

THE COMPANIES AMENDMENT BILL, 2020

KEY TAKEAWAY FROM THE BILL



BRIEF

Amendment in Companies Act has become an important law reform in India. The Companies Act was amended 2015, 2017, 2019 and now, in 2020 (as proposed). The 1956 Act was amended to incorporate the latest trends of the corporate world and to incorporate the changes which can provide a boost to the corporate sector in the economic growth of the country. Likewise, the 2015, 2017 and 2019 Act have been amended for the purpose of ease of doing business. The note deals with the proposed changes in the Companies (Amendment) Bill, 2020.

SYNOPSIS OF EVENTS

- ❖ 18th September, 2019- Constitution of Company Law Committee (CLC) for examining and making recommendations on various provisions/issues pertaining to implementation of the Companies Act.
- ❖ November, 2019- Submission of report by CLC to the Finance Minister.
- ❖ 17th March, 2020- Introduction of Companies (Amendment) Bill, 2020 in Lok Sabha.

OBJECTIVES OF THE PROPOSED AMENDMENT

- ❖ Decriminalization of some of the provisions of the Act
- ❖ Changes for promoting ease of doing business
- ❖ Amendment of various provisions of the Act to decriminalise minor procedural or technical lapses under the provisions of the said Act, into civil wrong.
- ❖ Provide greater ease of living to corporates through certain other amendments to the Act

KEY TAKE AWAY FROM THE PROPOSED AMENDMENT

- ❖ Punishment by a way of imprisonment removed for 12 Sections under the Act.
- ❖ Punishment by a way of fine removed for 5 Sections under the Act
- ❖ Decriminalisation of offences of 26 sections under the Act
- ❖ Reduction in the amount of penalty for 7 sections under the Act

- ❖ In consultation with SEBI, the Central Government would be empowered to exclude a certain class of companies from the definition of 'listed company'
- ❖ Time of six months provided for rectification of name by RD on an application made by the trademark owner within three years, reduced to three months.
- ❖ Offer period for rights issue under further issue of capital can be less than fifteen days in accordance with the prescribed Rules.
- ❖ Separate Chapter on 'Producer Company' is proposed to be introduced in the Act
- ❖ Companies which have CSR spending obligation up to Rs. 50 lacs rupees shall not be required to constitute CSR Committee and to allow eligible companies u/s 135 of the Act to set off any amount spent in excess of their CSR spending obligation in a particular financial year towards such obligation in subsequent financial years
- ❖ Insertion of Section 129A , providing for specified classes of unlisted companies to prepare and file their periodical financial results
- ❖ Allow direct listing of securities by Indian companies in permissible foreign jurisdictions
- ❖ An independent Director may receive remuneration in case of inadequate profits subject to the Compliance of Schedule V
- ❖ Extending exemptions to certain classes of NBFCs and housing finance companies from filing certain resolutions (in respect of resolution to grant loans, or give guarantee or provide security in respect of loans) with the Registrar of Companies
- ❖ New Section 418A inserted to facilitate more benches of NCLAT
- ❖ Insertion of Proviso to Section 454 (3) wherein no penalty shall be imposed if the default relating to Section 92 and 137 has been rectified prior to or within 30days of issue of notice by adjudicating officer
- ❖ Applicability of Section 446B which deals with lesser penalties for One Person Companies or small companies in case of failure to comply with Section 92(5), 117(2), 137(3) extended to Start-up Company and Producer Company

- ❖ Inclusion of the provisions allowing payment of adequate remuneration to non-executive directors (including the independent director) in case of inadequacy of profits, by aligning the same with the provisions for remuneration to executive directors

DISCLAIMER

This note has been prepared for general guidance on matters of interest only, and does not constitute a professional advice.



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