

Companies Act Fundamentals

Share Certificates



2020 MHA Legal

Applicable Law

- Chapter IV- Share Capital and Debentures - Section 43-72 of the Companies Act 2013
 - The Companies (Share Capital and Debentures) Rules, 2014.
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- Act means – Companies Act 2013
 - Rules means - The Companies (Share Capital and Debentures) Rules, 2014.

Share Certificates

Share Certificates

Section 46 of the Act declares that a certificate, issued by the company under the common seal of the company shall be prima facie evidence of the title of the person to such shares. Such certificate shall specify the shares held by any person. Where the shares are held in dematerialised form the record of the depository is the prima facie evidence of the interest of the beneficial owner.

Section 56 (4) provides that every company shall, unless prohibited by any provision of law or any order of Court, Tribunal or other authority, deliver the certificates of all securities allotted—

- within a period of two months from the date of incorporation, in the case of subscribers to the memorandum;
- within a period of two months from the date of allotment, in the case of any allotment of any of its shares.

Share Certificates

The manner of issuance of a certificate of shares or the duplicate thereof, the form of such certificate, the particulars to be entered in the register of members are prescribed under Rules.

The manner of issuance of a certificate of shares the rules provide that no certificate of any share or shares held in the company shall be issued, except:

- in pursuance of a resolution passed by the Board; and
- on surrender to the company of the letter of allotment or fractional coupons of requisite value, save in cases of issues against letters of acceptance or of renunciation, or in cases of issue of bonus shares:

Provided that if the letter of allotment is lost or destroyed, the Board may impose such reasonable terms, if any, as to seek supporting evidence and indemnity and the payment of out-of-pocket expenses incurred by the company in investigating evidence, as it may think fit.

Share Certificates

Every certificate of share or shares shall be in Form No. SH-1 or as near thereto as possible and shall specify the name(s) of the person(s) in whose favour the certificate is issued, the shares to which it relates and the amount paid-up thereon.

The rules further provide that every share certificate shall be issued under the seal of the company, which shall be affixed in the presence of, and signed by:

- two directors duly authorized by the Board of Directors of the company for the purpose or the committee of the Board, if so authorized by the Board; and
- the secretary or any person authorized by the Board for the purpose. Where a Company Secretary is appointed under the provisions of law, he shall be authorized for the purpose of this rule.

Share Certificates

In companies wherein a Company Secretary is appointed under the provisions of the Act, he shall be deemed to be authorized for the purpose of this rule. If the composition of the Board permits of it, at least one of the aforesaid two directors shall be a person other than the managing or whole-time director.

Further in case of a One Person Company, every share certificate shall be issued under the seal of the company, which shall be affixed in the presence of and signed by one director or a person authorized by the Board of Directors of the company for the purpose and the Company Secretary, or any other person authorized by the Board for the purpose.

A director shall be deemed to have signed the share certificate if his signature is printed thereon as a facsimile signature by means of any machine, equipment or other mechanical means such as engraving in metal or lithography, or digitally signed, but not by means of a rubber stamp, provided that the director shall be personally responsible for permitting the affixation of his signature thus and the safe custody of any machine, equipment or other material used for the purpose.

Share Certificates

Particulars of every share certificate issued shall be entered in the Register of Members along with the name(s) of person(s) to whom it has been issued, indicating the date of issue.

Issuance of Duplicate Certificate

Section 56 provides that the duplicate certificate of shares may be issued, if original certificate —

- is proved to have been lost or destroyed; or
- has been defaced, mutilated or torn and is surrendered to the company.

Process of issuance of Duplicate Certificate



The Rules provide the process of issuance of a duplicate share certificates as follows:

- No certificate of any share or shares shall be issued either in exchange for those which are sub-divided or consolidated or in replacement of those which are defaced, mutilated, torn or old, decrepit, worn out, or where the cages on the reverse for recording transfers have been duly utilized, unless the certificate in lieu of which it is issued is surrendered to the company.
- The company may charge such fee as the Board thinks fit, not exceeding twenty rupees per certificate issued on splitting or consolidation of share certificate(s) or in replacement of share certificate(s) that are defaced, mutilated, torn or old, decrepit or worn out.
- Where a certificate is issued in any of the aforesaid circumstances, it shall be stated on the face of it and be recorded in the Register maintained for the purpose, that it is “Issued in lieu of share certificate No..... sub-divided/replaced/on consolidation” and also that no fee shall be payable pursuant to scheme of arrangement sanctioned by the High Court or Central Government.

Process of issuance of Duplicate Certificate

- A company may replace all the existing certificates by new certificates upon sub-division or consolidation of shares or merger or demerger or any reconstitution without requiring old certificates to be surrendered, in the manner of issuance of original share certificates discussed above.
- The rules provide that no duplicate share certificate shall be issued in lieu of those that are lost or destroyed, without the prior consent of the Board or without payment of such fees as the Board thinks fit, not exceeding rupees fifty per certificate and on such reasonable terms, such as furnishing supporting evidence and indemnity and the payment of outof-pocket expenses incurred by the company in investigating the evidence produced.
- Where a certificate is issued in any of the aforesaid circumstances it shall be stated prominently on the face of it and be recorded in the Register maintained for the purpose, that it is “duplicate issued in lieu of share certificate No.....”. Further, the word “duplicate” shall be stamped or printed prominently on the face of the share certificate.

Process of issuance of Duplicate Certificate

- The Duplicate Share Certificates shall be issued:
 - in case unlisted companies, within a period of three months.
 - in case of listed companies, within fifteen days, from the date of submission of complete documents with the company.
- Particulars of every share certificate issued shall be recorded in a Register of Renewed and Duplicate Share Certificates. Such register shall be maintained in Form No. SH-2 indicating against the name(s) of the person(s) to whom the certificate is issued along with other details.
- Such register shall be kept at the registered office of the company or at such other place where the Register of Members is kept. The register shall be preserved permanently and shall be kept in the custody of the company secretary of the company or any other person authorized by the Board.
- All entries made in the Register of Renewed and Duplicate Share
- Certificates shall be authenticated by the company secretary or such other person as may be authorized by the Board for purposes of sealing and signing the share certificate.

Maintenance of share certificate forms and related books and documents

- All blank forms to be used for issue of share certificates shall be printed and the printing shall be done only on the authority of a resolution of the Board. The blank form shall be consecutively machine-numbered and the forms and the blocks, engravings, facsimiles and hues relating to the printing of such forms shall be kept in the custody of the secretary or such other person as the Board may authorize for the purpose; and the company secretary or other person aforesaid shall be responsible for rendering an account of these forms to the Board.
- The following persons shall be responsible for the maintenance, preservation and safe custody of all books and documents relating to the issue of share certificates including the blank forms of share certificates, namely:—
 - the committee of the Board, if so authorized by the Board or where the company has a company secretary, the company secretary; or
 - where the company has no company secretary, a Director specifically authorised by the Board for such purpose.

Maintenance of share certificate forms and related books and documents

- All books shall be preserved in good order for not less than thirty years and in case of disputed cases, shall be preserved permanently, and all certificates surrendered to a company shall immediately be defaced by stamping or printing the word “cancelled” in bold letters and may be destroyed after the expiry of three years from the date on which they are surrendered, under the authority of a resolution of the Board and in the presence of a person duly appointed by the Board in this behalf.
- Nothing in this sub-rule shall apply to cancellation of the certificates of securities, under sub-section (2) of section 6 of the Depositories Act, 1996 (22 of 1996), when such certificates are cancelled in accordance with sub-regulation (5) of regulation 54 of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, made under section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) read with section 25 of the Depositories Act, 1996 (22 of 1996).

Penal Provision related to Share Certificates

- The Act has provides for stringent penal provisions. If a company issues duplicate shares with an intention to defraud public, the company shall be punishable with a fine which will range from five times and ten times of the face value of the shares or Rs. 10 crore whichever is higher and every officer in default shall be liable for action for fraud under section 447.
- As per Section 447 of the -Act any person who is found to be guilty of fraud, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud
- Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

Penal Provision related to Share Certificates

- For the purpose of section 447:

“fraud” in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;

“wrongful gain” means the gain by unlawful means of property to which the person gaining is not legally entitled;

“wrongful loss” means the loss by unlawful means of property to which the person losing is legally entitled.

Thank you



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Thank You

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