GUIDELINES FOR PROCESSING CASES OF BOARD LEVEL APPOINTMENTS IN CENTRAL PUBLIC SECTOR UNDERTAKINGS

सत्यमेव जयते

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INTRODUCTION

(A) COMPOSITION OF APPOINTMENTS COMMITTEE OF CABINET (ACC)

Prime Minister – Chairman

Home Minister – Member

Minster of the Ministry concerned – Member

(B) BROAD FUNCTIONS OF ACC

First Schedule (page 5-6) of Transaction of Business Rules as amended on 10.06.2013 – As available on the website of the Cabinet Secretariat

The broad functions within the jurisdiction of the Appointments Committee of the Cabinet as listed in the Government of India (Transaction of Business) Rules are:-

(i) To take decisions in respect of appointments specified in Annexure I to the First Schedule to the Government of India (transaction of business) Rules, 1961;

(ii) To take decisions in respect of empanelments specified in Annexure II to the First Schedule to the Government of India (Transaction of Business) Rules, 1961;

(iii) To decide all cases of disagreement relating to appointments between the Department or Ministry concerned and the Union Public Service Commission;

(iv) To decide cases of extension of tenure, under the central staffing scheme(s) or relevant central tenure norms, of officers belonging to the All India Services and other Group 'A' services beyond the prescribed limits;

(v) To decide cases relating to lateral shift of officers serving on central deputation;

(vi) To decide cases of premature repatriation of officers serving with the central government to their parent cadre or department;

(vii) To decide cases relating to inter-cadre deputation or transfer of All India Services officers;

(viii) To decide cases of extension of service beyond the age of superannuation under Fundamental Rule 56(d);

(ix) To decide all cases of disagreement with the recommendations of the search-cum-selection committee

constituted in accordance with the statutory requirements or the relevant instructions of the Department of Personnel and Training in respect of officers of the rank or pay (pay band plus grade pay) equivalent to or higher than a Joint Secretary of the central government;

(x) To consider and decide representations, appeals and memorials from officers of the rank or pay (pay band plus grade pay) equivalent to or higher than a joint secretary in the central government, except from those working in the cadre, against adverse remarks;

(xi) To decide all cases of disagreement, including in the order of preference of the Public Enterprises Selection Board panel, between the administrative Ministry or Department concerned and the Public Enterprises Selection Board;

(xii) To decide all cases of inter-company transfers of Chairman, Managing Director and Functional Directors of Public Sector Undertakings between holding companies and subsidiaries and within the subsidiaries, including memorandum of understanding signing Public Sector Undertakings;

(xiii) To decide all cases relating to intra-company transfer of Managing Director and Functional Directors of Public Sector Undertakings, including Memorandum of Understanding signing PSUs; and

(xiv) To decide cases relating to employment or re-employment of any person, who has attained the age of superannuation, in any Department of the Government of India, any state-owned public corporation, company or enterprise, in a post, appointment to which requires approval of the Appointments Committee of the Cabinet.

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BOARD LEVEL APPOINTMENTS IN PSUs

(A) AUTHORITY

(Para 10.1 of O.M. No. 27/12/97-EO (ACC) dated 15.10.1997)

The powers to make appointments, whether salaried or not, of Chairman, Chairman-cum-Managing Director and other Members of the Board of Management (including the Managing Director and the Financial Adviser, if the Financial Adviser is a Member of the Board of Management) of any Schedule 'A' and Schedule 'B' State-owned public corporations, company or enterprise, except where such appointment is made on ex-officio basis by the Government, vests in the ACC. Subject to certain conditions, the powers to make such appointments in Schedule Ç''& 'D' has been delegated to the Minister of the concerned administrative Ministries/Department.

2. In PSUs which are exempted from the PESB procedure and / or rule of immediate absorption, irrespective of its Schedule, the powers of appointments, whether salaried or not, of Chairman, Chairman-cum-Managing Director and other Members of the Board of Management (including the Managing Director and the Financial Adviser, if the Financial Adviser is a Member of the Board of Management) of any PSU vests in the ACC.

3. For appointment of Non-official Director – cum- Part-time Chairperson, on the Board of a PSU, Search Committee procedure of DPE prescribed for appointment of Non-official part-time Directors is to be followed (DPE has clarified this in the case of CCIC, M/o Textiles vide Para 3 of O.M. No.9(35)/2011-GM dated 12.12.2011).

(B) PROCEDURE

(28(30)EO/2010(ACC) dated 31st March, 2011)
and as per PESB guidelines

Recruitment process to a Board Level post is to be initiated by PESB one year prior to date of occurrence of vacancy.

1. The advertisement for a vacancy should be released by the PESB one year before the expiry of the tenure of the incumbent.

2. The Ministry/Department concerned shall finalise/modify the job description/qualifications/eligibility conditions and communicate the same to the PESB, three months in advance of the stipulated period of one year. In the event of such a job description/qualifications/eligibility conditions not being received

by the stipulated time, the PESB shall finalise the same on the basis of existing description so that the schedule for advertising vacancies is adhered to strictly.

3. The recommendation of the PESB shall be sent to the Ministry concerned six months before the expiry of tenure of the incumbent.

4 In case of unforeseen vacancies, the PESB shall give 45 days time for the applications and in any case select and recommend a candidate within four months of the date of vacancy

5. The post is circulated among all Central PSEs, Ministries and state Chief Secretaries, and also uploaded on the PESB website. Further no valid application should be withheld by the PSU or the Ministries/Department.

6. Shortlisting of candidates

The applications, including names from data bank wherever applicable, are considered with reference to the job description and eligibility criteria in the following manner; subject to a maximum of 15:

8 : Internal (*) (from the same CPSE or its subsidiary).
3 : Sectoral (from PSEs of the same Administrative Ministry).
2 : External (from any other CPSE).
2 : Central Govt.

The shortfalls in a category is carried forward and distributed between the remaining categories on a pro rata basis

{Note : (*) **Internal candidate** is one, who is an employee of an enterprise who has put in a minimum of two years of continuous service in it immediately preceding date of vacancy, and who does not hold a lien in any other PSE/Government. An employee who holds a lien on a post in a CPSE can also be considered as an internal candidate of that enterprise, provided he/she has put in a minimum of two years of continuous service in that enterprise, on the date of acquiring lien and the period for which he/she is away from the enterprise is not more than 5 years.}

7. Consideration of a candidate already working in a PSU – **Job Hopping**

i. The concept of job hopping is valid only when a candidate has taken a position at the Board level.
ii. When a candidate moves from Company A to Company B on a Board level position, he is expected to work for minimum two years in order that restriction of job hopping does not apply to him.
iii. If he has put in less than 2 years, the rule of job hopping will apply to him for a position in other companies.
iv. If a position falls vacant in the same company at a higher level, the restriction of job hopping will not apply to a Director as 'vertical hopping' is permitted in the same Company. For example, if an incumbent has moved from company A to company B he will be eligible for applying for CMD's position in company B but not in company A even if he holds lien in company A.
v. Job hopping restriction will apply to an incumbent for lateral movement within the company as well as in any other company.

8. The selection meeting is scheduled in consultation with the Secretary of the Administrative Ministry/Department.

9. Assistance by the Ministry representative and CMD/MD of the PSE :

i. Secretary is invited to assist the PESB on behalf of the administrative Ministry/Department. However the concerned Secretary may nominate an officer not below the rank of Additional Secretary to represent him in selection for a Board level post other than CMD of schedule A company. In the case of selection for Functional Directors, the concerned regular Chief Executive of the concerned enterprise is invariably invited to assist the PESB.

ii. However, in the case of subsidiaries, the Chairman of the holding Company is invited to assist the Board.

iii. In the case of Joint Venture enterprises with the State Governments, Chief Secretary of concerned State Government is also invited

Appointment of Central Government officers from organised service(s) in CPSEs is only on immediate absorption basis.

10. The Officers from Organized Services are considered only on "immediate absorption basis", unless the posts have been exempted specifically from the rule of immediate absorption with the approval of the Competent Authority. However, if no suitable candidate is found and the Administrative Ministry so desires, the question of granting exemption from the rule of immediate absorption may be recommended by the PESB.

11. The terms and conditions of appointment of Central Government Servants in the CPSEs on immediate absorption basis are to be regulated in terms of the DoP&T's O.M. No. No.28016/5/85-Estt(C) dated 31.01.1986.

12. The minimum length of service required in the eligible scale (as mentioned in Sl.No. C) as on the cut-off date is :

(i) one year for internal candidates; and
(ii) two years for others.

13. Cut-off date

i. The cut-off date for deciding the eligibility of the candidates is the date of occurrence of the vacancy.

ii. In case(s) of rejection of the panel by the ACC or the selected candidates not joining, the crucial date is the date on which the panel was rejected by the ACC (Para 2(iii) of 27(22)EO/98(ACC) dated 28.01.1999 and Para 1(C) of O.M.No.18/6/98-DPE(GM) dated 03.02.1999)

iii. If all the persons in the panel, to whom offer of appointment had been issued, refused to join, the date of cancellation of appointment order in respect of the last person, offered appointment, may be taken as the date of occurrence of vacancy. {I.D. No. 27(22)EO/98(ACC) dated 07.05.1999}.

iv. The date of vacancy of a post is reckoned with reference to the date it will fall vacant or has fallen vacant as follows:

- For newly created post or post kept in abeyance – Date of issue of order creating/reviving the post.
- Panel recommended by PESB scrapped by the ACC - Date of issue of order for scrapping the panel

14. Age criteria for selection of CMD/MD/Director on the Board of CPSE is as under :

{DPE O.M. No.18(6)/98-GM-GL-72 dated 20.10.2005}

On the date of occurrence of Vacancy:				
Post in PSE	**Age of superannuation 60 years**			
	Internal		**External**	
	Min.	**Max.**	**Min.**	**Max.**
CMD Schedule A/Director Schedule A/ CMD Schedule B	45	58	45	57
Director Schedule B/CMD Schedule C/ Director Schedule C/CMD Schedule D	40	58	40	57
	Age of superannuation 58 years			
	Internal		**External**	
CMD Schedule A/Director Schedule A/ CMD Schedule B	45	56	45	55
Director Schedule B/CMD Schedule C/ Director Schedule C/CMD Schedule D	40	56	40	55

15. A candidate may apply any number of times in a calendar year, but he may be allowed to appear only up to four times in selection meetings, in a calendar year. This restriction in number of appearances has come into effect from 1st January 2013.

16. The PESB conducts interview of the applicants and after considering the qualifications, experience, service record and the performance in the previous post, the PESB sends only one name to the Ministry for its consideration. A reserve name is kept in a sealed cover with the PESB and is disclosed only upon orders of the ACC (Para 1(d) of No.28(30)EO/2010(ACC) dated 31.03.2011).

17. A candidate recommended at No. 1 in the panel for a Board level post is not considered for another Board level post for a period of six months from the date of selection interview or till the approval of the concerned panel, whichever is earlier.

Name of recommended candidate is placed on website by PESB on the same day.

18. The details of all the candidates interviewed and recommended by the PESB for each vacancy shall be placed on the website of the PESB, the same day the interviews are concluded.

19. The PESB shall send a copy of its recommendation to the Ministry/Department concerned and to the CVC as advance information [Para 1(f) of No.28(30)EO/2010(ACC) dated 31.03.2011].

20. The name recommended by the PESB, is considered by the Administrative Ministry after obtaining vigilance clearance from the CVC. Thereafter, the Administrative Ministry with the approval of the Minister in charge submits a proposal to the Office of the Establishment Officer for obtaining the approval of the ACC [No.27(12)EO/94(ACC) dated 30.7.99].

21. The recommendations of the Public Enterprises Selection Board in respect of appointments to posts of Public Sector Enterprises specified in the Annexure to the First Schedule to the Government of India(Transaction of Business) Rules, 1961, will have to be necessarily referred to the Appointments Committee of the Cabinet by the Minister concerned after setting out his views thereon (Para 7 of D.O. No.27(8)-EO/87(ACC) dated 25.01.1988).

22. The Board level appointments in Schedules 'A' & 'B' PSUs are done with the approval of ACC.

23. In respect of Schedule 'C' and 'D' PSUs, the power of appointment to the Board level posts has been delegated to the administrative Ministry subject to the condition that the Ministry does not deviate from the recommendations of PESB/DPE in any manner. In case of any deviation, the proposal would require approval of ACC.

(O.M. No. 27/12/97-EO (ACC) dated 15.10.1997)
[F.No.27(I2)EO/97(ACC) dated 03.04.2001]

(C) ELIGIBILITY

1. ELIGIBILITY PAY SCALES FOR VARIOUS BOARD LEVEL POSTS

Pay scale of the Board level post	PSE executives	Eligibility for Government officers
Schedule A CMD	**(in rupees)**	
27750-31500 (Pre 2007) 80000-125000	8250-9250(IDA) Pre 01.01.92 11500-13500(IDA)Post 01.01.92 23750-28550(IDA) Post 01.01.97 62000-80000(IDA) Post 01.01.07 22400-24500(CDA) Pre revised 67000-79000 (CDA)	Addl. Secretary or equivalent/ Lt. General in the Army or Vice Admiral in Navy or Air Marshal in the Air Force.
Schedule A Director **Schedule B CMD**		
25750-30950 75000-100000 75000-90000	7250-8250(IDA) Pre 01.01.92 9500-11500(IDA) Post 01.01.92 20500-26500(IDA) Post 01.01.97 51300-73000(IDA) Post 01.01.07 18400-22400(CDA) Pre revised 37400-67000+GP 10000(CDA)	Joint Secretary or equivalent/ Major General in the Army or Rear Admiral in Navy or Air Vice Marshal in the Air Force.
Schedule B Director **Schedule C CMD**		
22500-27300(Pre 2007) 65000-75000	6250-7475(IDA) Pre 01.01.92 8520-10050(IDA) Post 01.01.92 18500-23900(IDA) Post 01.01.97 43200-66000(IDA) Post 01.01.07 14300-18300(CDA) Pre revised 37400-67000+GP 8700(CDA)	Director or equivalent/ Brigadier in the Army or Commodore in Navy or Air Commodore in the Air Force.
Schedule C Director **Schedule D CMD**		
20500-25000 (Pre revised) 51300-73000	5550-6870 (IDA) 7500-9900 (IDA)Post 01.01.92 17500-2300(IDA)Post01.01.97 36600--62000(IDA)Post01.01.07 12000-16500 (CDA) Pre revised 15600--39100+GP 7600 (CDA)	Deputy Secretary or equivalent/ Lt. Colonel in the Army or Captain in Navy or Group Captain in the Air Force.

2. ELIGIBILITY OF THE INCUMBENT DIRECTORS WHEN THE SCHEDULE OF THE COMPANY IS UPGRADED

i. In case the Schedule of a PSU has been upgraded and consequently internal applicants who were otherwise eligible have become ineligible on the basis of lower pay scale or duration of service in eligible pay scale would continue to be eligible.

ii. In case of up-gradation of the schedule of the PSU the eligibility criteria in the Job Description will remain those of the schedule prior to up-gradation for first time recruitment to each Board level post after up gradation

iii. Upgradation of posts on personal basis for grant of higher schedule of pay to the individual concerned is allowed in rare and exceptional cases only. The overall performance of the PSU during the tenure of the executive concerned, development of technology through R&D, diversification of activities and stagnation at the maximum of the existing scale for a long period are the criteria to be used for this purpose. The overall performance is assessed with reference to the parameters, which are used for upgradation of the PSU {DPE O.M. No.9(15)/99-GM-GL-29 dated 09.10.2000}.

iv. Proposals regarding grant of higher scales of pay to incumbents of Board level positions, even on personal basis in public sector enterprises, fall within the purview of the Appointments Committee of the Cabinet. (O.M.No.24(14)EO/89(ACC) dated 06.12.1989).

(D) TIME SCHEDULE

(Page 6 of D.O. No. 27(16)EO/86(ACC)pt. dated 13.10.1987)
(D.O. No.27(12)EO/90(ACC) dated 25.07.1990)
(Para 1(b) & (c) of F.No.28(30)EO/2010(ACC) dated 31.03.2011)
(No.28(30)EO/2010(ACC) dated 08.08.2011}

The following time-frame may be adhered to for processing of proposals relating to appointments of Chief Executives/Functional Directors in Public Sector Enterprises, requiring consideration of the Appointments Committee of the Cabinet.

STAGE	MAXIMUM TIME TO BE TAKEN
For regular vacancies	
Finalisation/modification of job description /qualification/ eligibility conditions	1 year 3 months before the date of occurrence of the vacancy
Issue of advt. for a vacancy by PESB	1 year before the expiry of tenure of the incumbent, i.e. date of vacancy
Time for receipt of applications by the PESB	60 days
Time by which PESB recommendation should be available with Administrative Ministry	6 months before the expiry of tenure of the incumbent, i.e. date of vacancy
Time for administrative Ministry to submit proposals to the Establishment Officer	10 days
For unanticipated vacancies	
Time for receipt of applications by the PESB	45 days
Time by which PESB recommendation should be available with Administrative Ministry	4 months before the expiry of tenure of the incumbent, i.e. date of vacancy
Time for administrative Ministry to submit proposals to the Establishment Officer	10 days

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(E) APPOINTMENT WITHOUT PESB PROCEDURE

For making Board level appointments without following PESB procedure, prior approval of the ACC is required.

In special circumstances, the appointment to a particular post or posts in a Public Sector Enterprise may be made other than through the PESB with the prior and specific approval of the Appointments Committee of the Cabinet. The Appointments Committee of the Cabinet while granting such an approval, will also specify the body such as, Search Committee, Selection Committee, or the Civil Services Board, as the case may be, that shall make the selection for that particular posts or posts, as well as the selection procedure to be followed for filling the particular post or posts.

[Para 7.3 of F.No.27(18)EO/99(ACC) dated 19.4.2000]

(F) EXEMPTION OF A POST FROM THE RULE OF IMMEDIATE ABSORPTION

All the Board level posts in a CPSE are filled on immediate absorption basis.

As per existing instructions, the deputation of Government officers to posts in CPSEs is not permitted. They can join posts in CPSEs only on immediate absorption basis. Deputation could be permitted only if the post has been exempted from the rule of 'immediate absorption'. Some conditions, which govern grant of such exemptions are :

1. The criteria should be non-availability of suitable persons for particular posts.
2. All attempts should be made to fill up the post on a regular basis.
3. The option for filling up of a post on deputation should be used as an exception when all other avenues have been exhausted.
4. The number of posts to be exempted will be decided in each PSE on a case-to-case basis with the concurrence of DPE.
5. Exemption has to be obtained from the DPE, on a case to case basis, by the administrative Ministry/Department concerned as provided in OM no. 4/10/2005-P&PW(D) dated 25.04.2005) {No. 18(6)/2001-GM-GL-77 dated the 28.12,2005}
6. Whenever any exemption from the rule of immediate absorption is allowed, such exemption is limited to that proposal only and if the Department does not intend to fill the subsequent vacancy in the post again by following the rule of immediate absorption, fresh approval of the ACC is required to be obtained. {No.29(9)EO/2013(ACC) dated 31.10.2013}

(G) IMPORTANT INSTRUCTIONS IN RESPECT OF SICK PSUs

1. In the case of sick/loss making CPSE for which revival plan has been approved by the Government, the following relaxation could be provided:-

The tenure of a Board level incumbent, who has contributed exceedingly well in the turnaround of a sick company, can be extended upto the age of 65 years.

i. In case, any Board level incumbent of such CPSE has contributed exceedingly well in the turnaround of that sick CPSE, his tenure may be extended till he attains the age of 65 years. Since, the selection process to a board level post is being initiated by PESB one year prior to the due date of superannuation of the incumbent, the proposal for extension of tenure beyond the age of superannuation will have to be initiated at least one year prior to the date of superannuation of the incumbent. In case, the balance period of tenure of incumbent is less than one year at the time of approval of revival package by the Government, such proposal for extension of tenure may be initiated immediately after approval of revival package by the

Government. The decision on the extension of tenure beyond the normal retirement age will be taken as per the extant procedure for extension of tenure of Board level executives, i.e. joint appraisal by PESB followed by the approval of the competent authority. Further, such extension would be subject to annual review of the performance of the incumbent to be conducted by Secretary of the concerned administrative Ministry.

ii. Where fresh appointment of the Chief Executive or any Functional Director is proposed and if the PESB procedure of circulation of vacancy does not ultimately lead to a panel for consideration by the competent authority, then relaxation of cut-off age for applying, to 62 years, with minimum tenure of 3 years, could be considered. In such cases, serving/retired CPSE executives, Government servants and private sector executives could be considered.

iii. The Chief Executives and Functional Directors of such CPSEs can be considered for a lump-sum incentive up to maximum of Rs.10 lakh out of the profits of the CPSE besides usual pay, allowances and perks attached to the post

iv. The exemption of the post from the rule of Immediate absorption has to be obtained from the DPE, on a case to case basis, by the administrative Ministry/Department concerned as provided in OM no. 4/10/2005-P&PW(D) dated 25.04.2005 before submitting the proposal for approval of ACC. These instructions supersede earlier instructions wherein the Ministry/ Department concerned, in consultation with the Public Enterprises Selection Board and with the approval of the Cabinet Secretary, could take a decision to fill up Board level post on deputation from any of the All India or Group 'A' Central Services without insisting on the rule of immediate absorption. {Page 2, Para 6 of F.No. 18(6)/2001-GM-GL-77 dated the 28.12.2005}

2. In respect of appointments of senior officers of loss making Public Sector Enterprises to the Board level posts, the Appointments Committee of the Cabinet has observed that senior officers of such PSEs should come under stringent scrutiny while their cases are considered for such appointments. Neither should such officers be automatically denied Board level appointments nor should they be automatically given such appointments. At all times, the criterion should be to rigorously ascertain the extent to which the officer has been responsible for losses suffered by the PSEs. Thereafter, a conclusion regarding his suitability to a Board level appointment can be reached (O.M. No. 27(16)-EO/94(ACC) dated 14.08.1995)

G. GUIDELINES FOR DEBARMENT OF SELECTED CANDIDATES FAILING TO JOIN

{No.18(21)/98-GM dated 24.01.2011}

1. The PESB while inviting the application for filling up of the post should clearly mention in the vacancy circular that a candidate should submit his/her willingness for the post at the time of interview itself. If any candidate does not initially give his/her willingness, he/she may not be interviewed.
2. If any of the candidate, who appeared for interview and is selected by the PESB, gives his/her unwillingness after the interview is held, but before the appointment is processed would be debarred for a period of two years from the date of interview from being considered for aboard level post in any Public Sector Enterprises other than the one to which the candidate belongs.
3. If any candidate gives his/her unwillingness after the issue of offer of appointment, he/she would be debarred for a period of two years from the date of offer of appointment from being considered for a Board level post in any Public Sector Enterprises other than the one to which the candidate belongs.
4. In the above cases, no request for relaxation or otherwise would be entertained.
5. The list of such debarred candidates would be obtained by the concerned administrative Ministry/Department and the PESB.

H. GENERAL INSTRUCTIONS RELATING TO PANEL GIVEN BY THE PESB

Reserve panel for a post kept with PESB is disclosed only on order of the ACC.

1. The PESB send only one name to the Ministry for its consideration. A reserve panel is kept in *'sealed cover'* with the PESB and is disclosed only upon the order of the ACC. {Para 1(d) of F.No.28(30)EO/2010 (ACC) dated 31.03.2011}
2. A panel recommended by the PESB is valid only for 1 year. The panel has to be revalidated by the PESB, which is more than one year old before it is submitted to the ACC Secretariat. [No. 27(7)EO/92(ACC) dated 31.07.03]
3. In case of fresh appointments, where CVC specifically denies vigilance clearance to the recommended candidate in the PESB panel, the Ministry/Department concerned may seek the name in the reserve panel from the PESB, with the approval of the Minister, without referring the matter to the ACC.{No.12(18)EO/2012(ACC) dated 28.09.2012}

A PESB recommended panel can be scrapped only with the approval of the ACC.

I. SCRAPPING OF PANEL PROPOSED BY DPE/PESB

1. Powers to scrap a panel approved/recommended by the DPE/PESB vests in the ACC.
2. As a general and prevailing practice, such proposal should be forwarded to the ACC alongwith the PESB/DPE recommendation/ particulars of the candidates in the proposed panel, reasons for scrapping alongwith the approval of the Minister-in-charge.
3. A fresh panel for filling up the vacancies can only be sought once the ACC has approved the scrapping of previous panel.

J. AUTHORITY TO RELAX

{Item IV of F.No.26(3)EO/2004(ACC) Dated : 17.08.2005}

The authority to relax any norms related to age, educational qualifications, eligibility criteria, etc. rests with the ACC.

K. DESIGNATION OF A NODAL OFFICER

{Para 6 of 28(30)EO/2010(ACC) dated 31st March, 2011.}

While the overall responsibility for keeping a track of the vacancies and filling them would be with the Secretary concerned, the Ministry/Department shall assign Specific tasks to the Joint Secretaries concerned and also include this as a part of key deliverables of the officer.

L. OTHER INSTRUCTIONS

1. A Member of Parliament/Legislative Assemblies cannot be appointed on the Board of Directors of Public Sector Undertakings, Corporations. Government Companies or any other body in which Government is empowered to appoint Directors in terms of the guidelines/instructions issued by the Bureau of Public Enterprises vide OM No.2(9)/80-BPS(CM) dated 20.04.1982. (Para 3 of O.M. No.27(3)EO/2002(ACC) dated 13th June, 2002)

2. Where two PSUs from two different Ministries/Departments are involved, the Ministry/Department submitting the proposal for a Board level appointment for consideration of the ACC, should seek the consent of the Ministry/Department concerned from where the officer is to be relieved, immediately on receipt of the PESB recommendation and CVC clearance and after they decide to

recommend the PESB recommended candidate with the approval of the Minister-in-charge, for consideration of the ACC. This would ensure that the lending Ministry/Department is put on alert to initiate advance action for selection of a suitable replacement. This would also cut down delays in filling up Board level vacancies (Para 2 of O.M.No.27(1)EO/05(ACC) dated 09.05.2005)

3. The concerned public sector undertaking in which an officer, who is selected for another public undertaking, is serving should not raise any objection to the release of the officer after selection and approval by the Appointments Committee of the Cabinet, and should implement the orders of the Appointments Committee of the Cabinet without any demur.

   If the selected officer fails to join, this fact should always be reported to the Public Enterprises Selection Board, who would take this fact into account while considering him for any other appointment under the public sector (Para 3(i) & (ii) of O.M. No.27(9)EO/84(ACC) Dated 04.07.1984).

CONFIRMATION

PROCEDURE

{Para 2 of F.No.28(30)EO/2010(ACC) dated 31st March, 2011.}

1. Cases of Board level functionary for confirmation/ non-confirmation are considered to enable him to continue for the balance period of his tenure or otherwise.
2. The PESB has circulated formats for Special Performance Report (SPR) and guidelines. The assessment in the SPR is required to be recorded by the Secretary of the administrative Ministry in respect of the Chief Executive and by the Chief Executive duly countersigned by the Secretary of the administrative Department in respect of the Functional Directors (No.5/6/2010-PESB dated 28.06.2011).
3. The minimum acceptable score in the SPR is 37.5 out of 50 with no single attribute having a score less than 3.
4. The Ministries are required to send proposals to PESB only in cases of non-confirmation on performance grounds where the score on SPR is less than 37.5.
5. A CMD/MD/Functional Director would be deemed to be confirmed unless the Ministry/Department sends a proposal to the PESB, to the contrary, within 30 days after the expiry of one year.
6. Within this stipulated period of one year and thirty days, the officer would be deemed to have been confirmed and the Ministry shall issue necessary order for confirmation, if the Ministry fails to send a proposal to the contrary, to the PESB.
7. Executives who score less than 37.5 marks on the SPR are called for a joint appraisal meeting with the Board in the presence of the Secretary of the Administrative Ministry to consider confirmation or otherwise of the functionary.
8. The PESB shall hold a Joint Appraisal on receipt of the proposal, within one months, after which the proposal shall be sent to the Ministry of placing before the ACC for orders.
9. If the Ministry/Departments is not inclined to confirm the appointee for reasons other than performance such as vigilance issues etc., such proposal shall be submitted to the ACC directly at least 30 days in advance of the expiry of the scheduled tenure of the incumbent.

10. In case the recommendation of non-confirmation is approved by the Competent Authority, the executive vacates the post.

11. Since grant of second term is a fresh contract, confirmation is again required to be considered after the expiry of the first year of the second term, provided the duration of the second term is more than three years.

TENURE

(A) CHIEF EXECUTIVES/FUNCTIONAL DIRECTORS

(O.M. No.27(11)EO/86(ACC) dated 21.05.1986).
{Page 1, para 1(b) and Page 3 of No.5/6/2010-PESB dated 28.06.2011}

1. 5 years on contractual basis, with a provision that the Government will have option to terminate the services with three months notice
2. Subject to meeting the benchmark prescribed by the PESB/DPE and availability of vigilance clearance, the tenure may be extended for another term of 5 years or up to the date of superannuation whichever is earlier, with the approval of the ACC.

(B) NON-OFFICIAL DIRECTOR

Maximum two tenures of 3 years each in a PSU.

(Para 1(D) of No.13(15)EO/2007(ACC) dated 01.09.2010)

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EXTENSION

{Page 2, para 3 of No.28(30)EO/2010(ACC) dated 31.03.2011}
{Page 1, para 1(b) and Page 3 of No.5/6/2010-PESB dated 28.06.2011}

(A) The following guidelines are in effect

1. The power to approve extension of tenure of Board level appointees in Schedule 'A' and 'B' PSUs, vests in the ACC (No. 27/12/97-EO (ACC) dated 15.10.1997) and all proposals for extension shall be referred to the ACC.
2. For extension of tenure of Board level appointees in Schedule 'C' and 'D' PSUs, after consultation with the PESB, proposals need to be submitted to DOP&T for obtaining the approval of the competent authority/ACC *only* if the recommendation of the PESB is not proposed to be accepted in its entirety. (Modification issued vide (Para 3(ii) of O.M. No. 27(12)/EO/97(ACC) dated 03.04.2001).
3. The PESB, in consultation with the DPE, has evolved a benchmarking system to be applicable while considering proposal for extension (The benchmark as prescribed by the PESB is 40 out of a total of 50)
4. All proposals in which the incumbents meet the benchmark and the Ministry/Department decides to recommend extension shall be referred to the ACC for approval, no later than two months before the scheduled expiry of the tenure of the incumbent. No reference would be needed to PESB for a fresh joint appraisal.
5. All proposals, wherein the incumbents meet the benchmark, but have some other issue such as vigilance etc for which the Ministry/Department is not inclined to recommend extension, shall be referred to the ACC for consideration six months before the scheduled expiry of tenure of the incumbent
6. All proposal wherein the incumbents do not meet the benchmark shall be referred to PESB by the Department/Ministry concerned. This reference has to be six months before the scheduled expiry of tenure of the incumbent. The recommendation of the PESB shall be referred to the ACC, for orders as at present.
7. All proposals wherein the Ministry suggest termination/non-extension of the incumbent shall be accompanied by the proposal for giving additional charge.
8. The Administrative Ministry will furnish the following documents to PESB/ACC (as the case may be) alongwith proposals for extension/non-extension of tenure:-

i. Performance Appraisal Report in the prescribed format (B) (C) & (D). In the column relating to performance in the Enterprise since the date of appointment of the incumbent figures upto the last five years should be indicated.

ii. Special Performance Report in a narrative form duly signed by the Secretary of the Administrative Ministry in respect of the Chief Executive and in respect of the Functional Directors should be recorded by the Chief Executive and countersigned by the Secretary of the Administrative Ministry; and

iii. Photocopies of the annual confidential report for the last 5 years alongwith a certificate in terms of DPE guidelines dated 25.04.1985.

(B) NO EXTENSION WITHOUT APPROVAL OF THE ACC

Para 2 of D.O. No.17(6)EO/97(ACC) dated:10.02.1998

The Administrative Ministry/Department cannot extend tenure of a Board level appointee beyond the ACC approved period.

No orders for extension in tenure or service shall be issued by any Ministry/Department, without the explicit approval of the ACC whenever it is necessary under the Transaction of Business Rules, and in cases where it is done without ACC's approval, the responsibility would be that of the Secretary of the Department/Ministry concerned to explain. The Secretary of the Ministry/Department concerned shall not take recourse to the argument that extension was granted on the instructions of the Minister.

(C) AD-HOC EXTENSION OF TENURE

1. All efforts are to be made to ensure that the cases of Executive, whose tenure are getting over but who still have not attained the age of superannuation, for grant of extension are processed expeditiously as per existing instruction. However, the cases where the proposal could not be finalized on account of pending joint appraisal or vigilance clearance are to be considered for ad-hoc extension on case to case basis.

2. All proposals for ad-hoc extension in tenure of Board level appointees for all schedules of PSUs would require the approval of ACC.

[No.27(12)EO/97(ACC) dated 15.10.1997]

(D) DELEGATION OF POWERS – ADHOC EXTENSION

1. Ad-hoc extension for Board level Directors of BIFR companies, up to six months requires approval of the Minister-in-charge and MOS(PP).

2. Ad-hoc extension of tenure up to three months in respect of Board level appointments in Central PSUs can be approved by the MOS(P) subject to the condition :-

   i. The proposal for normal extension of tenure has been sent to the PESB as per the prescribed time schedule.
   ii. Action for selecting a substitute has been taken in time and the position is brought out in the proposal seeking extension.
   iii. The officer concerned is clear from vigilance angle.
   iv. All other cases would require the approval of the ACC.

(Item No. VII & VIII of F.No. 26(3)EO/2004(ACC) dated 17.08.2005)

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No extension of service beyond the age of superannuation.

(E) EXTENSION IN SERVICE BEYOND THE AGE OF SUPERANNUATION

(Para 2 of O.M. No. 20(28)EO/04(ACC) dated 26.10.2004)

1. No proposals for extension of service beyond the age of superannuation, in respect of Executives in Banks, PSUs and Financial Institutions shall be entertained from any Administrative Ministry/Department.

ADDITIONAL CHARGE ARRANGEMENTS

(A) GUIDING PRINCIPLE

(Page 5, para 12 of No. 27/12/97-EO (ACC) dated 15.10.1997)

The guiding principle for determining whether any particular additional charge arrangement would require the approval of the ACC is whether a proposal for regular appointment to that post would have required the approval of the ACC. If yes, a proposal for additional charge arrangement for that post would need to be submitted to the ACC for approval.

(B) SUBSIDIARY COMPANIES

{Para 2 of F.No. 13(34)EO/2008(ACC) Dated : 26.02.2009}

1. In the case of subsidiary CPSEs, the additional charge of the post of MD/CMD is to be assigned to the senior most Functional Director of that subsidiary company having vigilance clearance.

2. In case no such Functional Director is in position in the subsidiary CPSE, the additional charge of the post of MD/CMD of the subsidiary company is assigned to the CMD/Functional Director of the holding company who is the nominee Director of the holding company on the Board of subsidiary company. However, this arrangement should not result in contravention of Section 316 of the Companies Act, 1956.

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(C) DELEGATION OF POWER

(Item III of F.No. 26(3)EO/2004(ACC) Dated : 17.08.2005)

1. The power to approve additional charge arrangement in the Central Public Sector Undertakings up to a period of three months (to be reckoned from the date of vacancy) has been delegated to the Minister-in-Charge subject to the following conditions:

   i. Additional charge of the post of CMD is assigned to the senior most functional Director in the PSU
   ii. Additional charge of the post of Functional Director is assigned to the CMD of the PSU.
   iii. The officer to whom the charge is being proposed to be assigned is clear from vigilance angle
   iv. Timely action has been taken to fill up the vacancy

2. For additional charge arrangement in the Central Public Sector Undertakings beyond the period of three months (to be reckoned from the date of vacancy) and upto Six months and subject to the conditions mentioned in para (1), the power to approve has been delegated to the MOS(PP).

3. For additional charge arrangement beyond six months (to be reckoned from the date of vacancy) and in case of any deviation from the conditions prescribed in para (i) and (ii) above, the power lies with ACC.

4. The delegation as mentioned in para (i) above, shall not apply to companies referred to BIFR. The proposals in this regard, for entrusting additional charge may continue to be sent to the Establishment Officer for obtaining approval of the Competent Authority;

(D) POSTS LOCATED AT CONSIDERABLE DISTANCE

Assignment of additional charge of posts to officers whose regular post is located at such distance as to make the additional charge arrangement unworkable, or impracticable, should be avoided.

(Para 3 of O.M. No.27(1)EO/2005(ACC) dated 04.04.2005)

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APPOINTMENT OF NON-OFFICIAL DIRECTORS

(No.13(15)EO/2007(ACC) dated 01.09.2010)

1. ELIGIBILITY CRITERIA

(A) CRITERIA OF EXPERIENCE

Non-official Directors on the Board of all PSUs, irrespective of schedule, are appointed with the approval of the ACC.

i. Retired Government official with a minimum of 10 years' experience at Joint Secretary level or above.

ii. Persons who have retired as CMD/CEOs of CPSEs and Functional Directors of the Schedule 'A' CPSEs. The ex-Chief Executives and ex-Functional Directors of the CPSEs will not be considered for appointment as non-official Director on the Board of the CPSE from which they retire.

iii. Serving Chief Executives/Directors of CPSEs will not be eligible to be considered for appointment as non-official Directors on the Boards of any CPSEs. This guideline has overruled the earlier issued vide O.M. No.27(3)EO/87(ACC) dated 20.03.1987.

iv. Academicians/Directors of Institutes/Heads of the Department and Professors having more than 10 years teaching or research experience in the relevant domain e.g. management, finance marketing, technology, human resources or law.

v. Professionals of repute having more than 15 years of relevant domain experience in fields relevant to the company's area of operation.

vi. Former CEOs of private companies if the company is (a) listed on the Stock Exchanges or (b) unlisted but profit making and having an annual turnover of at least Rs.250 crore.

vii. Persons of eminence with proven track record from Industry, Business or Agriculture or Management.

viii. Serving CEOs and Directors of private companies listed on the Stock Exchanges may also be considered for appointment as part-time non-official Directors (NoDs) on the Boards of CPSEs in exceptional circumstances {No.13(15)EO/2007(ACC) dated 02.11.2012}.

(B) CRITERIA OF EDUCATIONAL QUALIFICATION

Minimum graduate degree from a recognized university.

(C) CRITERIA OF AGE

The age band should be between 45-65 years (minimum/maximum limit). This could, however, be relaxed for eminent professionals, for reasons to be recorded, being limited to 70 years

(D) REAPPOINTMENT

A person can have maximum two tenure of three years each.

The non-official Directors will not be re-appointed in the same CPSE after completing a maximum of two tenures, each tenure being for a period of three years.

(E) APPOINTMENT IN NUMBER OF CPSEs AT THE SAME TIME

A person can be appointed as NoD on the Board of three CPSEs and 10 private companies at the same time.

(i) One person will not be appointed as non-official Director on the Board of more than three CPSEs at the same time.

(ii) A person being considered for appointment as Non Official Director in the Board of a CPSE should not hold directorship in more than 10 private companies {No.13(15)EO/2007(ACC) dated 22.07.2013}.

2. INITIATION OF PROPOSALS FOR APPOINTMENT OF NON-OFFICIAL DIRECTORS

The administrative Ministries/Departments should furnish details of vacancies of non-official Directors along with proposal complete in all respect to DPE at least six months prior to the occurrence of the vacancy of non-official Director. The proposal should clearly indicate the number of vacancies of non-official Directors to be filled, contain names of eligible persons three times the number of vacancies sought to be filled, complete bio-data and declaration from the recommended candidates in suggested format, along with a checklist of proposal. The concerned Administrative Ministry/Department should also certify that there is no conflict of interest between the proposed candidate(s) and the CPSE for which appointment of non-official Director is to be made. Once complete proposals are received, DPE will within one month, place the proposals before the Search Committee. In case of name(s) recommended by the Administrative Ministry/Department is/are ineligible and/or there is shortfall in the number of persons recommended in proportion to the number of vacancies sought to be filled DPE may supplement the panel with the names available with its date bank taking into account functional requirements and expertise of the candidates without making any back reference to the concerned Administrative Ministry/Department.

3. PROPOSAL NOT RECEIVED PRIOR TO FOUR MONTHS OF THE OCCURRENCE OF VACANCY

If the proposal complete in all respect is not received in DPE from concerned Administrative Ministry/Department prior to four months of occurrence of vacancy(s), the DPE will suggest a suitable panel of names, from the data bank being maintained by it for the consideration of the Search Committee under intimation to the concerned Administrative Ministry/Department. The meeting of the Search Committee will thereafter be convened where the Secretary of the Ministry/Department concerned will be invited to participate in the process of selection of non-official Directors.

4. ONE SEARCH COMMITTEE FOR ALL CPSEs

There will be only one Search Committee chaired by Chairman, PESB and consisting of Secretary, DPE, Secretary of the administrative Ministry and two non-official members – one of whom would be a Professor from a well-know recognized management institute. In additional, for Maharatnas/Navratnas, one domain expert may be invited by the Chairman. Since the selection of non-official members would be a one time affair, the DPE may put up a panel of names (6 persons) from which the ACC could select two. The tenure of two non-official Members of the Search Committee shall be kept at 3 years and it shall also be stipulated that not more than two terms will be provided to one individual as non-official member of the Search Committee {Para 2(ii) of No.13(15)EO/2007(ACC) dated 02.08.2012}.

5. EXEMPTING REQUIREMENT OF ACC APPROVAL FOR NON-MAHARATNA/NAVRATNA CPSES FOR APPOINTMENT OF NON-OFFICIAL DIRECTORS

Approval of ACC will be required only for appointment of non-official Directors to CPSEs falling in Schedule A & B (as in the case of functional Directors). Administrative Ministries/Departments may appoint non-official Directors in Schedule C & D CPSEs, in consultation with the Department of Personnel & Training and obtain the concurrence of MoS(PP). MoS(PP) can seek the orders of PM in case he considers it necessary in any particular case.

6. TIME-FRAME FOR APPOINTMENT OF NON-OFFICIAL DIRECTORS

The administrative Ministry/Department will be required to take a decision on the recommendations of the Search Committee within a period of one month. In case the administrative Ministry/Department

does not place the recommendations before the ACC within one month of their receipt, the same recommendations would be placed directly by DPE before ACC for consideration.

7. VALIDITY OF PANEL OF NAMES RECOMMENDED BY DPE

The panel of names recommended by the Search Committee will be valid for one year. Proposals for reconsideration of the recommendations already made by the Search Committee will be taken up by the Search Committee only after the decision of ACC on their earlier recommendations is made available.

8. MONITORING OF VACANT POSITIONS ON NON-OFFICIAL DIRECTORS

Each administrative Ministry/Department will intimate the position regarding appointment of non-official Directors on the Board of CPSEs under their administrative control of DOPT and DPE on a quarterly basis.

Appointment of NoDs in CPSEs incorporated under Section 25 of Companies Act also is done by following DPE procedure and approval of the ACC.

9. UNCATEGORISED CPSEs

The delegation to the concerned administrative Ministry/Department for appointment of non-official part-time Directors in respect of Schedule 'C' and 'D' CPSEs shall be prescribed for un-categorized CPSEs also Para 2(iii) of F.No.13(15)EO/2007(ACC) Dated 02.08.2012.

10. PROFORMA

All the proposals for appointment of NoD(s) should be submitted in the prescribed proforma, alongwith the declarations as prescribed by the DPE O.M.No.18/3/97-DPE (GM) dated 10.10.1997. Such proposals should also invariably contain the details of directorships held by the proposed candidates in CPSEs /private companies.

TERMINATION/NON EXTENSION/RESIGNATION

(A) **TERMINATION/NON-EXTENSION** : All the cases of premature termination of appointments *(including non-extension of tenure in case the executive has not attained the age of superannuation*) of Board level appointees in PSUs, for whatever reasons except for resignation, requires approval of the ACC.

{D.O.27(18)EO/86(ACC) dated 10.12.1986)
Para 2 of D.O. No. 27(25)EO/91(ACC) dated 18.11.1991}

Resignation of a Board level appointee does not require approval of the ACC.

(B) **RESIGNATION** : As per the prevailing practice, the cases of resignations in respect of Board level incumbents and NoDs need not be referred to the ACC and the same may be accepted at the level of Minister of the concerned administrative Ministry/Department.

(Para 2 of DPE O.M. No.9(22)2005-GM dated 13.04.2010)

Public Enterprises Selection Board (PESB)

Published in the Gazette of India extra-ordinary Part-I Section 1 dated 3rd march, 1987 as amended on 2nd Sept, 1993 and 19th April, 2000

Reconstitution of PESB and its Role and Responsibilities

1. Public Sector Enterprises (PSEs) under the control of the Central Government play a vital role in the development of the national economy. In order to evolve a sound managerial personnel policy for the Public Sector Enterprises and, in particular, to advise government on appointments to the top management posts, the Government of India constituted a Public Enterprises Selection Board (PESB) by a Resolution dated 30th August, 1974. Consequent upon the shift of the secretariat of the PESB from the Department of Public Enterprises to the Department of Personnel & Training from 9th July, 1986, a comprehensive review of the PESB has been made and it has been decided to revise the policy relating to the functions, membership, methodology for selection and infra-structure of the Board, as set out below.

2. **Objectives and Functions**: The PESB shall, henceforth, function as a professional body with a large measure of autonomy. Its functions shall be:

(i) to be responsible for the selection and placement of personnel in the posts of Chairman, Managing Director or Chairman-cum-Managing Director (Level-I), and Functional Director (Level-II) in PSEs, as well as in posts at any other level as may be specified by the Government.

(ii) to advise the Government on matters relating to appointment, confirmation or extension of tenure and termination of the services of personnel of the above mentioned levels;

(iii) to advise the Government on the desired structure at the Board level, and for senior management personnel, for each PSE or group of PSEs;

(iv) to advise the Government on a suitable performance appraisal system for both the PSEs and the managerial personnel in such enterprises;

(v) to build a data bank containing data relating to the performance of PSEs and its officers;

(vi) to advise the Government on formulation and enforcement of a Code of Conduct and Ethics for managerial personnel in PSEs;

(vii) to advise the Government on evolving suitable training and development programmes for management personnel in PSEs.

3. **Constitution of the Board**: The PESB shall consist of one part-time or full-time Chairperson and three full-time Members. The Chair-person and Members shall be persons who have had a long and distinguished career in management of public or private corporations or public administration and have a proven record of achievements, preferably, in the field of personnel, finance, production or marketing. The three full time Members of the PESB shall:

(a) "A distinguished serving or former Chief Executive of a Public Sector or Private Sector or Joint Sector Enterprises."(Modified vide DOPT Amendment No. F. 27(18)EO/99(ACC), dated the 19th April, 2000.)

(b) A distinguished person with experience in selection of top management personnel. (Modified vide DOPT Amendment No. F. 27(8)EO/93(ACC), dated the 2nd September, 1993).

(c) "A distinguished serving or former Civil Servant with experience in management of Public Sector Enterprises or in areas of finance, industry or Economic Affairs."(Modified vide DOPT Amendment No. F. 27(18)EO/99(ACC), dated the 19th April, 2000.)

Proviso:

> "Provided that the Chairperson or a Member, who on the date of his appointment to the Public Enterprises Selection Board was in the service of the Central or a State Government, shall be deemed to have retired from such service with effect from the date of his appointment as Chairperson or member, as the case may be, of the Public Enterprises Selection Board."

4.1 Selection: A committee comprising the following will recommend a panel of names in order of preference for appointments to the posts of Chairperson and Members–

(a) Cabinet Secretary
(b) Secretary (Personnel)
(c) Secretary (Finance)
(d) Secretary (Public Enterprises)

4.2. The recommendations of the Committee will be submitted to the Appointments Committee of the Cabinet (ACC).

5. Tenure and Age Limit: The Chairperson/Member of the PESB shall hold office for a term of three years from the date on which he assumes charge or until he attains the age of 65 years, whichever is earlier. He

shall be eligible for consideration for reappointment for a second term subject to the age-limit of 65 years.

Provided that in exceptional circumstances, the Chairperson/ Member may be continued beyond the age of 65 years for such period not exceeding one year, as may be specified by the government(Added vide DOPT Amendment No.6(9)-EO/89(ACC), dated 6th September, 1989).

6. Pay and Allowance: Terms and conditions of appointment :-

(i) The appointment shall be made by the Appointments Committee of the Cabinet (ACC).

(ii) The pay of the Chairperson and the Members shall be the same and equal to that of Secretary to the Government of India in the revised pay scale.

(iii) Dearness Allowance and other reliefs on account of increase in the cost of living shall also be admissible at the rates determined from time to time by the Government.

(iv) The other conditions of service including allowances and benefits shall be as determined by the Government from time to time.

PESB can also act as a Search Committee to identify suitable persons for appointment.

7.1 Selection Policy: The PESB shall not be a mere Interview Board. It shall also constitute itself into a Search Committee to look out for and identify suitable persons who can be appointed to Level-I and Level-II posts in Public Sector Enterprises.

7.2 The policy of the Government is to appoint through a fair and objective selection procedure outstanding professional managers to Level-I and Level-II posts and posts at any other level as may be decided by the Government from time to time. Government have also recognized the need to develop a cadre of professional managers within the public sector. Hence unless markedly better candidates are available from outside, internal candidates, employed in the public sector enterprises, will be preferred for appointment to Board level posts. If internal candidates are not available, preference will be given to candidates working in other public sector enterprises, either in the same area of business or in other areas. Mobility of managerial personnel among public sector enterprises within the same sector or group, failing which mobility within the public sector as a whole will be encouraged, subject to certain limitations. In special cases, recruitment may be made from the organized services under the Central Government. Such cases would be where, because of special circumstances, it is necessary to place a member of an organized service in a public sector enterprise or where because of the nature of the enterprises or its poor health, it would be difficult to attract good professional managers on a tenure basis.

7.3 In special circumstances, the appointment to a particular post or posts in a Public Sector Enterprises may be made other than through the PESB with the prior and specific approval of the Appointments Committee of the Cabinet. The Appointments Committee of the Cabinet while granting such an approval, will also specify the body such as, Search Committee, Selection Committee, or the Civil Services Board, as the case may be, that shall make the selection for that particular post or posts, as well as the selection procedure to be followed for filling the particular post or posts (Added vide DOPT Amendment No. F. 27(18)EO/99(ACC), dated the 19th April, 2000.)

7.4 In respect of sick and potentially sick Public Sector Undertakings, the Administrative Secretary of the Ministry/ Department concerned, in consultation with the Public Enterprises Selection Board and with the approval of the Cabinet Secretary, could take a decision at any stage in the process of recruitment to the post of Chairman, Managing Director or Chairman-cum-Managing Director of the Public Sector Enterprises, to take a person on deputation from any of the All India or Group 'A' Central Services without insisting on the rule of immediate absorption(Added vide DOPT Amendment No. F. 27(18)EO/99(ACC), dated the 19th April, 2000).

8. This Resolution supersedes the Ministry of Finance (Bureau of Public Enterprises) Resolution No. 5(1)/74/BPE(PESB) dated 30th August, 1974 and subsequent amendments thereto except things done or committed to be done before such supersession.

Ordered that the Resolution be published in the Gazette of India Extraordinary, Part-I, Section-I. Ordered also that a copy of the Resolution be communicated to all Ministries/Departments of the Government of India Public Sector Undertakings, State Governments/Administration of Union Territories and all other concerned.
(DOPT Resolution No. 27(21)-EO/86 (ACC) dated 3rd March, 1987)

VERIFICATION OF ANTECEDENTS / VIGILANCE CLEARANCE

(A) FRESH APPOINTMENTS

Verification of antecedents of person proposed for Board level appointments is responsibility of administrative Ministry / Department.

1. It is the primary responsibility of the Ministry/Department to satisfy itself with the antecedents of the person, particularly from the private sector whose appointment is proposed by them for a particular post before sending the requisite proposal therefor for the consideration of the Appointments Committee of the Cabinet. {Para 6 of D.O. No.27(8)-EO/87(ACC) dated 25.01.1988}

2. Vigilance clearance should be obtained from the Central Vigilance Commission also, in respect of all candidates/officers recommended by the PESB for appointment to Board level posts in PSEs irrespective of their holding Board level or below Board level posts at that point in time. {Para 3 of O.M. No.27(25)EO/99(ACC) dated 01.12.1999}

(B) ADDITIONAL CHARGE

1. For additional charge arrangement in respect of Board level functionaries in PSU, no clearance from CVC is required unless the Department concerned has material in their possession to believe that the vigilance status has changed since the incumbent was last cleared for Board level appointment. These instructions, however, will not apply in cases where a functional director of a PSU is proposed to be given additional charge of MD/CMD of the same PSU or of another PSU {No.005-VGC-101(OO OF CVC) DATED 15.02.2008}
2. For additional charge of Board level positions in PSUs for an initial period of up to three months, clearance from the CVO would suffice,
3. For continuation of the additional charge arrangement beyond three months, clearance from CVC would be required, and
4. Fresh CVC clearance would be required if the arrangements continue beyond one year.
5. In the cases where additional charge is assigned to either a functionary of another PSU, or an officer from a Ministry, clearance from the CVO would not suffice, and CVC clearance would be necessary.
6. The approval of the ACC should invariably be sought in respect of even those cases where additional charge is provided to be given to a person pending CVC clearance. Such proposal

should give the reasons as to why such person alone is suitable for the post, even though he/she does not have vigilance clearance, and not any other functional Director of the same or any other CPSE under the Ministry. No ex-post facto approval will be granted in such cases. {Para 3 of F.No. 20(23)EO/2010(ACC) Dated 21.08.2012}

(C) NON OFFICIAL DIRECTOR

For appointment to a Board level post, CVC clearance is mandatory.

The nominees are required to furnish a declaration in the prescribed format, which is to the effect that they do not suffer from any of the disqualifications in terms of Section 274 or other relevant provisions of the Companies Act for holding a Directorship, and that they are not facing any charge of , nor they have ever been convicted for, any act of moral turpitude or an economic offence {Para 2 of DPE's O.M.No. 18/3/1997-DPE(GM) dated 10.10.1997}.

(D) EXTENSION

Prior vigilance clearance is mandatory while considering cases of extension of tenure of a board level appointee. The Administrative Ministry/Department should approach CVC well in time to obtain the vigilance status of the officer.

HANDLING OF COURT CASES RELATING TO ACC

COURT CASES

(In respect of appointments falling within the purview of the Appointment Committee of the Cabinet.)

Para 2 & 3 of O.M. No. 27(7)-EO/6(ACC) dated 15.04.1986

The Administrative Ministry/Department has to defend a court case on the behalf of all the respondents.

1. Applications could be filed before a Bench of the Central Administrative Tribunal seeking an order of the Tribunal against action taken by the Ministry/Department on the decision of the Appointment Committee of the Cabinet. In such circumstances, it would become necessary to contest the averments made in the application, drawing attention to the consideration that had been taken into account by the Appointments Committee of the Cabinet. It would also become necessary to claim privilege against a demand from the applicant for a copy of the proceedings of the Appointments Committee of the Cabinet.

2. For these reasons, in all cases where an application is directed against a decision of the Appointments Committee of the Cabinet, the Ministry/Department concerned may kindly consult the Establishment Officer, in the Department of Personnel and Training, who functions as the Secretary of the Appointments Committee of the Cabinet, before taking any action to file a rejoinder to the application before the Bench of the Tribunal. This request may kindly be acted upon, without exception, so that no embarrassment of any nature is caused to the Appointments Committee of the Cabinet.

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Para 2 of O.M. No. 27(7)-EO/86(ACC) dated 01.05.1986

3. In order to ensure that adequate time is available for examining matters arising out of applications filed before the Central Administrative Tribunal, and falling within the jurisdiction of the Appointments Committee of the Cabinet, it is requested that it should be ensured, in future, that the defence replies/affidavits proposed to be filed before the Central Administrative Tribunal are referred to the Establishment Officer for comments/concurrence at least 14 days in advance of the filing of such defence replies/affidavits.

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GENERAL INSTRUCTIONS

(A) DATE OF SUPERANNUATION

The full-time Board-level appointees in the Central Public Enterprises whose appointments have been approved by the ACC till the actual date of their superannuation will now retire on the last day of the month in which they attain the age of superannuation(O.M. No. 27(9)EO/91(ACC) dated 04.07.1991)

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(B) DATE OF EFFECT

The date of effect of approval of the ACC in any proposal will be prospective unless otherwise specifically stated in the orders of the Committee communicated to the Ministries/Departments in any specific case(Para 2 of O.M. No. 28(15)-EO/84(ACC) dated 12.12.1984)

(C) SUBMISSION OF ABSTRACTS OF ACRS

1. Submission of abstracts of ACRs with proposals for Board level appointments in Public Sector Undertakings(PSUs) including Nationalised Banks/FIs etc. for obtaining approval of the ACC

2. All proposals for Nationalised Banks/Financial Institutions etc. seeking approval of the ACC, should accompany the abstracts ACRs of the last five years in the enclosed proforma along with the ACR dossiers, in the absence of which, the proposal will be treated as incomplete and shall be returned forthwith. Detailed reasons may also be furnished in case any of the ACRs for the last five years is not available (O.M. 28(7)/EO/2008(ACC) dated 16.06.2008).

(D) IMPLEMENTATION OF ORDERS OF ACC

1. Orders/directions of the ACC are required to be implemented within a period of one month of the issue of the order/direction.

2. A copy of orders, implementing the decision of Appointments Committee of the Cabinet must, invariably, be endorsed to Establishment Officer's Secretariat, within one month of the date of receipt in the concerned administrative Ministry/Department. (Para 2 of D.O. No. 28(15)-EO/84(ACC) dated 31.01.1986)

3. The Secretary of the Department/Ministry will oversee implementation of ACC orders/directions. If the orders/directions

are not implemented within one month, such case alongwith the explanation of the concerned official be reported on monthly basis to Establishment Officer for onward submission to the ACC. The report should reach the *Secretariat* by the 5th of each month as per the enclosed annexure. (Para 3 of D.O.No.28(14)EO/2005(ACC) dated 02.12.2005)

(E) RESPONSIBILITY OF SECRETARY OF CONCERNED ADMINISTRATIVE MINISTRY/DEPARTMENT

(Para 2 of D.O. 27(3)EO/2007(ACC) dated 05.10.2007)

The Secretaries of the Ministries/Department should be personally responsible for timely initiation and processing of the cases as per the schedules laid down in the instructions issued by the Department of Personnel and Training. In cases of delay, the Secretary of the Department would personally furnish a suitable clarification explaining the reason for the delay, for perusal of the ACC.

(F) RECONSIDERATION OF ORDERS OF ACC

(Para 2 of O.M. No.27(2)/EO91(ACC) dated 14.02.1991)

The Ministries/Departments should avoid sending of proposals for re-consideration of the decisions of the ACC, which have been taken after due consideration of their proposals. It will be the personal responsibility of the Secretary of the Ministry/Department concerned to have the orders of the ACC implemented immediately, on their receipt by the respective Ministry/Department.

(G) PROFORMA

1. All proposals for appointment / extension should be submitted to this Secretariat in the relevant proforma given below, completed in all respects alongwith requisite annexures, by the Administrative Ministries / Departments for making Board level appointments in the CPSEs :

   (i) Proforma-I for making appointment of Functional Director / CMD ;

   (ii) Proforma-II for making appointment of Non-official Director ;

   (iii) Proforma-III for grant of additional charge / extension of additional charge.

(H) RECTIFICATION OF ANY DISCREPANCIES IN INSTRUCTIONS

In case of any discrepancy with respect to the contents of any instruction, contained in this compilation, or their applicability, it will be brought to the notice of this Department immediately for its rectification. The authority to take final decision on any issue rests with ACC Secretariat.

APPENDIX – I

COMPETENT AUTHORITY

S. No	Category	Subject	Competent Authority
I.	Appointment	(i) All Board level appointment in respect of Schedule 'A' and 'B' PSU's including CMDs, MDs, Functional Directors and Non-official part-time Directors	ACC
		(ii) Appointment of CMDs and Functional Directors in Schedule 'C' and 'D' PSUs, provided the appointment is in accordance with the recommendations of PESB	Minister of administrative Ministry/ Department
		(iii) Appointment of CMDs and Functional Directors in Schedule 'C' and 'D' PSUs, where the Administrative Ministry/Department disagrees with the recommendations of PESBs whether in regard to the order of preference in which the names of the persons are placed in the panel or salary or tenure etc.	ACC
		(iv) Appointment of non-official Directors/Independent Directors on Boards of all PSUs, i.e. A, B, C, D and un-categorised	ACC
		(v) Board level appointment in PSUs, which are exempted from PESB procedure and or rule of immediate absorption irrespective of Schedules	ACC
II.	Additional charge	(i) Entrusting Additional charge in BIFR referred companies	MoS(PP)
		(ii) Entrusting additional charge arrangement in all Scheduled PSU up to period of three months subject to certain conditions	Minister-in-charge of administrative Ministry (any deviation from the prescribed condition would require approval of ACC)
		(iii) Entrusting additional charge arrangement in all Scheduled PSU beyond three months but up to a period of six months subject to certain conditions	MoS(PP)
		(iv) Entrusting additional charge arrangement in all Scheduled PSU beyond period of six months	ACC
		(v) Entrusting additional charge in respect of all BIFR referred companies	MoS(PP)

III.	Current Charge arrangement	(i) Current charge arrangement up to a period of three months	Minister-in-charge of the administrative Ministry
		(ii) Current charge arrangement beyond period of three months	Not permissible
IV.	Extension	(i) Extension of tenure of Board level appointees in Schedule 'A' and 'B' PSUs	ACC
		(ii) Extension of Tenure of Board level appointees in Schedule 'C' and 'D' PSUs a) as per recommendation of PESB b) if recommendation of PESB is not proposed to be accepted	 Concerned Ministry/Dept. ACC
		(iii) Ad-hoc extension of Board Level Director of BIFR referred companies up to six months	MoS(PP)
		(iv) Ad-hoc extension of tenure up to 3 months in respect of Board level appointment where vigilance clearance is available but proposal has been sent to PESB but its recommendations are not available	MoS(PP)
		(v) Extension of Validity of panel recommended by PESB	PESB
		(vi) Extension of tenure beyond the age of superannuation	Not permissible
		(vii) Ad-hoc extension of tenure when vigilance clearance is not available	ACC
		(viii) Extension of period of deputation where the initial appointment on deputation basis was with approval of ACC	ACC
V.	Resignation	Resignation of incumbent of Board level post	Minister-in-Charge
VI.	Termination	Premature(before date of superannuation) termination of all Board level appointments	ACC
VII.	Transfer	(i) Internal Transfer of Functional Directors from one post to another with State owned Public corporation, company or enterprise	ACC
		(ii) Intra company transfer of Chairman, Managing Director and Functional of PSUs between holding companies and subsidiaries and with the subsidiaries	ACC
VIII.	Grant of higher pay scale	Grant of higher pay scale to incumbent of Board level posts, even on personal basis	ACC
IX.	Creation/ upgradation of Board level post	Creation/upgradation of Board level posts	Minister-in-charge of administrative Ministry with concurrence of Ministry of Finance
X.	Relaxation	Relaxation of norms relating to age, qualification, eligibility criteria	ACC

APPENDIX-II

PROCEDURAL REQUIREMENTS FOR SUBMISSION OF CASES TO THE ACC

I.	**PROFORMA PRESCRIBED FOR OBTAINING ACC's APPROVAL** A common proforma in a booklet form has been prescribed, with the approval of the ACC, to facilitate timely and complete submission of documents in case of ACC proposals. This Booklet was circulated vide D.O. letter No. 27(7)EO/92(ACC) dated 12.10.1995.
II.	**TIME LIMIT FOR SUBMISSION OF PROPOSAL TO EO's OFFICE** As per the extant instructions, all proposals requiring ACC's approval should reach in the Office of the Establishment Officer two months in advance from the date of occurrence of vacancy. (In this regard, Cabinet Secretary's D.O. letter No.9/10/2004-CS(A) dated 14.07.2004 and this Secretariat's O.M. No.27(7)EO/92(ACC) dated 05.10.2004 and dated 01.11.2004 D.O. No. 29(4)EO/2006(ACC) dated 18.04.2006 are relevant.)
III.	**CHRONOLOGY OF DATES** Proforma for furnishing chronology of dates and additional charge/ current charge/extension of additional charge have been prescribed vide O.M. No.27(7)EO/92(ACC) dated 05th October, 2004) Guidelines for processing of cases of Board level appointments in Public Sector Enterprises have been circulated vide O.M. No.27(12)/EO/94(ACC) dated 30th July, 1999, this has further been modified vide O.M. No.26(3)/EO/2004(ACC) dated 17th August, 2005.
IV.	**CHECK LISTS** The Cabinet Secretary has issued instructions to all Secretaries in the Government of India a Check List for adherence before the proposals are submitted by the respective Departments seeking approval of the ACC. [D.O. No.29(3)EO/2008(ACC) dated 23.05.2008] The following information, wherever required, is also to be submitted alongwith the proposal : **(i) REVIVAL OF POST** A vacancy which has been kept vacant for one year or more is deemed to have been abolished and requires the concurrence from Department of Expenditure for its revival. Therefore, in all such cases, the approval of the Department of Expenditure for revival of such vacancy should invariably be enclosed. [No.27(7)/EO/92(ACC) dated 31.07.2003]

(ii) VALIDITY OF PANEL

(a) A panel recommended by the PESB is valid only for one year. Beyond one year, the panel has to be revalidated by the PESB.

[No.27(7)/EO/92(ACC) dated 31.07.2003]

(b) If a panel is more than a year old, revalidation or authority for operating the same panel should be given.

[No.AB.14017/11/2004-Estt.(RR) dated 30.07.2007]

(iii) STATUS OF DISCIPLINARY PROCEEDINGS

In respect of disciplinary cases, charge memo, chronological details of the status of the disciplinary proceedings and inquiry report, if any, advice of the UPSC/CVC, etc., if any, is to be furnished.

(iv) DETAILS OF COURT CASES

Wherever court cases are involved, copies of the court orders of the action taken by the Department to file appeal/writ, etc. advice of the Department of Legal Affairs and DoP&T, any other relevant information, are to be furnished.

(v) VERIFICATION OF CHARACTER ANTECEDENTS

For appointment of persons (i.e. a person not in Government service) from the open market, antecedent reports/police verification, approval of the competent authorities and clearances is required to be submitted.

[No.27(7)/EO/97(ACC) dated 31.07.2003]

(vi) DETAILS OF ADDITIONAL CHARGE ARRANGEMENTS

Details of additional charge arrangements made for the post should be mentioned. If ACC's approval has not been obtained previously, proposals for their regularization should accompany. However, in respect of Ministries/Departments and their attached and subordinate offices, current charge arrangements upto three months have been allowed to the Ministries with the approval of the Ministers-in-charge.

[No.27(7)/EO/92(ACC) dated 31.07.2003]
[O.M. No.26(3)EO/04(ACC) dated 17.08.2005]

(vii) WILLINGNESS

For quasi-judicial appointments, willingness of the proposed officers, should be certified

[No.1/1/2005-EO (SM.II) dated 25.03.2008]

(viii) ABSTRACTS OF ACRS

Abstracts of ACRs of the last five years in respect of the proposed officers should be attached.

[No.8/2/2006-EO (SM.II) dated 11.08.2006]

(ix) STATUS OF RECRUITMENT RULES

If there are no Recruitment Rules, reasons there for, and if these are more than five years old, the status of their framing/review/revision, should be explained.

[No.AB.14017/2/1997-Estt.(RR) dated 25.05.1998]
[No.14017/6/2002-Estt.(RR) dated 04.08.2003]

	(x) COPY OF CIRCULAR/ADVERTISEMENT Copy of circular/advertisement should be furnished, clearly indicating the date of issue (if minimum time for response was not allowed, reasons there for). [No.AB.14017/11/2004-Estt.(RR) dated 30.07.2007] **(xi) SEARCH-CUM-SELECTION COMMITTEE** Copy of DoP&T's concurrence for constitution of Search-cum-Selection Committee should be attached. [No.AB.14017/11/2004-Estt.(RR) dated 30.07.2007] **(xii) STATUS OF IMPLEMENTATION OF ACC DIRECTIONS** Status of implementation of previous ACC directions should be specified. [No.22/41/2005-EO(SM.II) dated 26.03.2006] **(xiii) COMPLIANCE OF ORDERS OF ACC BY THE MINISTRIES** All Departments shall convey compliance of the decisions of the Appointments Committee of the Cabinet invariably within one month of the date of its receipt from the EO's Office. [No.28(14)EO/2005(ACC) dated 02.12.2005]
V.	**ACC VACANCY MONITORING SYSTEM (AVMS)** The ACC has given directions to all Departments to use AVMS which should be monitored by the respective Secretaries, to oversee the processing of proposals requiring ACC' s approval.[D.O.NO.27(8)/EO/2007(ACC) dated 11.12.2007] No proposal requiring ACC approval on the Board level appointments in PSUs will be entertained if it is not accompanied with the proforma downloaded from AVMS. [D.O. No.27(1)EO/2011(ACC) dated 03.10.2012]
VI.	**DESIGNATION OF A NODAL OFFICER** A nodal officer is sought to be appointed in every Ministry at the level of Joint Secretary to facilitate these procedures and adhere to the ACC timelines. The name, address, telephone, fax, mobile number of the nodal officer may be communicated to PESB and also displayed on the website of the Ministry. [No.28(30)EO/2010(ACC) dated 31.03.2011]

सत्यमेव जयते

Department of Personnel & Training
Ministry of Personnel, Pension & Public Grievances
Government of India