



Ministry of Corporate Affairs issues Standard Operating Procedure for initiating Prosecution against Directors / KMP / Independent Directors.

The Ministry of Corporate Affairs has by way of issuance of General Circular No. 1/2020 dated 2nd March, 2020 has issued clarification on prosecutions filed or internal adjudication proceedings initiated against Independent Directors, non-promoters and non-KMP, non-executive directors.

The Ministry has specifically laid emphasis that civil or criminal proceedings should not be unnecessarily initiated against the IDs or the NEDs, unless sufficient evidence exists to the contrary.

The Ministry has contended that WTDs and KMPs would be liable for defaults committed by a company. In their absence, such director or directors who have expressly given their consent for incurring liability in terms of e-form GNL-3 filed with the Registrar would be liable.

The records available in the office of the Registrar, including e-forms DIR-11 or DIR-12, along with copies of the annual returns or financial statements should also be examined so as to ascertain whether a particular director or the KMP was serving in the company as on the date of default. In case of any doubts, with regard to the liability of any person, for any proceedings required to be initiated by the Registrar, guidance may be sought from the Ministry of Corporate Affairs through the office of Director General of Corporate Affairs. Consequently any such proceedings must be initiated after receiving due sanction from the Ministry.

[Detailed circular of MCA can be found at the following link.](#)

Sources: MCA circular dated 02.03.2020

Ministry of Corporate Affairs notified the new exemption to Government Companies.

Ministry of Corporate Affairs vide notification dated 02.03.2020 has extended the exemption of Government companies and notified that the First and Second proviso of Sub Section (1) of Section 188 (Related party transactions) of Companies Act, 2013 shall also not apply to government companies if they enter into any contracts or arrangements with Central Government, State Government or any combination thereof too.

Earlier the same was restricted till the contracts or arrangements with any other government company only.

[Detailed circular of MCA can be found at the following link.](#)

Sources: MCA circular dated 02.03.2020

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