

# THE COMPANIES (AMENDMENT) ACT, 2020

Provisions notified & Applicable w.e.f. 22.01,2021



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*Knowledge Sharing Initiative*

## **The Companies (Amendment) Act, 2020:**

***Certain Provisions Notified w.e.f. 22.01.2021***

### **□ Introduction:**

The Companies Amendment Act, 2020 is being introduced with an aim to promote greater ease of doing business by decriminalizing various non compoundable offences in case of defaults made under the Companies Act, 2013 and rules made there under.

Prior getting nod from president of India, The Companies (Amendment bill, 2020) was introduced in both the houses of Indian parliament. The Companies (Amendment) bill, 2020 was based on the Company Law Committee which was set up under the Chairmanship of Shri Injeti Srinivas September 18, 2019 to suggest any further amendment require in the CA 2013.

### **❖ Brief Journey of The Companies Amendment Act, 2020**

Sl.	Timelines	Remarks
1	18 <sup>th</sup> September, 2019	Company Law Committee (CLC) was constituted to suggest any further amendment require in the CA 2013
2	14 <sup>th</sup> November, 2019	Company Law Committee (CLC) has Submitted its report on Company Law changes
3	17 <sup>th</sup> March, 2017	Minister for Corporate Affairs, Ms. Nirmala Sitharaman, introduced The Companies (Amendment) Bill, 2020 in Lok Sabha
4	19 <sup>th</sup> September , 2020	The Companies (Amendment) Bill, 2020 was passed in the Lok Sabha with 72 changes made in 65 sections and decriminalization of certain offences under Companies Act, 2013
5	22 <sup>nd</sup> September , 2020	The Companies (Amendment) Bill, 2020 was passed in the Rajya Sabha
6	28 <sup>th</sup> September, 2020	Received the assent of the President & published in the Gazette of India by Ministry Of Law And Justice (Legislative Department) and become an Act called “The Companies (Amendment) Act, 2020”

### **□ Provisions Notified w.e.f. 22<sup>nd</sup> January, 2021**

Ministry of Corporate Affairs vide Gazette ID no. CG-DL-E-22012021-224637, dated 22<sup>nd</sup> January, 2021 has come out with date on which provisions of the Companies (Amendment) Act, 2020 (29 of 2020) shall come into force.

In exercise of the powers conferred by sub-section (2) of section 1 of the Companies (Amendment) Act, 2020 (29 of 2020), the Central Government hereby appoints the **22nd day of January, 2021** as the date on which the following provisions of the said Act shall come into force, namely:-

Sl.	Sections Notified under Company Amendment Act, 2020	Provisions in details
1	Section 2	<p><b>Definition of Listed Company</b></p> <p>In the Companies Act, 2013 (hereinafter referred to as the principal Act), in section 2, in clause (52), the following proviso shall be inserted, namely:— "Provided that such class of companies, which have listed or intend to list such class of securities, as may be prescribed in consultation with the Securities and Exchange Board, <b><u>shall not be considered as listed companies.</u></b>"</p>
2	Section 11	<p><b>Further Issue of Share Capital</b></p> <p>In section 62 of the principal Act, in sub-section (1), in clause (a), in sub-clause (i), after the words "less than fifteen days", the words "or such lesser number of days as may be prescribed" shall be inserted.</p>
3	Clause (c) of section 18	<p><b>Declaration in Respect of Beneficial Interest in any Share</b></p> <p>In section 89 of the principal Act,—</p> <p>(c) after sub-section (10), the following sub-section shall be inserted, namely:— "(11) The Central Government may, by notification, exempt any class or classes of persons from complying with any of the requirements of this section, except sub-section (10), if it is considered necessary to grant such exemption in the public interest and any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification."</p>
4	Clause (ii) of section 22	<p><b>Resolutions and Agreements to be Filed</b></p> <p>In section 117 of the principal Act,—</p> <p>(ii) in sub-section (3), in clause (g), for the second proviso, the following proviso shall be substituted, namely:— "Provided further that nothing contained in this clause shall apply in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business by,—</p> <p>(a) a banking company;</p> <p>(b) any class of non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934, as may be prescribed in consultation with the Reserve Bank of India;</p> <p>(c) any class of housing finance company registered under the National Housing Bank Act, 1987, as may be prescribed in consultation with the National Housing Bank; and"</p>

5	Section 25	<p><b>Periodical financial results</b></p> <p>After section 129 of the principal Act, the following section shall be inserted, namely:— "129A. The Central Government may, require such class or classes of unlisted companies, as may be prescribed,— (a) to prepare the financial results of the company on such periodical basis and in such form as may be prescribed; (b) to obtain approval of the Board of Directors and complete audit or limited review of such periodical financial results in such manner as may be prescribed; and (c) file a copy with the Registrar within a period of thirty days of completion of the relevant period with such fees as may be prescribed."</p>
6	Section 27	<p><b>Corporate Social Responsibility</b></p> <p>In section 135 of the principal Act,—</p> <p>(a) in sub-section (5), after the second proviso, the following proviso shall be inserted, namely:—</p> <p>"Provided also that if the company spends an amount in excess of the requirements provided under this sub-section, such company may set off such excess amount against the requirement to spend under this sub-section for such number of succeeding financial years and in such manner, as may be prescribed.";</p> <p>(b) for sub-section (7), the following sub-section shall be substituted, namely:—</p> <p>"(7) If a company is in default in complying with the provisions of sub-section (5) or sub-section (6), the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less.";</p> <p>(c) after sub-section (8), the following sub-section shall be inserted, namely:—</p> <p>"(9) Where the amount to be spent by a company under sub-section (5) does not exceed fifty lakh rupees, the requirement under sub-section (1) for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company."</p>
7	Section 53	<p><b>Application of Act to Foreign Companies.</b></p> <p>In section 379 of the principal Act, in sub-section (1), the proviso shall be omitted</p>

8	Section 55	<p><b>The Central Government may, by notification, exempt any class of-from any of the provisions of this Chapter</b></p> <p>After section 393 of the principal Act, the following section shall be inserted, namely:— "393A. The Central Government may, by notification, exempt any class of— (a) foreign companies; (b) companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India, as may be specified in the notification, from any of the provisions of this Chapter and a copy of every such notification shall, as soon as may be after it is made, be laid before both Houses of Parliament."</p>
9	Section 58 to section 60 (both inclusive)	<p><b><u>Section 58</u></b></p> <p><b>Constitution of Appellate Tribunal (Sec. 410)</b></p> <p>In section 410 of the principal Act,— (i) in the opening portion, the words "not exceeding eleven" shall be omitted; (ii) in clause (b), for the word, figures and letter "section 53N", the word, figures and letter "section 53A" shall be substituted.</p> <p><b><u>Section 58</u></b></p> <p><b>The powers of the Appellate Tribunal may be exercised by the Benches thereof to be constituted by the Chairperson: (Sec. 418A)</b></p> <p>After section 418 of the principal Act, the following section shall be inserted, namely:—</p> <p>"418A. (1) The powers of the Appellate Tribunal may be exercised by the Benches thereof to be constituted by the Chairperson: Provided that a Bench of the Appellate Tribunal shall have at least one Judicial Member and one Technical Member. (2) The Benches of the Appellate Tribunal shall ordinarily sit at New Delhi or such other places as the Central Government may, in consultation with the Chairperson, notify: Provided that the Central Government may, by notification, after consultation with the Chairperson, establish such number of Benches of the Appellate Tribunal, as it may consider necessary, to hear appeals against any direction, decision or order referred to in section 53A of the Competition Act, 2002 and under section 61 of the Insolvency and Bankruptcy Code, 2016."</p> <p><b><u>Section 60</u></b></p> <p><b>Establishment of Special Courts (Sec. 435)</b></p> <p>In section 435 of the principal Act, in sub-section (1), for the words "offences under this Act, by notification", the words and figures "offences under this Act, except under section 452, by notification" shall be substituted</p>

10	Section 62	<p><b>Lesser penalties for One Person Companies or small companies.</b></p> <p>For section 446B of the principal Act, the following section shall be substituted, namely:—</p> <p>'446B. Notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be.</p> <p>Explanation.—For the purposes of this section,—</p> <p>(a) "Producer Company" means a company as defined in clause (l) of section 378A;</p> <p>(b) "start-up company" means a private company incorporated under this Act or under the Companies Act, 1956 and recognised as start-up in accordance with the notification issued by the Central Government in the Department for Promotion of Industry and Internal Trade.'</p>
11	Section 64 and section 65.	<p><b>Section 64</b></p> <p><b>Punishment for Wrongful Withholding of Property (Sec. 452)</b></p> <p>In section 452 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:—</p> <p>"Provided that the imprisonment of such officer or employee, as the case may be, shall not be ordered for wrongful possession or withholding of a dwelling unit, if the court is satisfied that the company has not paid to that officer or employee, as the case may be, any amount relating to—</p> <p>(a) provident fund, pension fund, gratuity fund or any other fund for the welfare of its officers or employees, maintained by the company; (b) compensation or liability for compensation under the Workmen's Compensation Act, 1923 in respect of death or disablement."</p>

		<p><b>Section 65</b>  <b>Adjudication of Penalties (Sec. 454)</b></p> <p>In section 454 of the principal Act, in sub-section (3), the following proviso shall be inserted, namely:—</p> <p>"Provided that in case the default relates to non-compliance of sub-section (4) of section 92 or sub-section (1) or sub-section (2) of section 137 and such default has been rectified either prior to, or within thirty days of, the issue of the notice by the adjudicating officer, no penalty shall be imposed in this regard and all proceedings under this section in respect of such default shall be deemed to be concluded."</p>
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Source: <http://egazette.nic.in/WriteReadData/2021/224637.pdf>

2. MCA, in exercise of the powers conferred by sub-section (3) of section 1 of the Companies (Amendment) Act, 2019 (22 of 2019), the Central Government hereby appoints the **22nd day of January, 2021 as the date on which the provisions of section 21 of the said Act shall** come into force.

*21. In section 105 of the principal Act, in sub-section (5),—  
(a) for the words "who knowingly issues the invitations as aforesaid or wilfully authorises or permits their issue shall be punishable with fine which may extend to one lakh rupees", the words "who issues the invitation as aforesaid or authorises or permits their issue, shall be liable to a penalty of fifty thousand rupees" shall be substituted; (Section 105- Proxies)*

Source: <http://egazette.nic.in/WriteReadData/2021/224636.pdf>

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