

In this Act, unless the context otherwise requires, - 1[(1) "abridged prospectus " means a memorandum containing such salient features of a prospectus as may be prescribed ;] 2[(1A) "alter " and "alteration " shall include the making of additions and omissions ;] 3[(1B) "Appellate Tribunal " means the National Company Law Appellate Tribunal constituted under sub-section (1) of section 10FR ;] (2) "articles " means the articles of association of a company as originally framed or as altered from time to time in pursuance of any previous companies law or of this Act, including, so far as they apply to the company, the regulations contained, as the case may be, in Table B in the Schedule annexed to Act No. 19 of 1857 or in Table A in the First Schedule annexed to the Indian Companies Act, 1882 (6 of 1882), or in Table A in the First Schedule annexed to the Indian Companies Act, 1913 (7 of 1913), or in Table A in Schedule I annexed to this Act ; (3) [Omitted by the Companies (Amendment) Act, 2000 with effect from 13-12-2000 ;] (4) [Omitted by the Companies (Amendment) Act, 2000 with effect from 13-12-2000 ;] (5) "banking company " has the same meaning as in the Banking Companies Act, 1949 (10 of 1949) ; (6) "Board of directors " or "Board ", in relation to a company, means the Board of directors of the company; (7) "body corporate " or "corporation " includes a company incorporated outside India but does not include - (a) a corporation sole ; (b) a co-operative society registered under any law relating to co-operative societies ; and (c) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf ; (8) "book and paper " and "book or paper " include accounts, deeds, vouchers, writings, and documents ; (9) "branch office " in relation to a company means - (a) any establishment described as a branch by the company ; or (b) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the company ; or (c) any establishment engaged in any production, processing or manufacture, but does not include any establishment specified in any order made by the Central Government under section 8 ; (10) "company " means a company as defined in section 3 ; (10A) "Company Law Board " means the Board of Company Law Administration constituted under section 10E ; (11) "the Court " means, - (a) with respect to any matter relating to a company (other than any offence against this Act), the Court having jurisdiction under this Act with respect to that matter relating to that company, as provided in section 10 ; (b) with respect to any offence against this Act, the Court of a Magistrate of the First Class or, as the case may be, a Presidency Magistrate, having jurisdiction to try such offence ; (12) "debenture " includes debenture stock, bonds and any other securities of a company, whether constituting a charge on the assets of the company or not ; 4[(12A) "depository " has the same meaning as in the Depositories Act, 1996 (22 of 1996) ;] 4[(12B) "derivative " has the same meaning as in clause (aa) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ;] (13) "director " includes any person occupying the position of director, by whatever name called ; (14) "District Court " means the principal Civil Court of original jurisdiction in a district, but does not include a High Court in the exercise of its ordinary original civil jurisdiction ; 4[(14A) "dividend " includes any interim dividend ;] (15) "document " includes summons, notice, requisition, order, other legal process, and registers, whether issued, sent or kept in pursuance of this or any other Act or otherwise ; 4[(15A) "employees stock option " means the option given to the whole-time directors, officers or employees of a company, which gives such directors, officers or employees the benefit or right to purchase or subscribe at a future date, the securities offered by the company at a pre-determined price ;] Page 16 of 332 (16) "existing company " means an existing company as defined in section 3 ; (17) "financial year " means, in relation to any body corporate, the period in respect of which any profit and loss account of the body corporate laid before it in annual general meeting is made up, whether that period is a year or not : Provided that, in relation to an insurance company, "financial year " shall mean the calendar year referred to in subsection (1) of section 11 of the Insurance Act, 1938 (4 of 1938) ; (18) "Government company " means a Government company within the meaning of section 617 ; (18A) [Omitted by the MRTP (Amendment) Act, 1984, with effect from 1-8-1984 ;] (19) "holding company " means a holding company within the meaning of section 4 ; 4[(19A) "hybrid " means any security which has the character of more than one type of security, including their derivatives ;] 5[(19AA) "industrial company " means a company which owns one or more industrial undertakings ; (19AB) "industrial undertaking " means any undertaking, pertaining to any industry

carried on in one or more factories or units by any company, as defined in clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) but does not include a small-scale industrial undertaking as defined in clause (j) of that section ;] 4[(19B) "information memorandum " means a process undertaken prior to the filing of a prospectus by which a demand for the securities proposed to be issued by a company is elicited, and the price and the terms of issue for such securities is assessed, by means of a notice, circular, advertisement or document;] (20) [Omitted by the (J & K Extension of Laws) Act, 1956;] (21) "insurance company " means a company which carries on the business of insurance either solely or in conjunction with any other business or businesses; (22) "issued generally " means, in relation to a prospectus, issued to persons irrespective of their being existing members or debenture holders of the body corporate to which the prospectus relates; (23) "limited company " means a company limited by shares or by guarantee; 4[(23A) "listed public companies " means a public company which has any of its securities listed in any recognised stock exchange;] (24) "manager " means an individual (not being the managing agent) who, subject to the superintendence, control and direction of the Board of directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called, and whether under a contract of service or not; (25) [Omitted by the Companies (Amendment) Act, 2000 with effect from 13-12-2000;] (26) "managing director " means a director who, by virtue of an agreement with the company or of a resolution passed by the company in general meeting or by its Board of directors or, by virtue of its memorandum or articles of association, is entrusted with substantial powers of management which would not otherwise be exercisable by him, and includes a director occupying the position of a managing director, by whatever name called : Provided that the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within substantial powers of management : Provided further that a managing director of a company shall exercise his powers subject to the superintendence, control and direction of its Board of directors ; (27) "member ", in relation to a company, does not include a bearer of a share-warrant of the company issued in pursuance of section 114 ; (28) "memorandum " means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous companies law or of this Act ; (29) "modify " and "modification " shall include the making of additions and omissions ; 6[(29A) "net worth " means the sum total of the paid-up capital and free reserves after deducting the provisions or expenses as may be prescribed. Explanation. - For the purposes of this clause, "free reserves " means all reserves created out of the profits and share premium account but does not include reserves created out of revaluation of assets, write back of depreciation provisions and amalgamation ;] 7[(30) "officer " includes any director, manager or secretary or any person in accordance with whose directions or instructions the Board of directors or any one or more of the directors is or are accustomed to act ;] (31) "officer who is in default ", in relation to any provision referred to in section 5, has the meaning specified in that section ; 4[(31A) "option in securities " has the same meaning as in clause (d) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ;] 6[(31AA) "operating agency " means any group of experts consisting of persons having special knowledge of business or industry in which the sick industrial company is engaged and includes public financial institution, State level institution, scheduled bank or any other person as may be specified as the operating agency by the Tribunal;] (32) "paid-up capital " or "capital paid-up " includes capital credited as paid-up ; (33) "prescribed " means, as respects the provisions of this Act relating to the winding up of companies except subsection (5) of section 503, sub-section (3) of section 550, section 552 and sub-section (3) of section 555, prescribed by rules made by the Supreme Court in consultation with 8[the Tribunal], and as respects the other provisions of this Page 17 of 332 Act including sub-section (5) of section 503, sub-section (3) of section 550, section 552 and sub-section (3) of section 555, prescribed by rules made by the Central Government ; (34) "previous companies law " means any of the laws specified in clause (ii) of sub-section (1) of section 3 ; (35) "private

company " means a private company as defined in section 3 ; (36) "prospectus " means any document described or issued as a prospectus and includes any notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any shares in, or debentures of, a body corporate ; (37) "public company " means a public company as defined in section 3 ; (38) "public holiday " means a public holiday within the meaning of the Negotiable Instruments Act, 1881 (26 of 1881) : Provided that no day declared by the Central Government to be a public holiday shall be deemed to be such a holiday, in relation to any meeting, unless the declaration was notified before the issue of the notice convening such meeting ; (39) "recognised stock exchange " means, in relation to any provision of this Act in which it occurs, a stock exchange, whether in or outside India, which is notified by the Central Government in the Official Gazette as a recognised stock exchange for the purposes of that provision ; (40) "Registrar " means a Registrar, or an Additional, a Joint, a Deputy or an Assistant Registrar, having the duty of registering companies under this Act ; (41) "relative " means, with reference to any person, any one who is related to such person in any of the ways specified in section 6, and no others ; (42) "Schedule " means a Schedule annexed to this Act ; (43) "Scheduled Bank " has the same meaning as in the Reserve Bank of India Act, 1934 (2 of 1934) ; (44) [Omitted by the Companies (Amendment) Act, 2000 with effect from 13-12-2000 ;] 9[(45) "secretary " means a company secretary within the meaning of clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980), and includes any other individual possessing the prescribed qualifications and appointed to perform the duties which may be performed by a secretary under this Act and any other ministerial or administrative duties ;] 10[(45A) "secretary in whole-time practice " means a secretary who shall be deemed to be in practice within the meaning of sub-section (2) of section 2 of the Company Secretaries Act, 1980 (56 of 1980), and who is not in full-time employment ;] 4[(45AA) "securities " means securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and includes hybrids ;] 11[(45B) "Securities and Exchange Board of India " means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) ;] (46) "share " means share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied ; 4[(46A) "share with differential rights " means a share that is issued with differential rights in accordance with the provisions of section 86;] 6[(46AA) "sick industrial company " means an industrial company which has.- (i) the accumulated losses in any financial year equal to fifty per cent, or more of its average net worth during four years immediately preceding such financial year ; or (ii) failed to repay its debts within any three consecutive quarters on demand made in writing for its repayment by a creditor or creditors of such company ;] 6[(46AB) "State level institution " means any of the following institutions, namely : - (a) the State Financial Corporations established under section 3 or section 3A and institutions notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951) ; (b) the State Industrial Development Corporations registered under this Act ;] (47) "subsidiary company " or "subsidiary " means a subsidiary company within the meaning of section 4 ; (48) "total voting power ", in regard to any matter relating to a body corporate, means the total number of votes which may be cast in regard to that matter on a poll at a meeting of such body, if all the members thereof and all other persons, if any, having a right to vote on that matter are present at the meeting, and cast their votes ; (49) "trading corporation " means a trading corporation within the meaning of entries 43 and 44 in List I in the Seventh Schedule to the Constitution ; 6[(49A) "Tribunal " means the National Company Law Tribunal constituted under sub-section (1) of section 10FB ;] (50) "variation " shall include abrogation ; and "vary " shall include abrogate. 1. Inserted by the Companies (Amendment) Act, 2000 w.e.f. 13-12-2000. 2. Clause (1) renumbered as (1A) by the Companies (Amendment) Act, 2000 w.e.f. 13-12-2000. 3. Inserted by the Companies (Second Amendment) Act, 2002 w.e.f. 1-4-2003 4. Inserted by the Companies (Amendment) Act, 2000 w.e.f. 13-12-2000. 5. Inserted by the Companies (Second Amendment) Act, 2002 w.e.f. 1-4-2003 6. Inserted by the Companies (Second Amendment) Act, 2002 w.e.f. 1-4-2003 7. Substituted by the Companies (Amendment) Act, 2000 w.e.f. 13-12-2000. Prior to its substitution, clause (30), read as under : `(30) "officer " includes any director, managing agent, secretaries and treasurers, manager or secretary, or any person in accordance with

whose directions or instructions the Board of directors or any one or more of the director is or are accustomed to act, and also includes - Page 18 of 332 (a) where the managing agent, or the secretaries and treasurers is or are a firm, any partner in the firm ; (b) where the managing agent or the secretaries and treasurers is or are a body corporate, any director or manager of the body corporate ; (c) [Omitted by the Companies (Amendment) Act, 1974 w.e.f. 1st August, 1975], but, save in sections 477, 478, 539, 543, 545, 621, 625 and 633, does not include an auditor ; 8. Substituted for `High Courts by the Companies (Second Amendment) Act, 2002 w.e.f. 1-4-2003 9. Substituted by the Companies (Amendment) Act, 1988 w.e.f. 1-12-1988. 10. Inserted by the Companies (Amendment) Act, 1988 w.e.f. 15-6-1988. 11. Inserted by the Depositories Act, 1996 w.r.e.f. 20-9-1995.