

Chapter - 1 "Appointment and Qualification of Directors"

	<u>Part - III "Sections dealing with disqualifications, vacation, Resignation and Removal"</u>				
	↓	↓	↓	↓	↓
	Sec. 164	Sec. 165	Sec. 167	Sec. 168	Sec. 169
	↓	↓	↓	↓	↓
	Disqualification for appointment of directors + Rule 14	Number of directorships	Vacation of office of director	Resignation of director + Rule 15 and 16	Removal of directors
(viii)	<u>Sec. 164: Disqualification for appointment of director:</u>				
	<u>Sec. 164(1):</u> A person shall not be eligible for appointment as director of a company, if				
	(a) He is of unsound mind and stands so declared by a court				
	(b) He is an undischarged insolvent.				
	(c) He has applied for insolvency and his application is pending.				
	(d) He has been convicted by a court of any offence				
	- whether involving moral turpitude or otherwise*				
	and				
	- sentenced to imprisonment for ≥ 6 months				
	and				
	- a period of 5 years has not elapsed form the date of expiry of sentence.				
	*means any offence in respect of which he has been convicted by a court under the Act or under the companies Act, 1956 [Rule 2(1) (k)]				
	Note: If a person has been convicted of any offence and sentenced to imprisonment for ≥ 7 years, he shall not be eligible to be appointed as director of any company.				

	(e) An order disqualifying him for appointment as director has been passed by a Court or Tribunal and order is in force.
	(f) He has not paid any calls in respect of any shares of company held by him whether alone or jointly with other and 6 months have elapsed form the last day fixed for payment of the call.
	(g) He has been convicted of the offence dealing with related party transactions u/s 188 at any time during preceding 5 years.
	(h) He has not complied with Sec. 152(3).
	(i) He has not complied with provisions of Sec. 165(1).

Note: Disqualifications referred to in clauses (d), (e) and (g) shall continue to apply, even if the appeal or petition is filed against the order of conviction or disqualification.

	Appeal decided (disqualification Confirmed)		Appeal decided	
	Appeal Period (30 days)	Appeal filed	Further appeal (7 days)	
	(No need to vacate in existing companies)			
		↓		
Court order for disqualification	Vacation arises in Existing Companies	no need to vacate in existing companies	Vacation arises in existing companies	Need to vacate
↓	Cannot be appointed as director in other Companies	(if appeal not filed)	(if appeal not filed)	

Sec. 164(2): No person who is or has been a director of a company, which

(a) has not filed

OR

(b) has failed to

Financial statements

or

annual returns

for any continuous

Period of 3 FYs

- repay the deposits accepted by it or pay interest thereon

or

- redeem any debentures on due date or pay interest thereon

or

- pay any dividend declared

AND

such failure to pay or redeem

continues for 1 year or more

shall not be eligible to be

Re - appointed as a director of that company

or

appointed in other Company

for a period of five years from the date on which the said company fails to do so.

Note: Provided that where a person is appointed as a director of a company which is in default of clause (a) or (b), he shall not incur the disqualifications for a period of 6 months from date of his appointment.

Rule 14 of Companies (Appointment & Qualification of Directors) Rules, 2014: Self Study

Sec. 164(3): Additional Disqualifications: A private company may by its Articles provide for any disqualifications for appointment as a director in addition to those specified above.

DO PRACTICE - Questions on Sec. 164

(ix)	Sec. 167: <u>Vacation of office of director:</u>	
	Sec. 167(1): The office of a director shall become vacant, if:	
	(a) he incurs any of the disqualifications specified in Sec. 164	
	Note: Where a director incurs disqualification u/s 164(2), the office of director shall become vacant in all the companies other than the company which is in default.	
	(b) he absents himself form all the Board Meetings held during a period of 12 months.	
	(c) he acts in contravention of provisions of Sec. 184. (i.e. entered into a contract or arrangement in which he is directly or indirectly interested)	
	(d) he fails to disclose his interest (in any contract or arrangement in which he is directly or indirectly interested, in contravention of provisions of Sec. 184).	
	(e) he becomes disqualified by an order of a Court or Tribunal. [Also refer Sec. 164(1)(e)]	
	(f) he is convicted of an offence, whether involving moral turpitude or otherwise and sentenced to imprisonment for \geq 6 months. [Refer Sec. 164(1) (d)] Note: Also refer discussion made u/s 164 (1).	
	(g) he is <u>removed</u> in pursuance of provisions of this Act. (Refer Sec. 169)	
	(h) he having been appointed a director by virtue of his holding any office or other employment in the holding, subsidiary or associate company ceases to hold such office or other employment in that company.	
	Sec. 167 (2): <u>Penalty</u>	} Self Study from main book
	Sec. 167 (3): <u>Appointment due to vacation of office by all directors</u>	
	Sec. 167 (4): <u>Additional grounds for vacation</u>	
Do PRACTICE - Questions on Sec. 167		