



# THE INSTITUTE OF Company Secretaries of India

## भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

### Highlights of amendments under the Companies (Amendment) Bill, 2020

Clause No. of the Bill	Section of the Act and Title	Proposed Amendment
Clause 2	<b>Definition of Listed company</b>  clause (52) of section 2	To insert a new proviso that enables the Central Government to exclude certain class of companies, which have listed or intend to list such class of securities, as may be prescribed in consultation with SEBI, from the definition of listed companies.
Clause 3	<b>Formation of Companies with Charitable Objects, etc</b>  sub-section (11) of section 8	To omit the punishment of imprisonment in relation to an officer who is in default for the offence mentioned therein.
Clause 4	<b>Rectification of Name of Company</b>  clause (b) of sub-section (1) of section 16  sub-section (3) of section 16	<p>To reduce the time limit of compliance of change in name of company in case of resemblance of name to a registered trade mark from six months to three months for the direction provided by the Central Government in the provision.</p> <p>The amendment proposes to provide for allotment of a new name to the company by the Central Government, in case the company is in non-compliance of section 16(1) of the Act. The amendment proposes deletion of imposing fine for non-compliance for such default.</p>
Clause 5	<b>Public Offer and Private Placement</b>  To insert new sub-sections (3) and (4) in section 23	<p>To allow a class of public companies to list certain class of securities on stock exchanges in permissible foreign jurisdictions.</p> <p>To empower the Central Government to exempt, by notification, any class or classes of public companies referred to in above inserted section from any of the provisions of Chapter III, Chapter IV, section 89, section 90 or section 127 of the Act.</p>

Clause 6	<b>Matters to be Stated in Prospectus</b> sub-section (9) of section 26	To omit the punishment of imprisonment in relation to every person who is knowingly a party to the issue of prospectus in contravention of the said section.
Clause 7	<b>Securities to be Dealt with in Stock Exchanges</b> sub-section (5) of section 40	To remove punishment of imprisonment in case of any default in complying with the provisions of the said section.
Clause 8	<b>Variation of Shareholders' Rights.</b> omit sub-section (5) of section 48	To remove the penal provisions in case of any default in complying with said section.
Clause 9	<b>Transfer and Transmission of Securities</b> sub-section (6) of section 56	To amend subsection thereby imposing penalty in place of fine of rupees fifty thousand for company and its officers in default in case of failure to comply with sub-sections (1) to (5).
Clause 10	<b>Rectification of Register of Members</b> to omit sub-section (5) of section 59	To remove the penal provisions in case of any default in complying with the order of the Tribunal under the said section
Clause 11	<b>Further Issue of Share Capital</b> sub-clause (i) of clause (a) of sub-section (1) of section 62	To enable the Central Government to provide by rules, such days lesser than fifteen for deeming the decline of the offer made under the said provision.  The amendment reduces the range of time limit from the date of the offer within which the offer, if not accepted, shall be deemed to have been declined.
Clause 12	<b>Notice to be given to Registrar for Alteration of Share Capital</b> sub-section (2) of section 64	To modify the amount of penalty provided therein in case of default made in complying with sub-section (1).
Clause 13	<b>Reduction of Share Capital</b> to omit sub-section (11) of section 66	To remove the penal provisions in case of any default in complying with sub-section (4) relating to publication of order of confirmation of the reduction of share capital by the Tribunal in such manner as the Tribunal may direct.
Clause 14	<b>Power of Company to Purchase its Own</b>	To omit the punishment of imprisonment in relation to an officer of the company who is in default for the offence specified therein.

	<b>Securities</b> sub-section (11) of section 68	
Clause 15	<b>Debentures</b> to omit sub-section (11) of section 71	To remove the penal provisions in case of any default by officer of the company in complying with the order of the Tribunal under the said section.
Clause 16	<b>Punishment for Contravention</b> to substitute sub-section (1) of section 86	To omit the punishment of imprisonment in relation to an officer of the company who is in default and reduced penalty in place of fine, in case of failure to comply with the provisions of Chapter VI of the Act.
Clause 17	<b>Register of Members, etc</b> to substitute sub-section (5) of section 88 of the Act	To reduce penalty in place of fine, in case of failure to comply with the provisions of sub-sections (1) and (2).
Clause 18	<b>Declaration in Respect of Beneficial Interest in any Share</b> to substitute sub-sections (5) and (7) and insert sub-section (11) in section 89	To provide for penalty in place of fine, for failure in making a declaration or in filing of a return, as the case may be, under sub-sections (1), (2), (3) or (6).  To insert a new sub-section (11) to enable the Central Government to notify a class or classes of persons who shall be unconditionally or subject to such conditions, as may be specified in such notification, be exempted from complying with the said section, except sub-section (10).
Clause 19	<b>Register of significant beneficial owners in a company</b> to substitute sub-sections (10) and (11) of section 90	To provide for penalty in place of fine, for failure in making a declaration, maintaining register, filing of information, or taking necessary steps, as the case may be, in sub-sections (1), (2), (4) or (4A).
Clause 20	<b>Annual Return</b> to amend sub-section (5) and (6) of section 92	To modify the amount of penalty provided therein in case of default made in complying sub-section (4) of the said section as per amendment to sub-section (5).  A PCS certifying annual return not in conformity with the section or rules made thereunder shall be liable to a penalty in place of fine of two lakh rupees as per amendment to sub-section (6).
Clause 21	<b>Proxies</b> sub-section (5) of section 105	To reduce penalty in place of fine in case, invitations for proxies are issued at expense of the company.
Clause 22	<b>Resolutions and</b>	To modify the amount of penalty for company and its officers in default for failure to comply

	<p><b>Agreements to be Filed</b></p> <p>to substitute sub-section (2) and amend sub-section (3) of section 117</p>	<p>with sub section (1) of said section.</p> <p>To substitute the second proviso to clause (g) of sub-section (3) of the said section to enable the Central Government to exempt any class of non-banking financial companies registered under Chapter IIIB of Reserve Bank of India Act, 1934 and any class of housing finance companies registered under the National Housing Bank Act, 1987 from filing of resolutions passed to grant loans or give guarantees or to provide security in respect of loans under clause (f) of sub-section (3) of section 179 of the Act in the ordinary course of their business.</p>
Clause 23	<p><b>Unpaid Dividend Account.</b></p> <p>to substitute sub-section (7) of section 124</p>	<p>To modify penalty in place of fine for company and its officers in default for failure to comply with the provisions of the said section.</p>
Clause 24	<p><b>Books of Account, etc., to be kept by Company</b></p> <p>sub-section (6) of section 128</p>	<p>To omit the punishment of imprisonment in relation to an officer who is in default for the offence mentioned therein.</p>
Clause 25	<p><b>Periodical financial results</b></p> <p>Insertion of a new section 129A</p>	<p>To empower the Central Government to provide by rules such class or classes of unlisted companies to prepare periodical financial results of the company, audit or limited review thereof and their filing with Registrar within thirty days from the end of that period as specified in the rules.</p>
Clause 26	<p><b>Financial Statement, Board's Report, etc</b></p> <p>to substitute sub-section (8) of section 134</p>	<p>To reduce penalty in place of fine on the company and its officer in default and omit the punishment of imprisonment in relation to its officers in default in case of failure in complying with said section.</p>
Clause 27	<p><b>Corporate Social Responsibility</b></p> <p>sub-section (5) of section 135</p> <p>to substitute sub-section (7) of the said section</p> <p>to insert a new subsection (9)</p>	<p>Proviso inserted thereto to allow companies, which have spent an amount in excess of the requirement provided under the said sub-section, to set off such excess amount out of their obligation in the succeeding financial years in such manner as may be provided by rules.</p> <p>To provide that if a company defaults in complying with sub-sections (5) or (6) of the said section, such company and every officer of such company who is in default shall be</p>

		liable to a penalty in place of fine.  To provide that the requirement of constitution of Corporate Social Responsibility Committee shall not be applicable, in case the amount required to be spent under sub-section (5) of the said section does not exceed fifty lakh rupees.
Clause 28	<b>Copy of Financial Statement to be Filed with Registrar</b>  sub-section (3) of section 137	To modify the amount of penalty in case of default made in complying with sub-section (1) or sub-section (2) of the said section.
Clause 29	<b>Removal, Resignation of Auditor and Giving of Special Notice</b>  sub-section (3) of section 140	To modify the amount of penalty, in case of default made in complying with sub-section (2) of the said section by the auditor
Clause 30	<b>Powers and Duties of Auditors and Auditing Standards</b>  to substitute sub-section (15) of section 143	To modify penalty in place of fine on an auditor, cost accountant or company secretary in practice who fail to comply with sub-section (12) of the said section. Specific penalties proposed for listed and unlisted companies.
Clause 31	<b>Punishment for Contravention</b>  sub-section (1) and (2) of section 147	To omit the punishment of imprisonment in relation to an officer who is in default for the offence mentioned therein.  To omit the reference of section 143 mentioned in sub-section (2).
Clause 32	<b>Company to have Board of Directors</b>  sub-section (9) of section 149	To insert a new proviso in sub-section (9) which provides that an independent director may receive remuneration, if a company has no profits or inadequate profits in accordance with Schedule V of the Act.
Clause 33	<b>Number of Directorships</b>  to substitute sub-section (6) of section 165	To modify the amount of penalty, in case of a default committed under the said section.
Clause 34	<b>Vacation of Office of Director</b>  to amend sub-section (2) of section 167	To omit the punishment of imprisonment for the offence mentioned therein.
Clause 35	<b>Punishment</b>  to substitute section 172	To modify penalty in place of fine, in case of default in complying with the provisions of Chapter XI of the Act for which no specific punishment or penalty has been provided.

Clause 36	<b>Nomination and Remuneration Committee and Stakeholders Relationship Committee</b>  sub-section (8) of section 178	To modify penalty in place of fine and omit the punishment of imprisonment in relation to an officer of the company in case of any default in compliance with sections 177.
Clause 37	<b>Disclosure of Interest by Director</b>  sub-section (4) of section 184	To reduce penalty in place of fine in case of default of sub-sections (1) and (2) and deletion of provision for imprisonment.
Clause 38	<b>Investments of Company to be Held in its Own Name</b>  to substitute sub-section (4) of section 187	To reduce penalty in place of fine in case of default by a company or officer of the company in complying with the provisions of the said section and deletion of provision for imprisonment.
Clause 39	<b>Related Party Transactions</b>  clause (i) and (ii) of sub-section (5) of section 188	To replace the punishment for imprisonment or fine with penalty and to amend clause (ii) of the said sub-section for penalty.
Clause 40	<b>Overall Maximum Managerial Remuneration and Managerial Remuneration in Case of Absence or Inadequacy of Profits</b>  sub-section (3) of section 197	To make provision that if a company fails to make profits or makes inadequate profits in a financial year, any non-executive director of such company, including an independent director, shall be paid remuneration in accordance with Schedule V of the Act.
Clause 41	<b>Secretarial Audit for Bigger Companies</b>  sub-section (4) of section 204	To reduce penalty in place of fine for contravention of the provisions of the said section.
Clause 42	<b>Merger and Amalgamation of Companies.</b>  to substitute sub-section (8) of section 232	To modify penalty in place of fine and deletion of provision for imprisonment on failure to comply with sub-section (5) of the said section.
Clause 43	<b>Powers of Tribunal</b>  sub-section (8) of section 242	To omit the punishment of imprisonment in relation to an officer in default for the offence mentioned therein.
Clause 44	<b>Consequence of Termination or</b>	To omit the punishment of imprisonment in relation to an officer in default for the offence

	<b>Modification of Certain Agreements</b>  sub-section (2) of section 243	mentioned therein.
Clause 45	<b>Valuation by Registered Valuers</b>  sub-section (3) of section 247	To reduce penalty in place of fine and deletion of provision for imprisonment of the valuer in case of contravention of the section.
Clause 46	<b>Promoters, Directors, etc., to Cooperate with Company Liquidator.</b>  to substitute sub-section (2) of section 284  to insert a new sub-section (3)	Deletion of provision for imprisonment for failing to discharge obligations under sub-section (1).  To provide that when a person required to assist a Company Liquidator under sub-section (1) of the section does not do so, then the Company Liquidator may make an application to the Tribunal for necessary directions  To provide that the Tribunal may direct such person to comply with the directions of the Company Liquidator.
Clause 47	<b>Dissolution of Company by Tribunal.</b>  to substitute sub-section (3) of section 302  to omit sub-section (4)	To provide that the Tribunal shall forward a copy of the order of dissolution to the Registrar, and direct the Company Liquidator to also forward such copy to the Registrar, who shall record in the register relating to the company a minute of the dissolution of the company.  Penal provision on Company Liquidator making a default in forwarding a copy of the order to Registrar is omitted.
Clause 48	<b>Prosecution of Delinquent Officers and Members of Company</b>  to omit sub-section (6) of section 342	Omission of penal provision if a person fails or neglects to give assistance required by sub-section (5).
Clause 49	<b>Disposal of Books and Papers of Company</b>  sub-section (4) of section 347	Omitting the punishment for imprisonment in relation to a person for the offence mentioned therein.
Clause 50	<b>Information as to Pending Liquidations</b>  to substitute sub-section	Deletion of provision for fine and imprisonment.  To provide that if a Company Liquidator, who is an Insolvency Professional, is in default in

	(6) of section 348 to omit sub-section (7).	complying with the provisions of the section, the default will be a contravention of the Insolvency and Bankruptcy Code, 2016, and the rules and regulations made thereunder.
Clause 51	<b>Powers of Tribunal to Declare Dissolution of Company Void.</b>  to substitute sub-section (2) of section 356	Penal provision relating to making a default in forwarding a copy of the order to Registrar is omitted.  To provide that the Tribunal shall forward a copy of the order to the Registrar, and direct the Company Liquidator or the person on whose application such order was made to also file a certified copy of the order with the Registrar within thirty days of the order.
Clause 52	<b>To insert a new Chapter</b>  Chapter XXIA  Producer Companies	To insert chapter relating to Producer Companies on similar lines as provided in the Companies Act, 1956.
Clause 53	<b>Application of Act to Foreign Companies.</b>  to omit the proviso to sub-section (1) of section 379	Omitted.
Clause 54	<b>Punishment for Contravention</b>  section 392	To omit the punishment of imprisonment in relation to an officer who is in default for the offence mentioned therein.
Clause 55	<b>Exemptions under this Chapter</b>  to insert a new section 393A	To empower the Central Government to exempt any class of foreign companies or companies incorporated or to be incorporated outside India, from any of the provisions of Chapter XXII of the Act by notification to be laid before both Houses of Parliament.
Clause 56	<b>Fee for Filing, etc</b>  to substitute the third proviso to sub-section (1) of section 403	To provide that where there is a default on two or more occasions in submitting, filing, registering or recording of prescribed documents the same shall be done on payment of such higher additional fee as may be provided by rules.
Clause 57	<b>Power of Central Government to Direct Companies to Furnish Information or Statistics.</b>  to substitute sub-section (4) of section 405	To provide for payment of penalty in place of fine in case a company fails to comply with an order made under sub-section (1) or sub-section (3) of the said section, or furnishes any incorrect information and omission of provision of imprisonment of the officer in default.
Clause 58	<b>Constitution of Appellate</b>	Removing the restriction on the number of Judicial and Technical members that the



	<b>Tribunal.</b> section 410	Central Government may appoint in the Appellate Tribunal.
Clause 59	<b>Benches of Appellate Tribunal</b> to insert a new section 418A	To provide for constitution of Benches of the Appellate Tribunal to exercise powers of the Appellate Tribunal and related provisions.
Clause 60	<b>Establishment of Special Courts</b> sub-section (1) of section 435	To provide that the offence under section 452 of the Act shall be excluded from the applicability of section 435 of the Act.
Clause 61	<b>Compounding of Certain Offences</b> to substitute sub-section (5) of section 441	To provide that if any officer or employee of the company fails to comply with the order of Tribunal or Regional Director or any other officer authorised by the Central Government the maximum amount of fine shall be twice the amount provided in the corresponding section in which the punishment for such offence is provided and deletion of provision for imprisonment.
Clause 62	<b>Lesser penalties for certain companies</b> to substitute section 446B	To provide for payment of lesser penalty by a start-up company, Producer Company, One Person Company or small company on failure to comply with provisions of the Act which attract penalties.
Clause 63	<b>Punishment Where No Specific Penalty or Punishment is Provided</b> section 450	To provide for penalty in place of fine in case where a company or any officer of a company or any other person makes contraventions of any provision of the Act for which no penalty or punishment is provided elsewhere in the Act.
Clause 64	<b>Punishment for Wrongful Withholding of Property</b> to insert a proviso in sub-section (2) of section 452	To provide that the imprisonment of officer or employee of the company specified under the said sub-section shall not be ordered in case of wrongful possession or withholding of a dwelling unit is concerned and such officer or employee has not received certain statutory dues from the company.
Clause 65	<b>Adjudication of Penalties</b> sub-section (3) of section 454	To insert a new proviso to provide that no penalty shall be imposed when such default relates to non-compliance of sub-section (4) of section 92 or sub-section (1) or sub-section (2) of section 137 and has been rectified either prior to, or within thirty days of, the issue of the notice by the adjudicating officer.
Clause 66	<b>Repeal of Certain Enactments and Savings</b>	Proviso relating to Producer Companies is omitted.

	to omit the first proviso to sub-section (1) of section 465	
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