

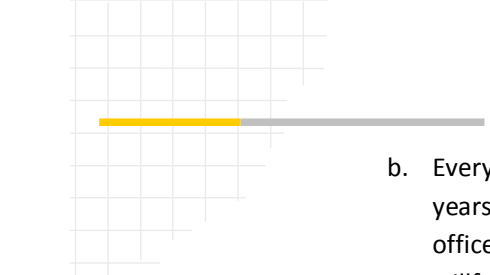
COMPANIES (AMENDMENT) BILL, 2014

The Lok Sabha has cleared the Companies (Amendment) Bill, 2014 to amend the Companies Act, 2013 on 17th December 2014. The Bill would now have to be approved by the Rajya Sabha and would become effective after the President's assent. The key objective of the proposed amendments are as under:

- Ease of doing business
- Changes made to remove inconsistency between the Act and Rules.
- Specify penalty for defaults in compliance with provisions related to public deposits.
- Reviewing auditors reporting responsibility in respect of frauds.

Summary of the key amendments is as under:

1. Requirement of minimum paid-up capital for company's registration has been omitted. Consequently, unless prescribed otherwise, the company can be formed with paid-up capital amount less than Rs.1 lac in case of private company and less than Rs.5 lacs in case of public company.
2. Related party transactions
 - a. Audit committee can give approvals for related party transactions proposed to be entered by the Company on collective basis. Requirement of separate approvals before every transaction is now done away with.
 - b. Special resolution has been replaced by ordinary resolution in respect of approval of related party transactions by non related shareholders. Also requirement of special resolution is removed in case of related party transactions between holding companies and wholly owned subsidiaries. Since related parties were not allowed to vote on related party transactions, companies were finding it difficult to get it passed by way of special resolution. Ordinary resolution will make the approval process easier.
 - c. Exemptions provided u/s 185 for loans / guarantees / securities to wholly owned subsidiaries / subsidiaries under the Rules is now specified in the Act.
3. Specific penalty has now been prescribed in respect of default in compliance related to acceptance & repayment of deposits or interest due therein under the new Act. Penalty prescribed is as under:
 - a. Besides deposit and the interest due, the Company shall be punishable with fine of Rs. 1 crore or more (Maximum Rs. 10 crore) and

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- b. Every officer in default shall be punishable with imprisonment which may extend upto 7 years or with fine of Rs. Rs. 25 lakhs or more (Maximum upto Rs. 2 crores) or with both. If officer of the company who is in default, has contravened such provisions knowingly or willfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447 (punishment for fraud).
4. Public inspection of board resolutions passed u/s 179(3) which are required to be filed with Registrar of Companies u/s 117 (3) will now be prohibited. This will maintain confidentiality of the board resolutions.
 5. In respect of reporting of fraud by the auditors, only frauds beyond threshold limit are required to be reported to the Central Government by the auditor. Frauds below the threshold limit will have to be reported to the Audit committee (if applicable) or Board within such time and manner as prescribed and the Company will have to disclose the same in Board's report. Threshold limit will be prescribed in the Rules.
 6. Provision of setting off past losses or depreciation against the profit of the current year before declaring dividend has now been made part of the section 123 of the Act. The same was part of the Rules earlier.
 7. Transfer of equity shares to IEPF is now not required if dividend is paid or claimed for any year during the period of consecutive 7 years.
 8. Requirement of common seal of the company has been made optional now.
 9. Only offence u/s 447 of the Act will now be non bailable. Earlier for various other offences also there were bail restrictions.

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In case of any clarification, you may reach us at nashah@nashah.com