

Lesson 03

OPERATIONS AND GOVERNANCE OF COMPANIES

Part – I (Directors and Company Secretary)

❖ Operations of a Company

After a comprehensive study of features of a company, related legal concepts and the company incorporation, we are now moving on to another important and practical area which is operations of a company.

The systematic examination begins with governance roles and responsibilities, analyzing the functions, powers, and liabilities of directors and the Company Secretary as the key agents through whom the company acts. It then considers corporate decision-making processes, including the formal requirements for valid meetings, proper notice, and the passing of various resolutions that bind the company. The third area addresses capital management, examining how companies handle share transactions and distributions, with emphasis on the mandatory solvency test that must be met before any distribution is made. Finally, it assesses investor rights and protections, particularly the legal mechanisms that safeguard minority shareholders and promote fair treatment irrespective of voting strength.

I. Company Directors, their powers and responsibilities

Companies are artificial legal persons, which act through the directors and shareholders.

Management of company

184. Subject to the provisions contained in the articles of a company—

(a) the business and affairs of a company shall be managed by or under the direction or supervision of the board of the company;

(b) the board of a company shall have all the powers necessary for managing and for directing and supervising the management of, the business and affairs of the company.

II. WHO IS A DIRECTOR?

According to Section.529 “director” includes—

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(b) for the purposes of sections 187, 188, 189, 190, 197, 374 and 377 —

(i) a person in accordance with whose directions or instructions a person referred to in paragraph (a) may be required or is accustomed to act ;

(ii) a person in accordance with whose directions or instructions the board of the company may be required or is accustomed to act ; and

(iii) a person who exercises or who is entitled to exercise or who controls or who is entitled to control the exercise of powers which, apart from the articles of the company, would be required to be exercised by the board ; and

(c) for the purposes of sections 187 to 195 (both inclusive), 197, 374 and 377, a person to whom a power or duty of the board has been directly delegated by the board with that person’s consent or acquiescence, or who exercises the power or duty with the consent or acquiescence of the board.

187. Duty of directors to act in good faith and in the interests of company

188. Directors to comply with Act and company’s articles

189. Directors’ standard of care

190. Use of information and advice

191. Meaning of “interested”

192. Disclosure of interest

193. Avoidance of transactions

194. Effect on third parties

195. Non- application of sections 192 and 193 in certain cases

197. Use of company information

374. Fraud etc. in anticipation of winding up

377. Disclaimer of onerous property

III. CLASSIFICATION OF DIRECTORS

In the corporate world, the board of directors of a company may include several types of directors, each occupying their position and performing duties based on their classification. Although the Companies Act does not formally categorize directors into different types, understanding these classifications is useful because even the corporate sector commonly distinguishes directors according to their roles and responsibilities.

a. Executive Directors

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They may also have separate service contracts with the company specifying their rights and duties, which must be read in conjunction with the articles. In addition to their role as directors, executive directors often hold executive or managerial positions within the company (eg: Finance Director, Legal Director, etc). The most senior executive director is typically the Managing Director, who is sometimes referred to as the Chief Executive Officer (CEO).

b. Non-Executive Directors

Non-executive directors are typically found in larger companies and primarily serve in an advisory or supervisory capacity. They are expected to provide independent judgment on matters such as strategy, performance, resource allocation, and other key issues, ensuring objectivity and balance in board decisions.

The Companies Act doesn't impose any mandatory requirement that a board should consist of Non-Executive directors but the Listing Rules of the Colombo Stock Exchange require Public Listed Companies to have a minimum of two non-executive directors.

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c. Alternate Director

Alternate directors may be appointed if the company's articles of association provide for such an arrangement. In the absence of this provision, an alternate director cannot be appointed. Typically, an alternate director is nominated by an existing director who expects to be absent for a certain period. During that time, the alternate director is generally entitled to exercise all the powers and perform all the duties of the appointing director.

d. Shadow Directors

The term shadow director is not used in the Act, but as per Section 529, the word "director" includes 'a person in accordance with whose directions or instructions the board of the company is accustomed to act'. Therefore, if a person instructs the board of directors how to act and if the board of directors has the habit of acting in accordance with such instructions, such a person will be treated as a shadow director. Therefore, a shadow director is not appointed to the director board, but he directs the board of directors from outside.

According to the Companies Act a shadow director is liable similar to a validly appointed directors for the purposes of directors' duties and obligations. However, a consultant is not a shadow director by reason only of the fact that he gives advice to directors in a professional capacity.

e. Nominee Directors

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It is legally possible for a director of a company which is a wholly owned subsidiary of another company if expressly permitted to do so by articles to act in the interest of that other company even though it may not be in the interest of the company of which he is a director.

IV. APPOINTMENT AND REMOVAL OF DIRECTORS

Number of Directors

As per Section 201, a company shall have at least one director, except a public company which should have at least two directors. There is no maximum limit in the Companies Act.

Qualification Of Directors

As per section 202 (1) any person who is not disqualified under section 202(2) may be appointed as a director of a company.

Disqualified Persons - Sec. 202 (2)

The following persons shall be disqualified from being appointed or holding office as director of a company—

- (a) a person who is under eighteen years of age;
- (b) a person who is an undischarged insolvent;
- (c) a person who is or would be prohibited from being a director of or being concerned or taking part in the promotion, formation or management of a company, under the Companies Act, No. 17 of 1982, but for the repeal of that Act;
- (d) a person who is prohibited from being a director or promoter of or being concerned or taking part in the management of a company under section 213 or section 214 of this Act;
- (e) a person who has been adjudged to be of unsound mind;
- (f) a person that is not a natural person;
- (g) in relation to any particular company, a person who does not comply with any qualifications for directors contained in the articles of that company.

It should also be noted that certain types of organizations which are governed by specific statutes may impose further qualifications to be a director in such companies.

Banking Act, No. 30 of 1988 (as amended)

42. (1) No person shall be appointed, elected or nominated as a director of a licensed commercial bank or continue as a director of such bank unless that person is a fit and proper person to hold office as a director of such bank and if he is not prevented from doing so by any provision of this Act or of any other written law.

(2) In determining whether a person would, for the purposes of subsection (1) be considered to be a fit and proper person, the following matters shall be taken into consideration:

(a) that such person possesses academic or professional qualifications or effective experience in banking, finance, business or administration or of any other relevant discipline;

(b) that there is no finding of any regulatory or supervisory authority, professional association, any Commission of Inquiry, tribunal or other body established by law in Sri Lanka or abroad, to the effect that such person has committed or has been connected with the commission of, any act which involves fraud, deceit, dishonesty or any other improper conduct;

(c) that such person is not subject to an investigation or inquiry consequent upon being served with notice of a charge involving fraud, deceit, dishonesty or other similar criminal activity, by any regulatory authority, supervisory authority, professional association, Commission of Inquiry, tribunal or other body established by law, in Sri Lanka or abroad;

(d) that such person has not been convicted by any Court in Sri Lanka or abroad in respect of a crime committed in connection with financial management or of any offence involving moral turpitude;

(e) that such person is not an undischarged insolvent nor has he been declared bankrupt in Sri Lanka or abroad;

(f) that such person has not failed, to satisfy any judgement or order of any court whether in Sri Lanka or abroad, or to repay a debt;

(g) that such person has not been declared by a court of competent jurisdiction in Sri Lanka or abroad, to be of unsound mind;

(h) that such person has not been removed or suspended by an order of a regulatory or supervisory authority from serving as a director, Chief Executive Officer or other officer in any bank or financial institution or corporate body, in Sri Lanka or abroad;

(i) that such person has not been a director, Chief Executive Officer or held any other position of authority in any bank or financial institution —

i. whose license has been suspended or cancelled; or

ii. which has been wound up or is being wound up, or which is being compulsorily liquidated. whether in Sri Lanka or abroad.

Appointment of Directors

As per Sec. 203 a person shall not be appointed as director of a company unless he has, (a) consented to be a director; and (b) certified that he is not disqualified from being appointed as a director of a company. For this purpose, he should sign Form 18.

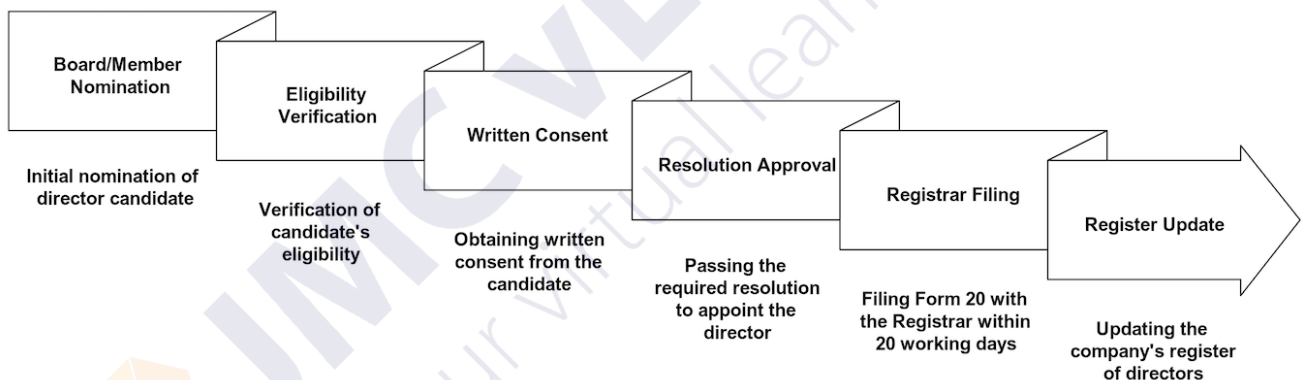
Appointment of First Directors (Sec. 204)

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Appointment of Subsequent Directors (Sec. 204)

Unless the articles provide otherwise all subsequent directors of a company shall be appointed by ordinary resolution.



Director Appointment Process Flowchart

- Obtain written consent from prospective directors and verify their eligibility to serve.
- File Form 20 with the Registrar of Companies within twenty working days of any change.
- Update the company's register of directors immediately following any appointment or Removal.

Removal of Directors

When a company proposes to remove a director and appoint someone else in that director's place, it must issue a **special notice** to all shareholders. The company secretary must also send a copy of this notice to the director concerned, who has the right to attend the meeting and be heard, whether or not he is a shareholder.

After receiving the notice, the director has **fourteen working days** to submit a written representation asking that it be circulated to all shareholders. The secretary must promptly send this representation to every shareholder. If the company fails to circulate it—either through negligence or because it was received late—the director may require the secretary to **read the representation aloud at the meeting**.

Director Ceasing to Hold Office- Vacation of Office (Section 207)

The office of director of a company shall be vacated in any of the following circumstances

- a) resigns from his office ;
- b) is removed from office in accordance with the provisions of this Act or the articles of the company;
- c) becomes disqualified from being a director in terms of the provisions of section 202;
- d) dies;
- e) vacates office pursuant to subsection (2) of section 210; or
- f) otherwise vacates office in accordance with the articles of the company.

Resignation by a Director

A director of a company may resign by signing a written notice of resignation and delivering it to the registered office of the company. Subject to the provisions of section 208, the notice is effective when it is received at the registered office or at a later time specified in the notice.

According to section 208, where a company has only one director, that director may not resign office until that director has called a meeting of shareholders to receive notice of the resignation, and to appoint one or more new directors.

Retiring Age of Directors (Section 210)

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 Such a director vacates office at the conclusion of the annual general meeting commencing next after he attains the age of seventy years.

Appointment of a Director who has attained the age of 70 Years (Section 211)

If a resolution is passed by the company at a general meeting which declares that the age limit referred to in section 210 shall not apply to a particular person, then the appointment of such a person as a director will be valid.

The notice of any such resolution should state the age of that person. However, his appointment is valid until the next Annual General Meeting, subject to paragraph (b) of subsection (1) of section 133 of the Act.

V. DUTIES OF DIRECTORS

Prior to the enactment of the Companies Act of 2007, the only sources of information as to what the duties and obligations the directors were only to be found in a myriad of judicial decisions in England which were followed in Sri Lanka as and when the occasion arose. Accordingly, those who became directors of companies assumed office without understanding their duties and obligations under law. It should also be noted that additional duties have also been imposed on the directors by other statutes such as Accounting and Auditing Standards Act No.15 of 1995 and Banking Act No 30 of 1988.

1. Duty to Act in good Faith and in the Interests of Company Sec.187

A person exercising powers or performing duties as a director of a company shall act in good faith, and in what that person believes to be in the interests of the company.

However, a director of a company which is a wholly owned subsidiary of another company may, if expressly permitted to do so by the company's articles, act in a manner which he believes is in the interest of that other company even though it may not be in the interests of the company of which he is a director.

2. Duty to comply with Act and company's articles. (Sec.188)

A director of a company shall not act or agree to the company acting, in a manner that contravenes any provisions of this Act, or the provisions contained in the articles of the company.

3. Duty of skill and care (standard of care) (Sec.189)

(a) shall not act in a manner which is reckless or grossly negligent; and

(b) shall exercise the degree of skill and care that may reasonably be expected of a person of his knowledge and experience.

4. Use of Information and Advice (Sec.190)

A director of a company may rely on reports, statements, financial data and other information supplied, and on professional or expert advice given by any of the following persons:

- (a) an employee of the company;
- (b) a professional adviser or expert
- (c) any other director or
- (d) committee of directors in which the director did not serve.

But when making such reliance on such reports, statements etc. the director should (a) act in good faith; (b) make proper inquiry; and (c) should not have knowledge that such reliance is unwarranted.

5. Disclosure of Interest Sec. 192

A director of a company is interested in a transaction to which the company is a party if the director is a party to or will or may derive a material financial benefit from the transaction; has a material financial interest in another party to, the transaction; is a director, officer or trustee of another party to or person who will or may derive a material financial benefit from the transaction, is the parent, child, or spouse of another party to or person who will or may derive a material financial benefit from the transaction; or is otherwise directly or indirectly materially interested in the transaction.

A director, after becoming aware of the fact that he is interested in a transaction should enter his interest in the interests register and if the company has more than one director, he should disclose to the board of the company the nature and extent of that interest.

Every director who fails to comply with these requirements shall be guilty of an offence and be liable on conviction to a fine not exceeding two hundred thousand rupees.

Directors Interest Register

The Companies Act requires every company to maintain an interest register, in the interest register; the directors should enter the details of personal benefits received by them from the company and in the transactions involving the company if they are get any personal benefits such details also should be disclosed in the interest register.

A private company can dispense with (avoid) the maintaining of such a register if a unanimous resolution is passed by the shareholders, but such a unanimous resolution shall cease to have effect, if any shareholder gives notice in writing to the company, that he requires it to keep an interests register.

Avoidance of transaction

As per Sec.193(1) a transaction entered into by the company in which a director of the company is interested, may be avoided by the company at any time before the expiration of six months after the transaction, and the director's interest in it have been disclosed to all the shareholders (whether by means of the company's annual report or otherwise). As per Sec.193(2) a transaction shall not be avoided if the company receives fair value under it.

If a transaction is entered into by the company in the ordinary course of its business and on usual terms and conditions, the company shall be presumed to have received fair value under the transaction.

Other Duties and Responsibilities

- **Duty of Directors on Insolvency Sec. 219**

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Failure to do so may make the director liable for any loss suffered by creditors of the company.

- ✓ The required response to financial distress follows a clear procedural path. Upon recognizing potential insolvency, directors must immediately convene a board meeting to formally assess the company's financial position.
- ✓ The board must then consider all available options, including seeking professional advice on the company's solvency, evaluating whether to apply for voluntary administration or winding up, exploring potential restructuring or rescue options, and documenting the rationale for any decision to continue trading.

- **Duty of Directors on Serious Loss of Capital Sec. 220**

If at any time it appears to a director that the net assets of the company are less than half of its stated capital, the board should within twenty working days of that fact becoming

known to the director, call an extraordinary general meeting of shareholders of the company to discuss the financial position of the company.

Failure to do so is a criminal offence and every director who knowingly and willfully permits the failure is liable to a fine.

VI. DISQUALIFICATION OF DIRECTORS

Persons prohibited from managing companies (Section 213)

Where a person -

- (a) has been convicted of any offence under this Act which is punishable by imprisonment;
 - (b) has been convicted of an offence involving dishonest or fraudulent acts;
 - (c) is adjudged insolvent under the Insolvency Ordinance (Cap. 97) ; or
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such person shall not, during the period of five years after the conviction or adjudication, as the case may be, be a director or promoter of or in any way, whether directly or indirectly, be concerned or take part in the management of a company, unless that person first makes an application to obtain the leave of the court. Leave may be given on such terms and conditions as the court thinks fit.

The provisions of the section apply even to overseas company which carries on business in Sri Lanka.

Courts may disqualify directors (Section 214)

Where a person

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- (b) while a director of a company, has persistently failed to comply with the provisions of this Act;
- (c) has been convicted of an offence of involving dishonest or fraudulent acts in a country other than Sri Lanka; or

(d) was a director of a company which became insolvent and that person's conduct as a director of that company or of any other company makes that person unfit to be a director of a company,

Court may make an order that the person shall not, without leave of court, be a director or promoter of or in any way whether directly or indirectly be concerned or take part in the management of a company, for such period not exceeding ten years as may be specified in the order.

VII. Criminal and Civil Liability of Directors

It should be noted that under the Companies Act No.07 of 2007 (as amended), there are 37 civil and 131 criminal liabilities under the Companies Act. This highlights the critical importance of integrity and accountability in decision-making, emphasizes that every choice must be guided by transparency, ethical judgment, and a clear sense of responsibility.

Some of the Civil liabilities under the Act include, Civil Liability for Untrue Prospectus (sec.41), Effect of irregular allotment (sec.46), Duty of directors on insolvency (sec.219) etc. The Act imposes a plethora of Criminal Liabilities on directors. Some of these include, Failure to notify Registrar of the name change within 10 working days (sec.8), Failure to notify Registrar after altering the Articles (sec.15), obligations relating to issue of shares (sec.51), Failure to give notice to the Registrar when a call is made (sec.55), Restrictions on giving financial assistance (sec. 70), etc

VIII. Division of Powers between Directors and Members

- In companies, ownership and management are distinct functions exercised by different parties. Ownership rests with the shareholders, while the management of the company is vested in the board of directors.

- Sec.184 provides that subject to the provisions in the articles ‘the board’ of the company has all the necessary powers for the management of the business and affairs of the company. As per Sec.215, the articles of a company govern the proceedings of the board of a company.

- Furthermore, section 209 provides that acts performed by a person acting as a director are valid, notwithstanding any defect in that person’s appointment or any disqualification affecting that appointment.

- While members hold ultimate ownership rights, they delegate specific powers to the board of directors, who manage and operate the company on their behalf.

- Section 49 of the Companies Act states that, subject to the Articles of a company, a share in a company confers on the holder the following rights;
 - (a) to one vote on a poll at a meeting of the company on any resolution;
 - (b) to an equal share in dividends paid by the company;
 - (c) to an equal share in the distribution of the surplus assets of the company on liquidation.

- A key consequence of incorporation is that the management and control of a company’s business affairs are vested in its board of directors, subject to the overarching control of shareholders where their proprietary interests are affected.

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- Shareholders may exercise certain powers only where the Companies Act expressly authorizes it or where the articles permit such intervention. These limited but significant rights of shareholders to participate in management matters serve as an important check and balance on the actions of the director.

- The powers reserved for shareholders under the Act or the articles may be exercised only at a meeting of shareholders or by a resolution in lieu of a meeting. In addition, in the case of a minority buy-out, a shareholder is entitled to require the company to purchase his shares when a fundamental change occurs in the company.
- Although shareholders are regarded as the owners of the company, their powers arise solely from statute and the company's articles of association. They do not participate in the day-to-day management of the company, as the authority to manage the company's affairs is vested in the board of directors. Nevertheless, shareholders become involved in certain key decisions where the Act specifically requires their approval or where the articles confer such powers.
- Importantly, any power reserved for shareholders may be exercised only at a shareholders' meeting or by a written resolution in lieu of a meeting, as provided in section 144 of the Act. Section 144 states that a written resolution signed by not less than eighty-five per cent of the shareholders entitled to vote on that resolution—who together hold not less than eighty-five per cent of the voting rights—shall be as valid and effective as if it had been passed at a duly convened meeting, even though no meeting was actually held.

Division of Corporate Powers

Board of Directors' Authority	Members' Authority (Requires Resolution)
Appointing CEO and senior management	Amending Articles of Association
Approving annual budgets	Appointing or removing directors
Entering commercial contracts	Approving final dividends
Setting company strategy	
Day-to-day operational decisions	

IX. Digital Compliance Tools and Global Governance Trends

Digital compliance tools are software solutions that automate and manage regulatory obligations. You use these tools to increase the efficiency and accuracy of corporate governance. Manual compliance tracking creates a high risk of human error, leading to potential penalties. Your effective use of technology mitigates this risk and protects the company from non-compliance.

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This integration reduces administrative burdens and improves information security for sensitive data. You are responsible for leveraging these platforms to streamline board operations and maintain quality of governance.

Follow these steps:

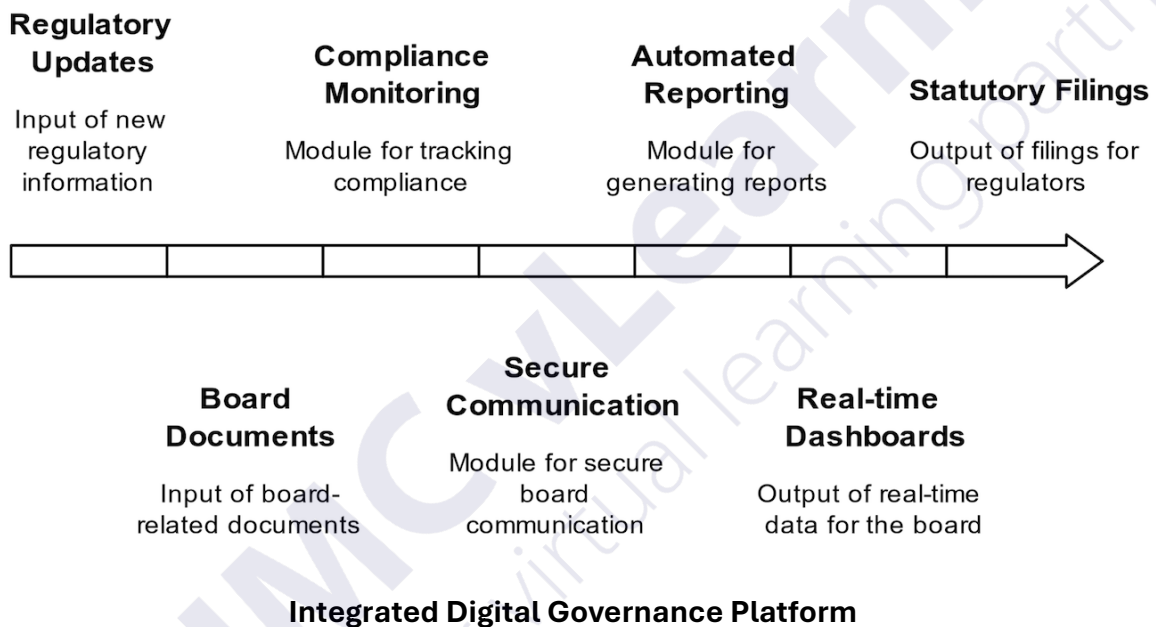
Select a platform that aligns with the company's specific regulatory and security needs. Manage all board packs, meeting minutes, and resolutions within the platform's secure repository. iii. Use the system's features to track board decisions and monitor the completion of action items.

X. Automating Regulatory Adherence

Automated compliance software actively tracks statutory deadlines and monitors changes in relevant regulations. This constant monitoring reduces the chance of missing critical filing dates or failing to adapt to new laws. You must configure and oversee these systems to ensure the company maintains continuous compliance.

The required procedures are:

- i. Configure the software with the company's specific statutory and regulatory reporting calendar.
- ii. Establish automated alerts for upcoming deadlines and any published changes in legislation.
- iii. Generate regular compliance dashboards from the system to provide assurance to the board.



COMPANY SECRETARY

According to Article 221, every company shall have a secretary.

No person shall be appointed as a secretary of a company unless such person has, in the prescribed form-

- (a) consented to be the secretary of such company; and
- (b) certified that such person has such qualifications as may be prescribed in relation that company, under section 222.

I. Appointment & Removal

The First Secretary

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Subsequent Secretaries

Subsequent Secretaries can be appointed and removed by the directors. If the board appoints a new secretary that appointment must be notified to the Registrar of Companies by way of Form 20 within 20 working days of his appointment.

The first secretary and the subsequent Secretaries should sign form 19 before acting as a Secretary.

II. Qualifications of a Secretary Sec. 222

The secretary of every company having a turnover or stated capital of an amount prescribed under this Act, shall have such qualifications as may be prescribed, having regard to the nature of the duties the secretary will be called upon to discharge.

Gazette Extraordinary No. 2323/41 dated 17th March 2023 - Companies (Secretaries) regulations, No. 1 of 2023

Qualification to Act as Company Secretary

3 (1) A person shall not be qualified to act as a secretary of a company unless such person is

- a. above eighteen years of age;
- b. a citizen of Sri Lanka;
- c. A holder of a Certificate of Practice as a secretary to a company issued under these regulations (in these regulations referred to as the “Certificate of Practice”); and
- d. an attorney-at-law of the supreme court of the democratic Socialist republic of Sri Lanka; **or**
- e. a member of –
 - i. the institute of chartered accountants of Sri Lanka established under section 2 of the institute of chartered accountants act, No. 23 of 1959;
 - ii. the institute of chartered corporate Secretaries of Sri Lanka incorporated under the provisions of the companies act, No. 07 of 2007;
 - iii. the chartered institute of management accountants of the United Kingdom;
 - iv. the Institute of Certified Management Accountants of Sri Lanka established under the Institute of Certified management accountants of Sri Lanka act, No. 23 of 2009 ; or
 - v. the chartered Governance institute of the United Kingdom and Ireland.

- A body corporate shall not be qualified to Act as a secretary of a company unless such body corporate has been incorporated in Sri Lanka;
 - a. the Articles of Association of a such company specifically mentions that such company is engaged in company secretarial practice;
 - b. majority of the shareholding of such company is held by citizens of Sri Lanka ; and
 - c. one of the directors of the company holds a Certificate of Practice.
- A firm shall not be qualified to act as a secretary of a company unless;
 - (a) in the case of a sole proprietorship,
 - I. the Business Registration Certificate of the sole proprietorship specifically mentions that it is engaged in company secretarial practice; and
 - II. the sole proprietor is a citizen of Sri Lanka and holds a Certificate of Practice.
 - (b) in the case of a partnership,
 - i. the Business Registration Certificate of such partnership specifically mentions that the partnership is engaged in company secretarial practice; and
 - ii. every partner of the partnership holds a Certificate of Practice

III. Conditions for Disqualification of a Company Secretary

According to Rule 4, a person shall be disqualified to Act as a Secretary of a Company, if such person –

- (a) has been adjudged by a competent court to be of unsound mind;
- (b) having been adjudged as insolvent or bankrupt, and has not been granted by a competent court a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly from inevitable losses or misfortune;
- (c) has been convicted by a competent court whether in Sri Lanka or elsewhere, of any crimes involving moral turpitude;

- (d) ceases to have the qualifications prescribed in sub-regulation (1) of regulation 3;
- (e) has been removed from the register by the Registrar.

Where a person, a body corporate, or a firm. Acts as an Auditor, such person, such body corporate, a director and an employee of such body corporate or a member of such firm shall not act as a secretary of a company.

IV. Apparent or Ostensible Authority of a Secretary

A company secretary generally has apparent authority to enter into administrative contracts on behalf of the company. When such a contract is made, the company is bound by it, even if the secretary uses the contract for personal benefit. Administrative contracts typically include matters such as purchasing stationery, hiring or acquiring vehicles for administrative purposes, and recruiting employees.

However, a company secretary does not have apparent authority to perform certain acts that fall outside the ordinary administrative functions of the office. In particular, a secretary cannot:

1. Borrow money on behalf of the company – borrowing is a major financial commitment and falls within the authority of the board of directors, not the secretary.
2. Enter into trading or commercial contracts on the company's behalf – such contracts relate to the company's core business operations and require express authority from the board.

V. Legal Evolution of Company Secretary Authority

The legal standing and authority of company secretaries has undergone significant transformation through landmark case law, establishing the foundation for their modern role and responsibilities.

Barnett, Hoares & Co v South London Tramways Co (1887)

The tramway company's secretary had incorrectly confirmed to bankers that £2,000 was held as retention money under a construction contract, when only £675 was actually available. Lord Esher MR's judgment famously declared that "A secretary is a mere servant; his position is that he is to do what he is told, and no person can assume that he has any authority to represent anything at all". This precedent severely limited company secretary powers for nearly a century.

Panorama Developments (Guilford) Ltd. Vs Fidelis Furnishing Fabrics Ltd. (1971)

In this case a company secretary hired a car stating it to be for the company purpose. But in fact he used the car for his own private purposes. The company refused to pay for the hire. But court held that the company secretary may hire cars on behalf of the company because it is an administrative contract. Therefore, if he has hired a car company is liable to pay even though it was used for his own purposes. Because the secretary has the apparent authority to make administrative contracts.

Lord Denning in giving the above judgement said "company secretary is a much more important person nowadays than he was in 1887. He is an officer of the company with extensive duties and responsibilities. This appears not only in the Company's Act but also by the role he plays in the day-to-day business of Companies. He is no longer a mere clerk. He is entitled to sign contracts with the administrative side of a company's affairs".

He is required to possess professional qualifications to function as a secretary. This shows the importance of the company Secretary in the modern Company Law.

Functions of Company Secretary

I. Managing Statutory Compliance

Under the Companies Act No. 07 of 2007, companies must maintain prescribed statutory records and file required documents with the Registrar of Companies (ROC) within strict deadlines. Failure to comply results in automatic penalties and negatively affects the company's governance profile. The Company Secretary is responsible for establishing and managing an effective compliance system to ensure all obligations are met accurately and on time.

Key duties include maintaining up-to-date statutory registers—such as registers of members, directors, secretaries, and charges—and ensuring timely updates when changes occur. The Company Secretary must also prepare and file the annual return within thirty working days of the Annual General Meeting, using the eROC platform where applicable.

Additionally, the role requires ongoing monitoring of legislative developments and advising the board on new compliance requirements and their implications for company operations.

II. Facilitating Board Operations

The Company Secretary is responsible for facilitating effective board and committee meetings by coordinating schedules with the chairperson and ensuring proper notice periods are observed. Company Secretary must prepare and circulate detailed agendas and board packs well in advance, giving directors adequate time for review. During meetings, the Company Secretary attends to record accurate and impartial minutes that

document all proceedings, decisions, and resolutions. These minutes are then maintained in the official minute books as the legal record of the board's actions. Throughout the process, the Company Secretary provides procedural guidance to ensure meetings comply with governance standards and statutory requirements.

VI. Coordinating Stakeholder Communications

As the primary governance communication officer, the Company Secretary manages all formal channels to ensure stakeholders are properly informed. Core responsibilities include issuing notices for Annual and Extraordinary General Meetings in line with statutory timelines and the company's articles, and handling all shareholder correspondence on matters such as shareholdings, dividends, and company information.

The Company Secretary must also ensure that statutory records and registers (Register of Members, Register of Directors, Register of Secretaries, Register of Charges, Register of Debenture Holders, Register of Directors' Interests) are available for shareholder inspection as required by law, thereby maintaining transparency and protecting shareholder rights.



FORM 20 (Page 1)

Sections 223(2)

Notice of
CHANGE OF DIRECTOR/SECRETARY AND PARTICULARS OF DIRECTOR/SECRETARY
Section 223(2) of the Companies Act No. 7 of 2007

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format]

No. of Company

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Company Name

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Indicate the purpose for which this notice is given by placing in the appropriate box

- (a) Change of Director and/or particulars of Directors. ☐
- (b) Change of secretary and/or particulars of secretary. ☐

Directors/Secretary ceasing to hold office

Full name *	Office eg: Director/ Secretary	Residential address	Date on which he ceased to hold office	Reason**

Appointment of new Directors/Secretaries

Full name *	Office Director/Secre tary ***	NIC No or Passport No (Specify Country)	Residential Address	Email Address (optional)	Date of appointment ***

In the case of appointment of a new Director/Secretary, the consent and certificate of the new Director/Secretary must be attached to this Form. (Please use Form 18 or 19 (as the case may be) for this purpose)

Presented by

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Email (Optional)

Telephone:

Facsimile :

*Please give first name(s) followed by surname in Block letters:

** State whether resignation/death

LILAN WICKRAMARATHNE

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Change of name or residential address of Director/Secretary
Complete only those details that apply [Attach separate sheets for multiple entries]

Name of Director/Secretary
Director/Secretary

Former Name of

First names

Former first names

Residential address

Former Residential address

Date of change

Day

Month

Year

Set out below are the names and residential address of the every person who is a Director/Secretary of the company from the date of this notice

Full name *	Residential Address

Signature of Director / Secretary **

Full Name of Director / Secretary**:

Date :

Day

Month

Year

Notice should be delivered to the Registrar of Companies, within 20 working days of the change occurring.

* Please give first name(s) followed by surname in Block letters:

** Delete what is not applicable