantum of penalty has been increased for the improper issue, circulation or publication of financial statements. The company and every officer of the company who is in default shall be liable to a penalty of level 1 on the standard scale

**Section 237 Quarterly financial statements of listed companies**

The requirements of code of corporate governance are included in this newly inserted section.

Every listed company shall prepare the quarterly financial information within the period of, -

- one month of the close of first and third quarters of its year of accounts; and
- two months of the close of its second quarter of its year of accounts:

The quarterly financial statements shall be posted on the company's website and also to be transmitted electronically to the Commission, Securities Exchange and with the registrar. A copy of the quarterly financial statements shall be dispatched in physical form if so requested by any member without any fee.

The cumulative figures for the half year shall be subjected to a limited scope review by the statutory auditors of the company.

The Commission may, extend the period of filing in case of accounts of first quarter for a period not exceeding thirty days.

If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief financial officer of the company who has by his act or omission been the cause of such default shall be liable to a penalty of level 2 on the standard scale.

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## **DIVIDENDS AND MANNER AND TIME OF PAYMENT THEREOF**

### **Section 241 Dividend can be paid in kind and shall continue to be paid only out of profits**

A new provision has been added whereby companies are allowed to pay the dividends in kind. Any dividend may be paid by a company either in cash or in kind only out of its profits. The payment of dividend in kind shall only be in the shape of shares of listed company held by the distributing company.

### **Section 242 Dividend not to be paid except to registered shareholders**

This provision inter alia specifies the mode of payment of dividend.

Any dividend payable in cash may be paid by cheque or warrant or in any electronic mode to the shareholders entitled to the payment of the dividend, as per their direction.

In case of a listed company, any dividend payable in cash shall only be paid through electronic mode directly into the bank account designated by the entitled shareholders.

### **Section 243 Directors not to withhold declared dividend**

The penalty for the chief executive of the company has been increased in the event dividend has been declared by a company but is not paid within the period specified. The chief executive shall be punishable with imprisonment of up to 2 years and with fine of upto Rs. 5,000,000.

However, a company may withhold the payment of dividend of a member where the member has not provided the complete information or documents as specified by the Commission.

### **Section 244 Unclaimed shares, modaraba certificates and dividend to vest with federal government**

New provision has been inserted to specify that unclaimed shares, modaraba certificates and dividends to vest with Federal Government if remain unclaimed or un paid for a period of 3 years from the date it is due or payable. After expiry of such period the company shall give a 90 days' notice to shareholders or certificate holders. The information about this should be submitted to the Commission within 30 days from the date of closure of accounts in the manner as shall be specified.

The unclaimed or unpaid amount, shall be maintained in a profit bearing account with the State Bank of Pakistan or National Bank of Pakistan to be called "Companies Unclaimed Instruments and Dividend and Insurance Benefits and Investors Education Account" as may be notified by the Federal Government and shall be deemed to be part of public accounts and interest / profit accumulated thereon shall be credited on quarterly basis.

### **Section 245 Establishment of investor education and awareness fund**

This is a new provision which requires the company to establish an Investor Education and Awareness Fund to be managed and controlled by the Commission as may be prescribed through rules.

This Fund shall inter alia be credited with interest/profit earned on the "Companies Unclaimed Instruments and Dividend and Insurance Benefits and Investors Education Account"; grants or donations given by the Federal Government, Provincial Governments, companies, or any other institution or person for the purposes of the Fund; the interest or other income received out of the investments made from the Fund; and shall be utilized for the promotion of investor education and awareness.

## **SECTION (CLAUSE)**

## **KEY CHANGES IN COMPANIES ACT 2017**



## AUDIT

### Section 246 Appointment, removal and fee of auditors

The first auditors now to be appointed within ninety days of incorporation against 60 days in previous Ordinance.

The requirement of sending the representation of retiring auditors, (when they are not proposed to be reelected) to the members has been abolished. Reading of the representation of retiring auditors in the meeting shall serve the purpose.

Time frame of 30 days has been prescribed to fill the casual vacancy of auditor.

In case of removal, the auditor shall only be removed with the approval of the Commission.

Further this section also permits a member having not less than 10% shareholding of the company to propose any auditor or auditors for appointment whose consent has been obtained by him and a notice in this regard has been given to the company not less than 7 days before the date of the annual general meeting. Such a notice is also to be posted on the company's website.

### Section 247 Qualification and disqualification of auditors

Conditions have been prescribed for the qualification and disqualification of auditors, such as the qualification of an auditor for public company or a private company which is subsidiary of a public company or a private company having paid up capital of Rs 3,000 000 or more is a chartered accountant having valid certificate of practice from the Institute of Chartered Accountants of Pakistan or a firm of chartered accountants.

Audit of private company having paid up capital of less than Rs. 3,000,000 can be conducted by either a Chartered Accountant or Cost Management Accountant. Previously it was not defined and anyone could conduct audit of private companies having paid up capital below Rs. 3,000,000.

The auditor will continue to be appointed by the firm name. Majority of the partners of such firm should hold a valid practice license. Previously this requirement was for all the partners.

As regards disqualification of auditors, these conditions now include *inter alia* a person who has given a guarantee or provided any security in connection with the indebtedness of any third person to the company other than in the ordinary course of business of such entities; a person or a firm who, whether directly or indirectly, has business relationship with the company other than in the ordinary course of business of such entities; a person who is not eligible to act as auditor under the code of ethics as adopted by the Institute of Chartered Accountants of Pakistan and the Institute of Cost and Management Accountants of Pakistan.

## RIGHTS AND DUTIES OF AUDITOR

### Section 248 Rights of auditor

Additional rights have been given to the auditors to call for and obtain information from officers and employees of the company as well as from the subsidiary companies and its officers and employees.

## SECTION (CLAUSE)

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**Section 249**      **Duties of auditor**

This provision has been amended to obligate the company's auditor, within 14 days of appointment to submit a copy of the consent letter given to the company, to the registrar.

A company's auditor shall conduct the audit and prepare his report in compliance with the requirements of International Standards on Auditing as adopted by the Institute of Chartered Accountants of Pakistan.

Additional requirements - A company's auditor must carry out such examination to enable him to form an opinion as to:

- whether adequate accounting records have been kept by the company and returns adequate for their audit have been received from branches not visited by him; and
- whether the company's financial statements are in agreement with the accounting records and returns.

The auditor shall express unmodified or modified opinion in his report in compliance with the requirements of International Standards on Auditing as adopted by the Institute of Chartered Accountants of Pakistan. The Commission may by general or special order, direct, that the statement of compliance, shall be reviewed by the auditor who shall issue a review report to the members on the format specified by the Commission.

**Section 250**      **Audit of cost accounts**

The audit of cost accounts shall not be mandatory but shall be directed by the Commission subject to the recommendation of the regulatory authority supervising the business of relevant sector.

**Section 251**      **Signature of auditor's report**

The Act now requires that the name of the auditor and engagement partner who signs the audit report should be stated on the auditors' report.

**Section 253**      **Penalty for non-compliance with provisions by auditors**

If any auditor's report or review report is made, or any document of the company is signed or authenticated in non-conformity of the requirements of section 131, sections 249 and 251 or is otherwise untrue or fails to bring out material facts about the affairs of the company or matters to which it purports to relate, the auditor concerned and the person, if any, other than the auditor who signs the report or signs or authenticates the document, and in the case of a firm all partners of the firm, shall be liable to a penalty of level 2 on the standard scale, previously the default needed to be willful for all partners of a firm to be liable.

**POWER OF REGISTRAR TO CALL FOR INFORMATION****Section 255**      **Seizure of documents by registrar, inspector or investigation officer**

The Act empowers the registrar, inspector or investigation officer to obtain permission from Commission, without warrants, instead of Magistrate of Court, as Companies Ordinance 1984 directed, to freeze, seize or take possession of and retain any document, object, article, material, thing, account books, movable or immovable property or any account, property or thing, if he has reasons to believe that documents, books and papers or anything relating to any company or any chief executive or officer of such company or any associate of such person or is useful or relevant to any proceedings or investigation under this Act which is required or may be destroyed.

**SECTION (CLAUSE)**      **KEY CHANGES IN COMPANIES ACT 2017**

## INVESTIGATION AND RELATED MATTERS

### Section 256 and 257 Investigation into affairs of company

SECP shall allow company(s) under investigation an opportunity of being heard, and while appointing an inspector, defines the scope and duration of investigation.

### Section 258 Serious fraud investigation

This is a new section highlighting that Commission may appoint an investigator of relevant field serious nature of offences relating to a company as provided in Sixth Schedule.

The persons appointed as inspector or investigation officer shall have all powers of investigation officer under this Act, the SECP Act, 1997 and Code of Criminal Procedure, 1898 (Act V of 1898), mutatis mutandis, and shall report in such manner as the Commission may direct. In case no procedure is provided in this Act or SECP Act, 1997 the investigation officer shall comply with the relevant provisions of Code of Criminal Procedure, 1898.

This section also provides for the formation of a Joint Investigation Team (by requesting the concerned Minister-in-Charge of the Federal Government) to be headed by the senior level officer of the Commission in matters of public importance or if it is in the interest of public at large.

### Section 260 Power of inspectors to carry investigator into affairs of associated companies

The Act now requires approval of the Commission, for the inspector to investigate the affairs of any other associated company or associated undertaking which is, or has been associated. Also, the Commission shall not grant approval without providing opportunity of being heard to the associated company, or associated undertaking or the chief executive, as the case may be.

## PART VIII - MEDIATION, ARBITRATION, ARRANGEMENTS AND RECONSTRUCTION

### Section 276 Mediation and Conciliation panel

This is a new section allowing parties to proceedings before the Commission or Appellate Bench, to refer the matter pertaining to such proceedings to the Mediation and Conciliation Panel.

The Mediation and Conciliation Panel shall follow such procedure as and dispose of the matter referred to it within a period of 90 days from the date of such reference and forward its recommendations to the Commission or the Appellate Bench, as the case may be.

### Section 277 Resolution of disputes through mediation

This is also a new section allowing a company to refer a dispute, claim or controversy arising between them or between the members or directors inter-se, for resolution, to any individuals enlisted on the mediation and conciliation panel maintained by the Commission before taking recourse to formal dispute resolution.

## SECTION (CLAUSE)

## KEY CHANGES IN COMPANIES ACT 2017

**Section 279**      **Compromise with creditors and members**

The Act empowers the Commission to order a meeting of the company and creditors or class of creditors, or between members or class of members, where a compromise arrangement is proposed between a company and its creditors or between members.

Requirement for a certified copy of the order of the Commission sanctioning such compromises or arrangements is required to be submitted to the registrar within 7 days from the date of the order, has been newly added.

**Section 280**      **Power of Commission to enforce compromises and arrangements**

This new section of the Act empowers the Commission, as opposed to the Court in Companies Ordinance 1984, to give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper working of the compromise or arrangement, for any order under section 279.

**Section 282**      **Powers of Commission to facilitate reconstruction or amalgamation of companies**

In addition to granting the Commission, the power to enforce compromises and arrangements, the Act allows Commission to facilitate reconstruction of any company or companies, or the amalgamation of any two or more companies or division of a company or transfer of property or liability between companies.

The section now specifies the documents which are required to be circulated for the meeting of the members of the companies ordered by the Commission, namely:

- the draft of the proposed terms of the scheme drawn up and adopted by the board of each of the applicant companies;
- confirmation that a copy of the draft scheme has been filed with the registrar;
- a report adopted by the board of the applicant companies explaining effect of compromise on each class of members, laying out in particular the share swap ratio, specifying any special valuation difficulties;
- the report of the expert with regard to valuation, if any;
- a supplementary accounting statement if the last annual accounts of any of the applicant company relate to a financial year ending more than 6 months before the first meeting of the company summoned for the purposes of approving the scheme

A certified copy of the order of the Commission sanctioning such compromises or arrangements is required to be submitted to the registrar within 7 days from the date of the order.

**Section 283**      **Notice to be given to Registrar for applications under section 279 and 282**

Since, the Commission has been empowered to enforce compromises and arrangements and to facilitate reconstruction or amalgamation of companies, it will also give notice of every application made to it, to the registrar and shall take into consideration the representation if any, made to it by the registrar before passing any order. Under the Ordinance this was possible only through the court.

**SECTION**                      **KEY CHANGES IN COMPANIES ACT 2017**  
**(CLAUSE)**

**Section 284 Amalgamation of wholly owned subsidiaries in holding company**

This is a new section allowing amalgamation of wholly owned subsidiaries, directly or indirectly, into holding companies without the involvement of Commission to facilitate amalgamation, subject to the conditions that:

- a) the scheme of amalgamation is approved by the board of each amalgamating company; and
- b) each resolution provides that-
  - i. The shares of each transferor company, other than the transferee company, will be cancelled without payment or other consideration; and
  - ii. The board is satisfied that the transferee company will be able to pay its debts as they fall due during the period of one year immediately after the date on which the amalgamation is to become effective and a declaration verified by an affidavit to the effect will be filed with the registrar; and
  - iii. The person or persons named in the resolution will be the director or directors of the transferee company.

Any contravention or default in complying with requirements of this section shall be an offence liable to a penalty of level 2 on the standard scale.

**PART IX-PREVENTION OF OPPRESSION AND MISMANAGEMENT**

**Section 286 Application to court**

Members, having not less than 10% of issued share capital or creditors having interest equivalent in amount of not less than 10% of issued share capital, can complain to the Court that the affairs of company are being conducted in unlawful or fraudulent manner or in contravention of memorandum. Previously the requirement for members' shareholding and creditors' interest was 20%.

**Section 291 Management by administrator**

The Act empowers the Commission, instead of Federal Government to make regulations under this section.

**Section 292 Rehabilitation of sick public sector companies**

This section shall apply only to a public sector company which is facing financial or operational problems and is declared as a sick company by the concerned Minister-in-Charge of the Federal Government who may, by notification in the Official Gazette make rules for dealing with the rehabilitation, reconstruction and reorganization of a sick company.

## PART X - WINDING UP

### WINDING UP BY COURT

#### Section 301 Circumstances in which a company may be wound up by court

Following additional provisions for winding up of a company by the Court have been added.

- if the company has made a default in filing with the registrar its financial statements or annual returns for immediately preceding two consecutive financial years; or
- if the company is carrying on business prohibited by any law for the time being in force in Pakistan; or restricted by any law, rules or regulations for the time being in force in Pakistan; or
- if the sole business of the company is the licensed activity and it ceases to operate consequent upon revocation of a licence granted by the Commission or any other licencing authority; or
- if a listed company suspend its business for a whole year

### POWERS OF COURT HEARING APPLICATION

#### Section 314 Court may ascertain wishes of creditors or contributories

Addition has been made in this provision that the Court may ascertain wishes of creditors or contributories in all matters relating to the winding up of a company if it thinks fit for the purpose of ascertaining their wishes, order meetings of the creditors or contributories to be called, held and conducted in such manner as may be directed; and appoint a person to act as chairman of any such meeting and to submit a report in this regard. Further, weightage to wishes shall now be based on the value of debt and voting power.

### OFFICIAL LIQUIDATORS

#### Section 315 Appointment of official liquidator

Under the new provision the Commission shall maintain a panel for appointment of provisional manager and official liquidator of a company or a company to be wound up. Panel shall consist of chartered accountants, advocates, company secretaries, cost and management accountants, retired public servants having relevant experience and such other persons as may be specified by the Commission, having at least ten years' professional experience.

#### Section 316 Removal of official liquidator

New section added containing grounds for removing provisional manager or official liquidator of the company.

The Court may, on a reasonable cause being shown including but not limited to lack of independence or lack of impartiality, remove the provisional manager or the official liquidator, as the case may be, on any of the following grounds, namely:

- a) misconduct;
- b) fraud or misfeasance;
- c) professional incompetence or failure to exercise due care and diligence in performance of the powers and functions;
- d) inability to act as provisional manager or official liquidator, as the case may be;
- e) conflict of interest during the term of his appointment that will justify removal.

## SECTION (CLAUSE)

## KEY CHANGES IN COMPANIES ACT 2017

Where the Court is of the opinion that any liquidator is responsible for causing any loss or damage to the company due to fraud or misfeasance or failure to exercise due care and diligence in the performance of his powers and functions, the Court may recover or cause to be recovered such loss or damage from the provisional manager or official liquidator, as the case may be, and pass such other orders as it may think fit.

**Section 319**      **General provisions as to liquidators**

Period for winding up proceedings shall be as determined by the Court instead of one year from the date of commencement of winding up, mentioned in the Ordinance.

**Section 321**      **Report by official liquidator**

Official liquidator is required to submit a report to the Court as soon as practicable and not later than 60 days, instead of 30 days mentioned in the Ordinance, from the date of winding up and requirement for disclosure of some important information related to nature, details, location and current value of the assets duly ascertained by a registered valuer is added in this section. Further, official liquidator is now required to report on the viability of the business of the company or the steps which, in his opinion, are necessary for maximizing the value of the assets of the company.

**Section 322**      **Court directions on report of official liquidator**

This is new provision that has been added to give power to Court for fixing the time frame to complete the winding up proceedings.

**Section 324**      **Custody of company's properties**

The role of District Magistrate has been given to the Court. The liquidator or provisional manager shall on the order of the Court, forthwith take into custody or control all the property, effects and actionable claims of the company.

**Section 337**      **Powers and duties of official liquidator**

Following additional powers have been given to liquidator:

- to sell whole of the undertaking of the company as a going concern;
- to appoint an Advocate entitled to appear before the Court or such person as may be prescribed to assist him in the performance of his duties.

**Section 338**      **Liquidator to keep books containing proceedings of meetings**

The following specified books shall be kept by the official liquidator of a company under this section:

- register showing the dates at which notices were issued to the creditors and contributories;
- minutes book of all proceedings and resolutions passed at any meeting of the contributories or the creditors;
- register containing particulars of all transactions and negotiations made by him in relation to the winding up of the company and the connected matters.

**Section 339**      **Liquidator's account**

New requirement related to review of six monthly receipts and payments by company auditors (limited scope review) added in this section. In case winding up is not concluded within one year annual balance sheet and receipt and payment is required to be audited within 60 days after the close of each year

**SECTION**                      **KEY CHANGES IN COMPANIES ACT 2017**  
**(CLAUSE)**

**Section 341**      **Distribution by official liquidator**

New provision related to transfer of assets of association licensed under section 42 added because its assets cannot be distributed to the members. This requires that any assets which remain after the satisfaction of all debts and liabilities, those shall be transferred to another association licensed under section 42 of this Ordinance, preferably having similar or identical objects to those of the association in the manner as may be prescribed and subject to such conditions as the Court may impose.

**Section 342**      **Dissolution of company**

Amendment has been made relating to filing of copy of order by official liquidator with the registrar, who shall make in his books a minute of the dissolution of the company and shall publish a notice in the Official Gazette that the company is dissolved.

Further any contravention or default by official liquidator in complying with the requirements of this section he shall be liable to a daily penalty of level 1 on the standard scale.

**ENFORCEMENT OF ORDERS**

**Section 350**      **Notice of resolution to wind up voluntarily**

The notice of resolution to wind up a company voluntarily is required to be published within 10 days in daily newspapers in English and Urdu language having wide circulation atleast in one issue of each. The copy of the same is required to be sent to the registrar immediately.

The requirement has now been simplified and made similar for both the listed and other companies. Earlier the non-listed companies were required to publish the notice in any newspaper circulating in the Province where the registered office of the company is situated. Whereas the listed companies were required to publish the notice in each of English and Urdu language daily newspapers having circulation in the province where the registered office is situated.

Further any contravention or default in complying with requirement of this section shall be an offence liable to a daily penalty of level 1 on the standard scale.

**Section 351**      **Declaration of solvency**

The new point added where it is proposed to wind up a company voluntarily, the management along with other declarations which are currently in force will also be required to furnish a certificate that the company is not being wound up to defraud any person.

The penalty for making unjustified declaration by any director of a company under this section increased from 6 months imprisonment to one year imprisonment and also the fine is raised from up to PKR 10,000 to up to PKR 500,000.

**Section 353**      **Appointment of liquidator**

In case of members' voluntary winding up, the liquidator can now be removed by the members through resolution in general meeting. The right to remove the liquidator rested with the Court under the Ordinance.

**Section 355**      **Notice by liquidator of his appointment**

The Liquidator has been given the responsibility of filing the notice of his appointment with the Registrar, instead of the company.

**SECTION**  
**(CLAUSE)**      **KEY CHANGES IN COMPANIES ACT 2017**



**Section 357**      **Duty of liquidator where company turns out to be insolvent.-**

If in liquidators' opinion company is unable to pay its full debts within the period stated in directors Declaration under section 351. He shall summon a meeting of the creditors and shall lay before them statement of assets and liabilities.

The creditors may continue with the same liquidator or appoint a new liquidator who has consented to act as liquidator.

In case different liquidator nominated by creditors then within 15 days of the nomination then director/member will apply to the court for an order either:

- (a) Directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors, or
- (b) Appointing some other person to be liquidator instead of the person nominated by the creditors.

If the liquidator fails to comply with any of the requirements of this section, he shall be liable to a penalty of level 1 on the standard scale.

**Section 358**      **Duty of liquidator to call general meetings**

The liquidator shall summon and hold the AGM within two months from the close of first year after the commencement of winding up.

New documents are added to lay before the AGM which include the statement of financial position along with the receipt and payment account, auditors' report and the liquidator's report.

The copy of account and reports shall be sent to every contributory by post. Liquidator has to submit to the registrar the list of contributories as well along with the return of convening of AGM, copy of notice, accounts and reports and minutes of the meeting within 15 days of the date of meeting

If the liquidator fails to comply with any of the requirements of this section, he shall be liable to a penalty of level 1 on the standard scale.

**Section 359**      **Final meeting and dissolution**

Notice of the final meeting can be dispatched to each contributory of the company atleast 21 days before the meeting. The timeframe is now increased from 10 days to 21 days.

**PROVISIONS APPLICABLE TO CREDITOR'S VOLUNTARY WINDINGUP**

**Section 362**      **Meeting of creditors**

In case of creditors' voluntary winding up the timeframe for holding the meeting of the creditors has been extended from one day to 14 days after the meeting at which the resolution for voluntary winding up is to be proposed.

Notice of creditors' meeting is to be advertised in daily newspapers in English and Urdu language having wide circulation at least in one issue of each. The copy of the same is required to be sent to the registrar immediately.

The notice for such meeting should be sent to the creditors by post not less than 7 days before the meeting.

If the liquidator fails to comply with any of the requirements of this section, he shall be liable to a penalty of level 1 on the standard scale.

**SECTION**  
**(CLAUSE)**      **KEY CHANGES IN COMPANIES ACT 2017**

**Section 363 Appointment of liquidator**

After the nomination of liquidator by the creditors the time frame for directors, members or creditors to apply to the court for order has been enhanced from 7 to 15 days within such nomination.

Notice of appointment of liquidator as well as the resolution passed at a creditors' meeting in pursuance of section 362 shall be given by the company to the registrar, along with the consent of the liquidator to act as such, within 10 days of the passing thereof.

**Section 368 Duty of liquidator to call meeting of company and of creditors**

The liquidator shall summon and hold the AGM and meeting of creditors within 60 days from the close of financial year after the commencement of winding up.

The documents to lay before the AGM now also include the statement of financial position along with the receipt and payment account, auditors' report and the liquidator's report.

The copy of accounts and the reports, as referred above, shall be forwarded to every contributory by post.

Liquidator has to submit to the Registrar the list of contributories as well along with the return of convening of the meeting, copy of the notice, accounts and reports as aforesaid and minutes of the meeting within 15 days of the date of the meeting.

If the liquidator fails to comply with any of the requirements of this section, he shall be liable to a penalty of level 1 on the standard scale.

**Section 369 Final meeting and dissolution**

When affairs of a company are fully wound up, the liquidator shall-

1. Prepare final accounts of the company, get the same audited; and also prepare a report of the winding up, showing that the property and assets of the company have been disposed of and its debts fully discharged and such other particulars, as may be specified;
2. Summon and hold general meeting of the company and a meeting of the creditors within a period of 60 days from the close of its financial year in the manner provided under section 132.

However notice of the final meeting can be dispatched to each contributory of the company through courier or electronic mode at least 21 days before the meeting. The timeframe is now increased from 10 days to 21 days.

**Section 372 (4) PROVISIONS APPLICABLE TO EVERY VOLUNTARY WINDING UP Powers and duties of liquidator in voluntary winding up**

A new provision inserted whereby in case of winding up of the association licensed under section 42, the assets remaining after paying off debts and liabilities shall be transferred to another association, licensed under section 42 having similar or identical objectives instead of distribution of remaining assets to the members as the assets are mainly funded by the donations. It is further provided that if any of the assets is not transferred in the manner provided due to any reason, the proceeds from sale of such assets shall be credited to Investor Education and Awareness Fund formed under section 245.

Another change as compare to the Ordinance is the change of certificate in which official liquidator shall invest the retained amount. Previously it was Khas deposit certificates and now it is changed to Special Saving Certificates.

**SECTION (CLAUSE) KEY CHANGES IN COMPANIES ACT 2017**

**Section 375 Arrangement when binding on company and creditors**

Any arrangement other than the arrangement referred to in section 356 entered into between a company which is about to be, or is in the course, of being wound up and its creditors shall be binding on the company and on the creditors, if it is sanctioned by a special resolution of the company and acceded to by the creditors who hold three-fourths in value of the total amount due to all the creditors of the company.

In the Ordinance, for the purpose of binding of arrangement on creditors; three-fourth of creditors in number and value were required to be agreed. Since there were practical problems to implement both the requirements of value as well as number; requirement of number has been removed.

**PROOF AND RANKING OF CLAIMS**

**Section 390 Preferential payment**

In case of winding up, the changes in preferential payment and level of priorities have been re-defined.

**Section 391 Avoidance of transfer**

Any transfer or disposition of property, including actionable claims of the company, not being a transfer or delivery made in the ordinary course of its business or in favor of a purchaser or encumbrances in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the Court or the passing of a resolution for voluntary winding up of the company, shall be void.

In the sub-section mentioned above, the word 'disposition' is added which was not mentioned in the Ordinance.

**EFFECT OF WINDING UP ON ANTECEDENT AND OTHER TRANSACTIONS**

**Section 393 Fraudulent preference**

This provision has been revised to cover the broad area of fraudulent preferences which states that:

In the event of a company going in to liquidation where a company has given preference to a Creditor, Surety or Guarantor of the company by doing anything favoring him prior to one hundred and eighty days of commencement of winding up, the court if satisfied that such transaction is fraudulent may order as it thinks fit to restore to the position as no preference has been given.

When there is a preference transfer of property, movable or immovable, or any delivery of goods, payment, execution made, taken or done by or against a company within one hundred and eighty days before the commencement of winding up, the Court may order as it may think fit and may declare such transaction invalid and restore the position.

**Section 396 Effect of floating charge**

Where a company is being wound up, a floating charge on the undertaking or property of the company created within 12 months immediately preceding the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid except to the amount of any cash paid to the company at the time of, or subsequently to the creation of, and in consideration for, the charge, together with markup on that amount at the rate of 5% per annum or part thereof or such other rate as may be notified by the Commission in the Official Gazette.

**SECTION (CLAUSE) KEY CHANGES IN COMPANIES ACT 2017**

The rate of markup is now 5% per annum as compared to the Ordinance in which it was 1% per month.

#### **OFFENCES ANTECEDENT TO OR IN COURSE OF WINDING UP**

##### **Section 400 Penalty for fraud by officer of companies which have gone into liquidation**

Under the Act, the time span for imprisonment has been increased up to 3 years as compared to the Ordinance which was 2 years. Moreover, maximum amount of liability has also been specified in the Act which is up to Rs. 1,000,000 which was previously not mentioned.

##### **Section 401(1) Liability where proper accounts not kept**

Under the relevant provisions of the Ordinance term for imprisonment was 2 years and amount of fine was upto Rs. 20,000 only, which is now increased to 3 years and Rs. 100,000 respectively in the Act.

##### **Section 402 Penalty for falsification of books**

In the Act there is an increase of one year in the period of imprisonment and amount of fine has also been increased to Rs. 1,000,000.

##### **Section 404 Penalty for false evidence**

Time period for imprisonment is 3 years in the Act as compared to the Ordinance which was 2 years. Moreover maximum amount of fine is also specified in the Act which is up to Rs. 1,000,000.

##### **Section 405 Penal provisions**

In the Act the value of any part of the property of the company has been increased from Rs. 100 to Rs. 1,000.

#### **SUPPLEMENTARY PROVISIONS AS TO WINDING UP**

##### **Section 424 Inactive company**

This is a new provision whereby a company, other than a listed company, which is formed for a future project or to hold an asset or intellectual property and has no significant accounting transaction, can obtain the status of “Inactive Company” by making an application to the Registrar in prescribed manner.

Significant transactions exclude following transactions:

- Payments made to fulfill legal requirements;
- Allotment of shares to fulfill requirements of this Ordinance; and
- Payments for maintenance of its office and records.

The registrar after considering the application is required to issue a certificate to the applicant and to maintain register of inactive companies.

Further, the registrar shall issue a notice to a company and shall enter its name in the register of inactive companies who have not filed financial statements or annual returns for consecutive two years.

#### **SECTION (CLAUSE)**

#### **KEY CHANGES IN COMPANIES ACT 2017**

The commission may prescribe the company to have such minimum number of directors and file such documents to retain its status of inactive company.

The registrar shall switch the status of inactive companies to active companies after receiving an application accompanied by such documents and fees as may be specified by the commission in this behalf.

If a company fails to comply with the requirements of this section, the registrar shall strike off its name from register of inactive companies.

#### Section 426

##### Easy exit of a defunct company

It is new provision in Act in which a company has been provided with easy exit option if it ceases to operate and has no known assets and liabilities by applying to the registrar and on payment of prescribed fees seeking to strike off its name from the register of the companies.

A notice may be published in the Official Gazette by registrar and the company shall be dissolved on expiration of 3 months unless cause is shown to the contrary. If no cause is shown within 3 months, the name of the applicant company shall be struck off the register of the companies and the notice of the dissolution shall be published in the Official Gazette and on such publication of notice the company shall stand dissolved.

#### PART XII - COMPANIES ESTABLISHED OUTSIDE PAKISTAN

##### PROVISIONS AS TO ESTABLISHMENT OF PLACE OF BUSINESS IN PAKISTAN

#### Section 439

##### POWER OF THE COMMISSION TO REQUIRE INFORMATION OF THE BENEFICIAL OWNERS OF A FOREIGN COMPANY

It is a new provision that gives powers to the Commission to seek information from a foreign company and any of its past or present directors, officers or auditors or any other person who is directly or indirectly the beneficial owner of its equity securities, about the shareholding in the company and such other information and documents as may be directed, within such reasonable time, as may be specified.

#### PROSPECTUS

#### Section 447

##### Restriction on canvassing for sale of securities

The operative provisions of this section remain the same as was in the repealed Ordinance, except that the provision relating to penalties have been made stringent and attracts penalty of level 3 on the standard scale.

#### PART XIII GENERAL

#### Section: 451

##### Certification of Shariah Compliant Companies and Securities

This is a new provision introduced.

No company shall be called a Shariah compliant company unless it is conducting its business according to the principles of Shariah and it has obtained a certificate of Shariah compliance from the Commission.

No security shall be called a Shariah compliant security unless the proceeds from the security are utilized for Shariah permissible business and it has been declared Shariah compliant in such form and manner as may be specified.

#### SECTION (CLAUSE)

#### KEY CHANGES IN COMPANIES ACT 2017

No company shall appoint or engage any person for Shariah compliance, Shariah advisory, or Shariah audit unless that person meets the fit and proper criteria and fulfills such terms and conditions as may be specified.

Criteria for grant of above certificates is yet to be prescribed.

**Section: 452**      **Companies' global register of beneficial ownership**

This is a new provision incorporated.

Every "substantial shareholder or officer" of a company incorporated under this Act, having 10% or more shares in a foreign company or "body corporate" shall report to the company, regarding his beneficial ownership or any other percentage or interest as may be notified by the Commission, on a specified form within 30 days of holding such position or interest.

The afore-mentioned details shall be reported to the registrar along with the annual return, however, all the above information shall be submitted through a special return on a specified form within sixty (60) days from the commencement of this Ordinance.

The Commission shall keep record of the information in the Companies' Global Register of Beneficial Owner.

**Section: 453**      **Prevention of offences relating to fraud, money laundering and terrorist financing**

This is a newly inserted provision.

Every officer of a company shall endeavor to prevent the commission of any fraud, offences of money laundering including predicated offences as provided in the Anti-Money Laundering Act, 2010 (VII of 2010) with respect to affairs of the company and shall take adequate measures for the purpose.

Non-compliance of this section would result in punishment of imprisonment for a term of up to 3 years and with fine of up to Rs. 100,000,000.

The punishment provided under this section shall be in addition to any punishment attracted due to active involvement by such officer in commission of an offence of money laundering under Anti-Money Laundering Act, 2010.

**Section: 454**      **Free Zone Company**

This is a newly inserted provision.

A company incorporated for the purpose of carrying on business in the export processing zone or any other area notified as free zone shall be eligible to such exemptions from the requirements of this Act as may be notified in terms of section 459.

The Commission may, for protection of foreign investors and to protect the foreign investment, restrict the disclosure of information. Restrictions of non-disclosure shall not be applicable to the revenue authorities collecting tax, duties or levies or requirement or obligation under international law, treaty or commitment of Government.

Such company may dispense with the words 'Private Limited' or 'Limited' and called as 'Free Zone Company' having parenthesis as "FZC" at the end of its name.

**SECTION**      **KEY CHANGES IN COMPANIES ACT 2017**  
**(CLAUSE)**

**Section: 455**      **Filing of documents through intermediaries**

This is a newly inserted provision.

For the purposes of filing under this Act, a person may avail services of “intermediary” as may be specified.

An Intermediary must have requisite qualification to be registered with the Commission for the purpose of providing service.

The Commission has right to cancel the registration as intermediary after providing opportunity of being heard.

**Section: 456**      **Acceptance of advances by real estate companies**

A company undertaking a real estate project is now required to seek approval of the Commission in prescribed manner with such additional disclosure requirements as notified (in addition to all necessary approvals, permissions, NOCs etc. of the concerned authorities). A real estate company shall not:

- a) announce any real estate project unless it has obtained approval of Commission in this regard.
- b) make any publication or advertisement of real estate projects without approval of Commission ; and
- c) accept any advances or deposits in any form whatsoever against any booking to sell, or offer for sale, or invite persons to purchase any land, apartment or building, as the case may be, in any real estate project or part of it without approval of Commission;

The section also describes the approval of different activities from Commission for companies engaged in real estate business.

The expression “real estate project” shall include projects for the development and construction of residential or commercial buildings or compounds and shall not include other construction project.

**Section: 457**      **Agriculture Promotion Companies**

This is a new inserted provision.

A person may establish Agriculture Promotion Company, having its principle line of business related to produce for agriculture promotion or managing produce as collateral or engaged in any activity connected with or related to any produce or other related activities. Such company shall primarily deal with the produce of its members.

If Agriculture Promotion Company or its members indulge in activities prejudicial to the interest of farmer, member, lending institutions, commodity exchange consumers or other stakeholders shall be liable to penalty of level 3 on the standard scale.

**SECTION  
(CLAUSE)**

**KEY CHANGES IN COMPANIES ACT 2017**

**Section: 458**

**Power to give exemptions by the federal government**

This is a newly inserted provision.

The powers have been vested with the concerned Minister-in-charge of the Federal Government to exempt companies under section 454, 456 and 457 by notification in the official Gazette.

**Section: 459**

**Quota for persons with disabilities in the public interest companies**

Every public interest company, employing 100 or more employees shall make special quota for employment of persons with disabilities of 2% or more as may be prescribed.

However, in case of any disagreement between this Act and any other law for persons with disabilities, the latter shall be applicable.

**Section: 460**

**Valuation by registered valuers**

This provision is newly added regarding the contravention of valuation by registered valuers.

Contravention will result in the valuer to penalty of level 2 on the standard scale. However, if valuer deliberately contravened with fraudulent intention to the company, its members or creditors he shall be punishable with imprisonment of up to one year and with fine up to Rs. 500,000.

A convicted valuer shall be liable to:

- 1-refund the remuneration received from the company; and
- 2-pay for the damages to the company and
- 3-to any other person for loss arising out of incorrect or misleading statements made in his report.

Valuer will be required to prepare report in such manner and by applying such approaches as may be prescribed

The registration as valuer under this section shall be liable to be cancelled by the Commission on such grounds and in such manner as may be specified after providing an opportunity of being heard.

**Section 461**

**Security clearance of shareholder and director**

A new provision has been added that states that a Minister-in-charge may notify the Commission to take security clearance of any shareholder or director or other office bearer of the company or class of companies.

**Section 462**

**REGISTRATION OFFICES AND FEES**

Certain amendments have been made in respect of registration offices which delegates the power of Federal Government to the Commission for setting up of offices, appointment of officers and making regulations in respect of their duties.

New provisions have been added that safeguards the registrar or Commission from any liability that may arise due to any loss or damaged suffered by any person by reason of any error or omission of whatever nature arising or appearing in any document obtained by any person, if such error or omission is made in good faith.

A new sub-section has been introduced which deals with the admissibility of documents filed in physical or electronic form with the Commission in the same manner as an original document would have been admissible.



**SECTION  
(CLAUSE)  
Section  
464**

**KEY CHANGES IN COMPANIES ACT 2017**

**Registrar not to accept defective documents**

New provisions have been added that registrar can refuse to accept the revised document if not filed timely.

Documents that have been accepted for record or data or any other information subsequently found to be defective or incorrect or false or forged, the registrar may allow the rectification of the documents, after obtaining such evidence and recording in writing, for special reason.

Further provision has been added that the documents that have been accepted for record or data or any other information subsequently found to be defective or incorrect, which cannot be rectified or accepted by mistake by registrar, after obtaining such evidence and recording in writing, as he deems appropriate can cancel the recording thereof.

**Section  
465**

**Special return to rectify the data**

A provision has been added that empowers the Commission and registrar to ask companies or class of companies or all the companies at any time by a specific or general order to rectify the record. Such record shall be conclusive evidence of all the relevant facts and shall be signed by all the directors. It further states that such special return shall not be called in question by persons who have signed it and such persons shall stand liable to any person who has suffered any loss on account of any incorrect information provided in such special return.

Further provision has been added that deals with the duties of companies to inform about any change of more than 25% in its shareholding or membership or voting rights as may be specified by the Commission.

**Section  
466**

**Jurisdiction in the disputes relating to shareholding and directorship**

This is a new section whereby the registrar shall have no jurisdiction to determine the rights of the parties relating to shareholding and directorship.

**Section  
467**

**Approval of transfer of shares by the agents licenced by the commission**

A new section has been added that appoints a third party, for the notified companies, for transfer of shares. It further states that both the transferor and transferee shall appear before the agent and get their statements recorded. The statements of both the parties shall be forwarded for further necessary action in such form and manner as may be specified.

It is further provided that the provision of these sections shall not be applied by transfer of shares by operation of law.

Further section has been added that licenced agent can charge the fee for services rendered not exceeding the limit notified by the Commission and the Commission may grant the licence, subject to such conditions, to the person having certain qualification and infrastructure as may be specified and the agent shall be responsible for any loss caused by him to any person, as determined by the Court at the time of deciding the case under section 126.

If agent fails to comply with any terms and conditions above, the Commission can revoke the licence after giving notice to the agent of his intention to do so and shall provide an opportunity to be heard.

The agent licensed under this section shall maintain complete record of all the statements recorded by him including the documents submitted by parties for a period of 10 years.

**SECTION  
(CLAUSE)**

**KEY CHANGES IN COMPANIES ACT 2017**

**Section  
468**

**Acceptance of documents presented after prescribed time**

A new fee structure has been introduced for late filing of documents after expiry of prescribed period. However, the registrar may accept the document after receiving the payment of fee specified below:

- (a) Within 90 days, a fee equivalent to 2 times;
- (b) Within 180 days, a fee equivalent to 3 times;
- (c) Within one year, a fee equivalent to 4 times;
- (d) Within 2 years, a fee equivalent to 5 times;

This sub-section shall not be applicable to the public interest company.

The acceptance of the document by the registrar under sub-section (1) shall not absolve the defaulting company or other person concerned of any liability arising from the default, delay in filing or other failure to comply with the requirements of this Act.

The exception of the above mentioned provision is inserted in the Act which was not included in the Ordinance, the exception is as follows:

“No proceeding shall be initiated against the company or any of its officers on account of delay in filing of any document required under this Act to be filed or registered with the registrar which is presented by the company or other person concerned on the payment of fee as specified and within a period as specified therein”.

**Section 471**

**Filing of documents electronically**

This is a new provision, giving the Commission the power to direct companies to file documents electronically.

Any document to be submitted electronically shall be authenticated by the companies by affixing electronic signature or advanced electronic signature, as required under the Electronic Transactions Ordinance, 2002.

This also empowers Commission or the registrar to require mandatory electronic filing after the notified date, any document, return or application to be filed, lodged or submitted with the Commission or the registrar. This however also provides power to relax the requirement for certain class of companies.

**Section 472**

**Destruction of physical record**

This is a new provision inserted to enable destruction of physical record including the statutory returns and application, maintained for specified period of time by the registrar or the Commission.

The physical record converted into electronic form has been provided legal cover so as to be treated admissible as evidence in all legal proceedings.

**SECTION  
(CLAUSE)  
Section 473**

**KEY CHANGES IN COMPANIES ACT 2017**

**Supply of documents, information, notices to the members electronically**

This provision introduced for mandatory submission of of information / documents.

After the notified date all information, notices and accounts or any other document to be provided by the company to its members, shall only be provided electronically on the email address provided by the members.

A member requiring supply of any document in physical form shall bear the cost as fixed by the company.

**LEGAL PROCEEDINGS OFFENCES**

**Section 476**

**Offences to be cognizable**

An amendment has been made to the previous provision where all offences under the Ordinance were non-cognizable. Under the Act, any offence (other than expressly provided under the Act or the Eighth Schedule) in which punishment of imprisonment is provided shall be cognizable by the Commission (Securities and Exchange Commission of Pakistan) only.

**Section 477**

**Complaint to the court by the Commission, registrar, member or creditor in case of certain offences**

This is a new provision. It provides for courts not taking cognizance of offences provided in the Eighth Schedule alleged to have been committed by any company or any officer or any auditor or any other person unless the complaint is filed by certain specified persons.

These specified persons are:

- 1) Commission through its authorized officer or registrar.
- 2) Member/s holding not less than 5% of the issued share capital (company having share capital) or a Creditor having interest equivalent in amount to not less than 5% of the issued share capital.
- 3) Member or creditor entitled to present a petition for winding up of the company (company not having share capital).

**Section 478**

**Penalty to be imposed by the Commission**

Separate provision has been added for providing opportunity of being heard for levying penalty for any offence. It is provided that such penalty shall be imposed by the Commission after providing a reasonable opportunity of hearing to the Party.

**Section 479**

**Adjudication of offences and standard scale of penalty**

A standard scale of penalties for offences under the Act have been introduced.  
The standard scale consists of:

<u>Level</u>	<u>Limit of penalty</u>	<u>Per day penalty during which the default continues</u>
1.	Upto PKR 25,000	Upto PKR 500
2.	Upto PKR 500,000	Upto PKR 1,000
3.	Upto PKR 100 million	Upto PKR 500,000

The penalty shall be imposed after giving the person concerned an opportunity to show cause why he should not be punished for the alleged offence, contravention, default or non-compliance and, if he so requests, after giving him an opportunity of being heard personally or through such person as may be specified.

**SECTION  
(CLAUSE)  
Section 480**

**KEY CHANGES IN COMPANIES ACT 2017**

**Appeal against order passed by officer of the commission**

This provision relating to filing of appeal has been introduced instead of filing of revision application under the repealed Ordinance. It allows person aggrieved by any order passed under this Ordinance to prefer an appeal within 30 days of such order to:

- The registrar designated by the Commission against the order passed by an additional registrar, a joint registrar, a deputy registrar or an assistant registrar; and
- officer authorized by the Commission where the order has been passed or upheld by the registrar designated under clause (a) by the Commission.

**Section 481**

**Appeals before the appellate bench**

Any person aggrieved by an order passed by the registrar or by an officer authorized by the Commission, under section 480, may prefer an appeal to the Appellate Bench of the Commission under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997.

No appeal shall lie against:

- an administrative direction given by a Commissioner or an officer of the Commission;
- A sanction provided or decision made by a Commissioner or an officer of the Commission to commence legal proceedings; and
- An interim order which does not dispose of the entire matter.

**Section 482**

**Adjudication of offences involving imprisonment**

Regardless of anything contained in the Code of Criminal Procedure 1898, no court other than court of sessions or such other court as may be notified under section 37 of the Securities and Exchange Commission of Pakistan Act, 1997, shall take cognizance of any offence punishable with imprisonment or in addition to fine under this Ordinance.

**Section 483**

**Powers of the commission in relation to enquiries and proceedings**

An amendment has been made as per which powers, in relation to enquiries and proceedings, conferred on the Federal Government are now vested with the Commission.

**Section 485**

**Recovery of penalty**

This is new provision added for recovery of penalty imposed under this Act which shall be recovered in accordance with section 42B of Securities and Exchange Commission of Pakistan Act, 1997.

**Section 486**

**Prosecution of offences by the commission**

All prosecution conducted by the Commission under the Act shall be made in the manner as provided in section 38 of Securities and Exchange Commission of Pakistan Act, 1997.

**Section 487**

**Appeal against acquittal**

Regardless of anything contained in the Code of Criminal Procedure, 1898, the Commission may direct any officer of the Commission or authorize any other person to present an appeal from an order of acquittal passed by the court other than a Court (i.e. Company Bench of a High Court) and an appeal presented by such prosecutor or other person shall be deemed to have been validly presented to the appellate court.

SECTION  
(CLAUSE)  
Section 488

KEY CHANGES IN COMPANIES ACT 2017

**Payment of compensation in cases of frivolous or vexatious prosecution**

This provision was also a part of the Ordinance and deals with ordering compensation from members or creditors who filed frivolous or vexatious complaints against a company or any officer thereof.

An amendment has been made by inclusion of a provision whereby nothing contained in the Code of Criminal Procedure, 1898 or anything contained in this section shall be applicable to the authorized officer of the Commission or the registrar and all actions by such officer or registrar shall be deemed to be validly done in good faith and no compensation or suit for damages shall lie.

Section 492

**Power of Court to grant relief in certain cases**

The power of officer, Commission and registrar of relieving a person from his liability, either wholly or partly, in a criminal proceeding, has been retracted; now such power rests with Court only.

Section 496

**Penalty for false statement, falsification, forgery, fraud, deception**

This provision has been substantially amended.

Under this provision, whoever in relations to affairs of the company or body corporate-

- makes or submits a false statement or document with an intention to defraud, or cheat the Commission or to obtain incorporation or to avoid any penal action for an offence under the Act or administered legislation;
- makes or omits or alters any false entry with an intent to defraud, destroy, alter or falsifies any books of account belonging to or in his possession shall commit an offence of falsification of account;
- submits, presents or produces any forged or fabricated document, knowingly to be forged or fabricated, to the Commission for the purposes of cheating; or
- employ any scheme, artifice or practice in the course of business of the company to defraud or deceive general public;

shall be punishable with imprisonment which shall not be less than 1 year but which may extend to 7 years and shall also be liable to fine.

All offences under this section shall be non-bailable and non-compoundable.

Section 497

**Penalty for wrongful withholding of property**

The penalty under this section has been revised to a fine upto Rs 1,000,000 or, if ordered by court, refund the company's property within given time. In case of failure of submitting fine, or refunding of the property, the person will be punishable with imprisonment of upto 3 years and a fine of Rs 500,000. Previously the earlier fine was Rs 10,000 and term of imprisonment was upto 2 years.

Section 500, 501  
and 502

**Penalty for carrying on *ultra vires* business & improper use of word 'limited' & where no specific penalty is provided**

A person carrying on business *ultra vires* of the company or who use or display the word 'limited' with his business, unless duly incorporated with limited liability or as a private limited company or with the liability of members limited by guarantee, as the case may be, or a person who fails to comply any provision of this Act, for which no punishment is provided elsewhere in this Act, will be liable to a penalty of level 3 on the standard scale.

**SECTION  
(CLAUSE)**

**KEY CHANGES IN COMPANIES ACT 2017**

**SCHEDULES, TABLES, FORMS AND GENERAL RULES**

**Section 507**

**Power to alter Schedule**

The Act empowers the Commission to alter all Schedules except 6<sup>th</sup> and 8<sup>th</sup> and Federal Government retains the power to make alterations in 6<sup>th</sup> and 8<sup>th</sup> Schedules by notification. Previously Federal Government held the power to alter all the Schedules.

**Section 508**

**Power of the Federal Government to make rules**

This provision has been amended in relation to the quantum of fine that can be imposed by the rules.

Any rule made under this provision, may provide that a contravention thereof shall be punishable with a penalty which may extend to PKR 5 million and, where the contravention is a continuing one, with a further penalty which may extend to PKR 100,000 for every day after the first during which such contravention continues.

**Section 509**

**Repeal and saving**

This Act repeals the Ordinance which shall stand repealed, except Part VIII A consisting of sections 282A to 282N, from the date of coming into force of this Act and the provisions of the said Part VIII A along with all related or connected provisions of the repealed Ordinance shall be applicable mutatis mutandis to Non-banking Finance Companies in a manner as if the repealed Ordinance has not been repealed:

Provided that repeal of the repealed Ordinance shall not-

- a) Affect the incorporation of any company registered or saved under repealed Ordinance; or
- b) Revive anything not in force at the time at which the repeal take effect; or
- c) Affect the previous operation of the repealed Ordinance or anything duly done or suffered thereunder; or
- d) Affect any right, privilege, obligation or liability acquired, accrued or incurred under the said repealed Ordinance: or
- e) Affect any penalty imposed, forfeiture made or punishment awarded in respect of any offence committed under the repealed Ordinance; or
- f) Affect any inspection, investigation, prosecution, legal proceeding or remedy

Notwithstanding the repeal of the repealed Ordinance:

- Any document referring to any provision of the repealed Ordinance shall be construed as referring, as far as may be, to the Ordinance, or to the corresponding provisions of the Ordinance;
- All rules, regulations, notification, guideline, circular, directive, order (special or general) or exemption issued, made or granted under the repealed Ordinance shall have effect as if it had been issued, made or granted under the corresponding provision of the Act unless repealed, amended or substituted under this Act; and
- Any official appointed and anybody elected or constituted under repealed Ordinance shall continue and shall be deemed to have been appointed, elected or constituted, as the case may be, under the corresponding provision of the Act.

**Section 510**

**POWER TO ISSUE DIRECTIVES, CIRCULARS, GUIDELINE**

This section has been newly added

Any person, who obstructs or contravenes or does not comply with any directive, prudential requirements, codes, circulars or notifications, given under this section shall be liable to a penalty of level 3 on the standard scale.

**SECTION  
(CLAUSE)  
Section 511**

**KEY CHANGES IN COMPANIES ACT 2017**

**POWER OF THE COMMISSION TO PERMIT USE OF URDU WORDS OF ABBREVIATIONS**

The Commission has been empowered to permit the use of an Urdu equivalent of any English word or term required to be used pursuant to or for the purposes of this Act or an abbreviation of any such word or term instead of such word or term; previously Federal Government held such power.

**Section 513**

**Validation of laws**

This section validates the entire Act

All amendments made to the Companies Ordinance, 1984 (XLVII of 19t4) or any administered legislation through various Finance Acts shall be deemed to have been validly made from the date of commencement of such Acts.

Notwithstanding anything contained in any other law, all orders made, proceedings taken and acts done, rules, regulations, instructions, notifications and other legal instruments made at any time before the promulgation of the Ordinance or any administered legislation, including appeals decided by the Appellate Bench of the Commission or authorization of investigation, enquiry and inspection by the Federal Government, the Commission or any officer of the Commission under delegated authority, the registrar or any other officer having authority under the law in exercise or purported exercise of powers under amendments made to Companies Ordinance, 19t4 (XLVII of 1984) or any administered legislation through various Finance Acts, and that have now been promulgated as well as affirmed in terms of sub-section (l ) of this section, are declared and affirmed to have been and shall be deemed to have always been, validly made, decided, taken or done.

## THE THIRD SCHEDULE

A new schedule has been added which lays down classification of Companies in these main categories and the applicable accounting framework to be followed by each. Previously (in the Fifth Schedule of the Ordinance) the medium sized companies and small sized companies were encouraged to follow International Financial Reporting Standards.

The framework for listed companies, and non-listed public interest companies has been specified as International Financial Reporting Standards.

This Schedule as prescribed is appended below for reference:

(Section 224 of the ACT)

S No	Classification Criteria of Company	Applicable Accounting Framework	Relevant Schedule Of Companies Bill
1.	<b>Public Interest Company &amp; Large Sized Company (PILSC):</b>		
	<b>Sub categories of PILSC</b>		
	a) Listed Company	International Financial Reporting Framework	Fourth Schedule
	b) Non-listed Company which is: (i) A public sector company as defined in the Ordinance; or (ii) A public utility or similar company carrying on the business of essential public service; or (iii) holding assets in a fiduciary capacity for a broad group of outsiders, such as a bank, insurance company, securities broker/dealer, pension fund, mutual fund or investment banking entity.	International Financial Reporting Framework	Fifth Schedule
	c) Non-listed Company with: i) paid-up capital of Rs. 200 million or more; or ii) turnover of Rs. 1 billion or more; or iii) employees more than 750; or iv) such number of members holding ordinary shares as may be notified; or v) assets exceeding such value as may be notified.		
	d) Foreign Company with turnover of Rs.1 billion or more.		
	e) Non-listed Company licensed / formed under Section 42 / Section 45 of the Ordinance having annual gross revenue (grants/income/subsidies/donations) including other income/revenue of Rs.200 million and above.	International Financial Reporting Standards and Accounting Standards for NPOs	



2	<b>Medium Sized Company (MSC)</b>			
	<b>Sub-categories of MSC</b>			
	a)	Non-listed Public Company with:  i) paid-up capital less than Rs.200 million; ii) turnover less than Rs1 billion; iii) Employees more than 250 but less than 750.	International Financial Reporting Standards for SMEs	
	b)	Private Company with:  i. paid-up capital of greater than Rs. 10 million but not exceeding Rs. 200 million ii. turnover greater than Rs. 100 million but not exceeding Rs. 1 billion; iii. Employees more than 250 but less than 750.		
	c)	A Foreign Company which has turnover less than Rs. 1 billion	Accounting Standards for NPOs	
	d)	Non-listed Company licensed / formed under Section 42 / Section 45 of the Ordinance which has annual gross revenue (grants/income/subsidies/donations) including other income or revenue less than Rs.200 million.		
				Fifth Schedule
3	<b>Small Sized Company (SSC)</b>			
		A private company having:  i) paid-up capital up to Rs. 10 million; ii) turnover of exceeding Rs.100 million; iii) Employees not more than 250	Revised AFRS for SSEs	Fifth Schedule

Note:

- i) The classification of a company shall be based on the previous year's audited financial statements.
- ii) The classification of a company can be changed where it does not fall under the previous criteria for two consecutive years.
- iii) The number of employees means the average number of persons employed by a company in that financial year calculated on monthly basis.

## THE FOURTH SCHEDULE

### Key Changes

- Duplication in disclosures already covered in IFRS has been eliminated. Now the Schedule focuses on only additional disclosures.
- In executive definition criteria of annual salary increased from Rs.500,000 to Rs.1,200,000.
- New disclosure for general information of following added:
  - Geographical location and address of mill / plant units
  - Particulars of immovable assets including location and area of land
  - Number of employees separately disclosing factory employees
- Summary of significant transactions and events affecting the financial position and performance during the year this was previously required by the Code of Corporate Governance now is also covered in the Schedule.
- Definition of 'capital reserve has been amended by excluding capital redemption reserve, capital repurchase reserve account or any reserve not regarded free for distribution by way of dividend and adding reserve created under any other law for the time being in force and reserve arising as consequences of scheme of arrangement, in the identification.
- Financial Statements to disclose implementation of plans of proceeds obtained through issue of public offering of securities or debt instruments.
- For more transparency additional disclosures have been given for foreign companies and foreign shareholders as follows:
  - Separate disclosure for associated companies, subsidiaries, joint ventures or holding companies incorporated outside Pakistan giving name address, basis of association, operational status and auditor's opinion on its latest financial statements.
  - Particulars to be disclosed of foreign shareholders other than natural person holding more than 5% of paid up capital.
  - Loan or advances given or investment made in foreign companies or undertakings company to disclose particulars including terms and conditions, litigation, default and breach details and gain or loss on disposal of investment.
- Separate disclosure of export sales outstanding debts giving particulars of jurisdiction, related party, default and legal action.
- Separate disclosure by Sharia compliant companies and companies listed on the Islamic Index now included in the Schedule this was intimated previously through Circular 29 of 2016.
- Disclosure of property or asset acquired by company but not held in the name of company or not in possession and control of the company.
- Forced Sale Value to be disclosed in case of revaluation of Property Plant & Equipment.
- Detail of disposal of asset to be given in case of book value exceeding Rs.500,000/- previously it was Rs.50,000/-.
- Loans and advances to other than suppliers exceeding Rupees One Million to disclose name of borrower, terms of repayment and particulars of collateral.
- Disclose reason in case of loans or advances obtained / provided at terms other than arm's length.
- Under Share Capital also to disclose Treasury Shares. Also disclosure of voting rights, board selection, right of first refusal and block voting.
- Disclosure of security deposit payable along with particulars of amount received against good / services to be delivered and amount utilizable by the company and amount kept in separate bank account.

## THE FIFTH SCHEDULE

### Key Changes

- Duplication in disclosures already covered in IFRS has been eliminated. Now the Schedule focuses on only additional disclosures.
- New disclosure for general information of following added:
  - Geographical location and address of mill / plant units
  - Particulars of immovable assets including location
  - Number of employees separately disclosing factory employees
- For more transparency additional disclosures have been given for foreign companies and foreign shareholders as follows:
  - Separate disclosure for associated companies, subsidiaries, joint ventures or holding companies incorporated outside Pakistan giving name address, basis of association, operational status and auditor's opinion on its latest financial statements.
  - Particulars to be disclosed of foreign shareholders other than natural person holding more than 5% of paid up capital.
  - Loan or advances given or investment made in foreign companies or undertaking's company to disclose particulars including terms and conditions, litigation, default and breach details and gain or loss on disposal of investment.
- Detail of disposal of asset to be given in case of book value exceeding Rs.500,000.
- Disclose reason in case of loans or advances obtained / provided at terms other than arm's length.
- Under Share Capital also to disclose Treasury Shares. Also disclosure of voting rights, board selection, right of first refusal and block voting.
- Disclosure of security deposit payable along with particulars of amount received against good / services to be delivered and amount utilizable by the company and amount kept in separate bank account.

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