

Companies Amendment Act 2017 : Key Highlights

- 1. Start-Ups**
 - For company registration, instead of affidavits, declarations will be required;
 - In case of incorporation, name reserved by the Registrar of Companies (“ROC”) shall be valid for 20 days from date of the approval instead of 60 days from the date of application, as currently provided.
 - Sweat Equity Shares can be issued at any time. Currently it can be issued after one year from commencement of business;
 - Partnership or LLP with 2 members (currently 7) can convert into a company

- 2. Ease of doing business**
 - In addition to Directors & Key Managerial Personnel, any employee can also authenticate documents;
 - Officers not more than one level below the directors who are in whole time employment, can be designated as KMP;
 - Annual General meeting of unlisted company can be held anywhere in India;
 - Wholly Owned Subsidiary (WOS) of foreign company can hold EGM outside India;
 - No Central Government approval for payment of remuneration in excess of 11% of net profits.

- 3. Funding**
 - Money received under the private placement shall not be utilized unless the return of allotment is filed with the ROC;
 - Private Placement offer letter shall not contain any right of renunciation;
 - An amount being not less than 20% of the amount of deposits, maturing during the following financial year be deposited on or before the 30th day of April each year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve

account. Currently at least 15% of such amount is required to be deposited and that is also of amount of deposits maturing during a financial year and the financial year next following;

- Requirement of providing deposit insurance is proposed to be omitted;
- Companies which had defaulted in repayment of deposits, can also accept deposits after a period of 5 years from the date of making good the default

4. Directors

- Requirement related to resident director eased i.e. “stay in India for a total period of not less than 182 days during the financial year”. Currently it is calculated in reference to previous calendar year;
- Central Government can provide any other number to be treated as DIN;
- Maximum number of directorship for any person will not include dormant company;
- Requirement of filing form DIR-11 (filing of a copy of resignation to ROC by director itself) made optional;
- Where a director incurs any of disqualifications under section 164 (2) due to default of filing of financial statements or annual return or repayment of deposits or pay interest or redemption of debentures or payment of interest thereon or payment of dividend, then he shall vacate office in all the companies other than the company which is in default.

5. CSR

- Eligibility for doing CSR to be determined based on preceding “Financial Year” instead of “three preceding Financial Years”;
- Where a company is not required to appoint an independent director, it shall have in its Corporate Social Responsibility Committee, two or more directors.

6. Auditors

- Annual rectification of appointment of auditors by members is proposed to be omitted;
 - Criminal liability in case of fraud proposed to be limited to partner(s) will not include firm
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7.	Disclosures	<ul style="list-style-type: none"> · Abstract version of annual return form for OPC & Small Company will be prescribed; · It is proposed to omit the requirement of MGT-9 i.e. extract of annual return, which forms part of the Board's Report. Instead, the copy of annual return shall be uploaded on the website of the company, if any, and its link shall be disclosed in the Board's report; · Disclosures which have been provided in the financial statement shall not be required to be reproduced in the Board report again; · Where key policies related to remuneration etc., are uploaded on the website, if any of a company, then instead of exact text of such policies, key feature of such policies along with its web link shall be disclosed in Board report; · Disclosure by promoters and top ten shareholders with respect to 2% change in shareholding in a listed company is proposed to be omitted.
8.	Additional fee, penalty and compounding	<ul style="list-style-type: none"> · In case of delay in filing document, fact or information required to be submitted under section 92 (Annual Return) or 137 (Copy of financial statement to be filed with registrar), after expiry of the prescribed period then instead of slab wise additional fees, a flat additional fee as may be prescribed which shall not be less than Rs. 100 per day is required to be paid. Different amounts can be prescribed for different class of companies; · Where a company fails or commits any default to submit, file, register or record any document, fact or information before the expiry of the period specified in the relevant section, the company and the officers of the company who are in default, shall, without prejudice to the liability for the payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default; · Tribunal can now also compound offences those punishable with fine or imprisonment. Currently, such offences can be compounded only by Special Court.