

Module	Corporations – Private Companies
Jurisdictions	India
Legal Expert	S K Kataria Chartered Accountant

Module Application

Does the private company meet the structural and incorporation requirements, including paid-up share capital, restrictions on share transfers, and member limits?

Has the company adhered to the compliance obligations outlined in the Companies Act, including governance, auditing, and corporate structure requirements?

Does the company leverage its exemptions and flexibilities effectively while maintaining compliance?

Has the company established internal processes for meetings, filings, and shareholder communications in line with the Companies Act?

Module Scope

The Companies Act, 2013 establishes the regulatory framework for private companies, outlining their formation, structure, governance, and compliance obligations. Private companies benefit from specific privileges and exemptions, distinguishing them from public companies.

This module applies to incorporated private companies that have restrictions on public subscriptions, member limits, and internal governance norms. The module also applies to entities that operate independently or as subsidiaries of public companies with distinct legal obligations. Private companies must comply with specific rules and regulations, while enjoying exemptions that facilitate more flexible governance and management structures.

Key requirements

- › **Company structure and incorporation:** Private companies must restrict share transfers, limit membership to 200 individuals, and ensure compliance with prescribed capital requirements.
- › **Corporate governance and auditing:** Private companies are exempt from appointing independent directors and forming certain committees. There are reduced obligations for related-party transactions and exemptions from appointing secretarial auditors.
- › **Document and compliance filings:** Private companies are exempt from filing certain board resolutions and may adopt flexible procedures for general meetings. Specific document preservation and shareholder communication requirements also apply.

- › **Deemed deposits and capital management:** Private companies receiving funds from directors or members must provide compliance declarations to avoid regulatory penalties. Capital raising and share allotment procedures also have specific requirements.
- › **Board and meeting protocols:** Private companies have reduced obligations concerning board meetings, with exemptions for one-person and small companies regarding meeting frequency and reporting.
- › **Remuneration and managerial requirements:** Managerial remuneration caps and auditor term limitations are relaxed, depending on capital and borrowing thresholds.

Privileges and exemptions for private companies

- › **No independent director requirement:** Exemption from appointing independent directors and forming audit committees.
- › **Flexible governance structures:** Reduced obligations for related-party transactions and exemptions from dematerialising shares.
- › **Simplified meeting procedures:** General meetings and board meeting protocols are subject to company articles, allowing for tailored governance approaches.

Compliance source

Obligations and compliance requirements are derived from the Companies Act, 2013, relevant rules, and amendments.

Consequences of non-compliance

Failure to comply with the Companies Act, 2013, exposes private companies to penalties, fines, and potential criminal liability for directors and officers. The module emphasises establishing a robust compliance framework to mitigate risks and ensure adherence to governance and financial regulations.

Our expert's profile



S.K. Kataria
Chartered Accountant

S K KATARIA, B.Com., LL.B., F.C.A., is a Chartered Accountant based in New Delhi and serves as an Independent Director, as well as the Chairman of the Audit Committee, Stakeholders Relationship Committee (SRC), and Nomination and Remuneration Committee (NRC) of listed companies. He has been a renowned author of commentaries and law books for over 39 years.

He has revised prominent commentaries, such as, Ramaiya's Guide to the Companies Act, M.C. Bhandari Company Law Procedures, Datta on the Company Law, Tannan's Banking Law & Practice, K. Krishnamurthy Indian Stamp Act, Parameswaran Powers of Attorney, NBFCs & company law modules for LexisNexis, Divekar's Deeds & Documents published by Thomson Reuters/Hind Law House, authored CA. S. K. Kataria's

Company Law Manual published by Bloomsbury and vetted the App Decoding the Companies Act, 2013 (18 of 2013) vis-a-vis the Companies Act, 1956 (1 of 1956) of Haribhakti & Co. and Desai Haribhakti Consultants (dhc), Mumbai.

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