



Issue Number -15

Updates on the Corporate Laws

1-11-2019 to 30-11-2019

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Due Date Compliance Calendar for the Month of November, 2019

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2. [Extension of the last date of filing of Form PAS-6](#)
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The Companies Act, 2013/ LLP ACT 2008

Forthcoming Due Date of Compliances

<u>Particulars</u>	<u>Form name</u>	<u>Due Date</u>
Annual filing forms	AOC-4 MGT-7 CRA-4	By 30 th November 2019 By 30 th December 2019 By 30 th December 2019
Return to the Registrar in respect of declaration under section 90	BEN-2	31 st December, 2019



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CIRCULAR

Relaxation of additional fees and extension of last date in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013- UT of J&K and UT of Ladakh

In continuation to General Circular No.13/2019 dated 29.10.2019 and keeping in view of the requests received from various stakeholders stating that due to disturbances in internet services and the normal work was affected in the UT of J&K and UT of Ladakh.

Therefore, it has been decided by the Ministry of Corporate Affairs to extend the due date for filing of e-forms AOC-4, AOC-4 (CFS) AOC-4 XBRL and e-form MGT-7 upto 31.01.2020, for companies having jurisdiction in the UT of J&K and UT of Ladakh without levy of additional fee.

Details are available at:

http://www.mca.gov.in/Ministry/pdf/MGTAnnualReturnAOC4FinancialStatement_28112019.pdf

Extension of last date of filing of Form PAS-6

This Ministry has received representations regarding extension of the last date of filing of Form PAS-6 under rule 9A(8) of the Companies (Prospectus and Allotment of Securities) Rules, 2014.

The time limit for filing Form PAS-6 without additional fees for the half-year ended on 30.09.2019 will be sixty days from the date of deployment of this form on the website of the Ministry.

Details are available at:

http://www.mca.gov.in/Ministry/pdf/FormPAS6_28112019.pdf

Extension of the last date of filing of Form NFRA-2.

The Ministry of Corporate Affairs has received several representations regarding extension of the last date of filing of Form NFRA-2, which is required to be filed under rule 5 of the National Financial Reporting Authority Rules, 2018.

The time limit for filing Form NFRA-2 will be 90 days from the date of deployment of this form on the website of National Financial Reporting Authority (NFRA).

Details are available at:

http://www.mca.gov.in/Ministry/pdf/NFRA_27112019.pdf



IMPORTANT UPDATE

Corrigendum to Amendment of Schedule VII of the Companies Act, 2013

In the notification of the Government of India in the Ministry of Corporate Affairs number G.S.R. 776(E), dated the 11th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 11th October, 2019, at page 2, in line 14, for "Defence Research and Development Organisation (DRDO)", read "Defence Research and Development Organisation (DRDO), Department of Biotechnology (DBT),"

Details are available at:

http://www.mca.gov.in/Ministry/pdf/Notification_28112019.pdf

Report of the Company Law Committee

The Company Law Committee was constituted by the Ministry of Corporate Affairs in September, 2019, inter alia, to further de-criminalise the provisions of the Companies Act, 2013 based on their gravity and to take other concomitant measures to provide further Ease of Living for corporates in the country.

The Committee took note of the progress made consequent to the Companies (Amendment) Act, 2019, which had resulted in de-criminalisation of 16 minor procedural/technical lapses under the Companies Act, 2013 into 'civil wrongs', and adopted a principle based approach to further remove criminality, in case of defaults which can be determined objectively and which, otherwise, lack the element of fraud or do not involve larger public interest. Alternative methods of imposing sanctions have also been explored and recommended by the Committee, in some cases.

In Chapter I of the report, the Committee has proposed amendments in 46 penal provisions, so as to either remove criminality, or to restrict the punishment to only fine, or to allow rectification of defaults through alternative methods, which would lead to further de-clogging of the criminal justice system in the country. The main recommendations of the Committee in Chapter 1 are as follows:

- i. Re-categorising 23 offences out of the 66 remaining compoundable offences under the Act, to be dealt with in the in-house adjudication framework wherein these defaults would be subject to a penalty levied by an adjudicating officer. In addition, the quantum of penalties recommended is lower than the quantum of fines presently provided in the Act.
- ii. Omitting, altogether, 7 compoundable offences; limiting punishment for 11 compoundable offences to only fine by removing provision for imprisonment and recommending that 5 offences be dealt under alternative frameworks;



- iii. Reducing the quantum of penalties in respect of 6 provisions, which were shifted to the in-house adjudication framework through the recently passed Companies (Amendment) Act, 2019;
- iv. Retention of status-quo in case of the non-compoundable offences.

In Chapter 2, the Committee has made recommendations targeted towards providing further ease of living for law abiding corporates, which are as follows:

- i. Power to exclude certain class of companies from the definition of 'listed company', mainly for listing of debt securities, in consultation with SEBI;
- ii. Clarifying the trial court's jurisdiction on the basis of place of commission of offence under Section 452, for wrongful withholding of property of a company by its officers/employees;
- iii. Including the provisions of Part IXA (Producer Companies) of the Companies Act, 1956 in the Companies Act, 2013;
- iv. Proposing benches of the National Company Law Appellate Tribunal;
- v. Provisions for allowing payment of adequate remuneration to non-executive directors in case of inadequacy of profits, by aligning the same with the provisions for remuneration to executive directors in such cases;
- vi. Relaxing provisions related to imposition of higher additional fees under third proviso to Section 403(1);
- vii. Extending applicability of Section 446B (lower penalties for small companies and one person companies) to all provisions which attract monetary penalties and extending the benefit to producer companies and start-ups also;
- viii. Excluding certain companies/bodies corporate from applicability of Section 89 (declaration of beneficial interest in shares) and Chapter XXII (companies incorporated outside India);
- ix. Reducing timelines so as to speed up rights issues under Section 62;
- x. Extending exemptions from filing of certain resolutions to certain classes of non banking financial companies under Section 117 in consultation with RBI;
- xi. Providing power to enhance the thresholds which trigger applicability of Corporate Social Responsibility provisions;
- xii. Non-levy of penalties for delay in filing the annual returns and financial statements in certain cases.
- xiii. Reviewing provisions in respect of debarment of audit firms after due consultation and examination.
- xiv. Revising provisions on disqualification of directors after due consultation and examination.

In addition, the committee while deliberating on certain other issues, felt that wider consultation would be necessary and recommended that the following be taken up in due course, at a later stage;



The copy of the Report of the Committee are being placed on the website of the Ministry of Corporate Affairs.

Details are available at:

http://www.mca.gov.in/Ministry/pdf/CLCReport_18112019.pdf

RULES :

National Company Law Tribunal (Salary Allowances and other Terms and Conditions of Service of President and other Members) Amendment Rules, 2019

The Ministry of Corporate Affairs has issued National Company Law Tribunal (Salary, Allowances and other Terms and Conditions of Service of President and other Members) Amendment Rules, 2019. They shall come into force on the date of their publication in the Official Gazette.

In the National Company Law Tribunal (Salary, Allowances and other terms and conditions of service of President and other Members) Rules, 2015, after rule 15, the following rule shall be inserted, namely:—

"15 A. Posting and transfer of Members. —

1. Initial posting of a Member shall be done by the Central Government in consultation with the President.
2. Subsequent transfers to different Benches shall be done by the President having regard ordinarily to the following:—
 - a) the capacity or otherwise of the Member for the purpose of his posting, including his efficiency, disposal and other relevant factors;
 - b) a Member save and except for sufficient and cogent reasons shall not be posted at a place where he had earlier been practising as an Advocate or a Chartered Accountant, Company Secretary or Cost Accountant, as the case may be;
 - c) a Member may not be posted at a place where any of his parents, spouse or other close relation is practising as an Advocate or a Chartered Accountant, Company Secretary or Cost Accountant in Company Law matters;
 - d) save and except for sufficient and cogent reasons, the Member shall not be posted at a place for a period exceeding three years, and ordinarily, a Member may not be posted at a place where he was earlier posted unless a period of two years has elapsed;
 - e) ordinarily a Member shall not be transferred before completion of three years at a station except on administrative grounds or on personal request basis.



- (3) Transfer on personal request basis shall include considerations such as serious medical grounds, serious dislocation in children's education, unavoidable family responsibilities; however consideration of transfer on personal request shall be subject to consideration of factors enumerated in sub-rule (2).
- (4) Transfer on administrative grounds shall be made only in consultation with the Central Government."

Details are available at:

http://www.mca.gov.in/Ministry/pdf/ActRules_28112019.pdf

Companies (Meetings of Board and its Powers) Second Amendment Rules, 2019

The Ministry of Corporate Affairs has issued Companies (Meetings of Board and its Powers) Second Amendment Rules, 2019. They shall come into force on the date of their publication in the Official Gazette.

Companies (Incorporation) Rules 2014	BEFORE AMENDMENT	AFTER AMENDMENT
Rule 15(3) (a)	<p>(3)For the purposes of first proviso to sub-section (1) of section 188, except with the prior approval of the company by a resolution, a company shall not enter into a transaction or transactions, where the transaction or transactions to be entered into,-</p> <p>(a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of section 188, with criteria as mention below-</p> <p>(i) sale, purchase or supply of any goods or material, directly or through appointment of agent, amounting to ten percent or</p>	<p>(3) For the purposes of first proviso to sub-section (1) of section 188, except with the prior approval of the company by a resolution, a company shall not enter into a transaction or transactions, where the transaction or transactions to be entered into,-</p> <p>(a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of section 188, with criteria as mention below-</p> <p>(i) sale, purchase or supply of any goods or material, directly or through appointment of agent, amounting to ten</p>

	<p>company or rupees one hundred crore whichever is lower, as mentioned in clause (a) and clause (e) respectively of sub-section (1) of section 188;</p> <p>(ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, amounting to ten percent or more of net worth of the company or rupees one hundred crore whichever is lower as mentioned in clause (b) and clause (e) respectively of sub-section (1) of section 188;</p> <p>(iii) leasing of property of any kind amounting to ten per cent or more of the net worth of the company or ten percent or more of turnover of the Company or rupees one hundred crore, whichever is lower, as mentioned in clause (c) of sub-section (1) of section 188;</p> <p>(iv) availing or rendering of any services, directly or through appointment of agent, amounting to ten percent or more of the turnover of the company or rupees fifty crore, whichever is lower as mentioned in clause (d) and clause (e) respectively of sub-section (1) of section 188:</p>	<p>of the company, as mentioned in clause (a) and clause (e) respectively of sub-section (1) of section 188;</p> <p>(ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, amounting to ten percent or more of net worth of the company as mentioned in clause (b) and clause (e) respectively of sub-section (1) of section 188;</p> <p>(iii) leasing of property any kind amounting to ten per cent or more of the turnover of the company, as mentioned in clause (c) of sub-section (1) of section 188;</p> <p>(iv) availing or rendering of any services, directly or through appointment of agent, amounting to ten percent or more of the turnover of the company as mentioned in clause (d) and clause (e) respectively of sub-section (1) of section 188:</p>
	<p>Explanation.- It is hereby clarified that the limits specified in sub-</p>	<p>Explanation.- It is hereby clarified</p>

	<p>transaction or transactions to be entered into either individually or taken together with the previous transactions during a financial year.</p>	<p>clause (i) to (iv) shall apply for transaction or transactions to be entered into either individually or taken together with the previous transactions during a financial year.</p>
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Details are available at:

http://www.mca.gov.in/Ministry/pdf/Comp2Amndt_18112019.pdf