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Companies (Removal of Difficulties) Order, 2018 in respect of appointment and removal of Independent Directors

Before amendment the removal of Independent director was done by an ordinary resolution and not by a special resolution, now post the Companies (Removal of Difficulties) Order, 2018 in respect of appointment and removal of Independent Directors, hence now Independent director re-appointed for second term under sub-section (10) of section 149 shall be removed can be removed only by the company only by passing a special resolution and after giving him a reasonable opportunity of being heard.



The amendment brought in sec 169 in this regard is as under:

In the Companies Act, 2013, in section 169, in sub-section (1), -

(i) before the proviso, the following proviso shall be inserted, namely:-

➤ “Provided that an independent director re-appointed for second term under sub-section (10) of section 149 shall be removed by the company only by passing a special resolution and after giving him a reasonable opportunity of being heard.”

Companies (Accounts) Amendment Rules, 2018

Ministry of Corporate Affairs vide its notification dated 27th February, 2018 has amended the Companies (Accounts) Rules, 2014.

1. These rules may be called the Companies (Accounts) Amendment Rules, 2018.

2. They shall come into force on the date of their publication in the Official Gazette.

3. In the Companies (Accounts) Rules, 2014 (hereinafter referred to as the principal rules), in rule 10, the following proviso shall be inserted, namely:-

“Provided that the Companies which are required to comply with Companies (Indian Accounting Standards) Rules, 2015 shall forward their statement in Form AOC-3A”.

4. In the principal rules, in the Annexure, after Form AOC-3, the Form AOC-3A i.e Form of Abridged Financial Statement shall be inserted.



Exemption to NBFCs, PFIs from Ind AS-12/ AS-22 relating to deferred tax asset or liability for 7 years

In the interest of public, Ministry of Corporate Affairs (MCA) hereby vide its notification dated 5th February, 2018 directs that the provisions of following Accounting Standard:

Accounting Standard	
IND AS-12	Income taxes
OR	
AS-22	Taxes on Income

relating to deferred tax asset or deferred tax liability shall not apply, for seven years with effect from the 1st April, 2017, to a Government company which:—

(a) is a public financial institution under sub-clause (iv) of clause (72) of section 2 of the Companies Act, 2013;

(b) is a Non-Banking Financial Company registered with the Reserve Bank of India under section 45-IA of the Reserve bank of India Act, 1934; and

(c) is engaged in the business of infrastructure finance leasing with not less than seventy five per cent. of its total revenue being generated from such business with Government companies or other entities owned or controlled by Government .

Enforcement of various provisions of the Companies Amendment Act, 2017

Ministry of Corporate Affairs vide its notification dated 9th February, 2018 has appointed the 9th February, 2018 as the date on which the following provisions of the Companies Amendment Act, 2017 has come into force:



Sl.No.	Sections
1	Section 2 [except clause (i) and clause (xiii)] and section 3
2	Section 7 (Incorporation of Company)
3	Section 9 (Effect of registration)
4	Section 11 (Commencement of business)
5	Section 12 (Registered Office of the Company)
6	Section 14 (Alteration of Articles)
7	Section 17 (Copies of MOA and AOA to be given to members)
8	Section 27 (Variation in terms of contract or objects in prospectus)
9	Section 28 (Offer of sale of shares by certain members of company)
10	Section 29 (Public offer of securities to be in

	dematerialised form)
11	Section 32 (Red herring prospectus)
12	Section 34 and 35 (Criminal and civil liability for mis-statements in prospectus)
13	Section 38 (Punishment for personation for acquisition, etc. of securities)
14	Section 41 (Global depository receipts)
15	Section 42 (Private Placement)
16	Section 43 (Kinds of Share capital)
17	Section 44 (Nature of Shares or Debentures)
18	Section 45 (Numbering of shares)
19	Section 47 (Voting Rights)
20	Section 48 (Variation in shareholders' right)
21	Section 50 (Company to accept unpaid share capital, although not called up)
22	Section 51 (Payment of Dividend in proportion to amount paid-up)
23	Section 53 (Prohibition on issue of shares at discount)
24	Section 59 (Rectification of register of members)
25	Section 60 (Publication of authorised, subscribed and paid-up capital)
26	Section 63 (Issue of Bonus Shares)
27	Section 64 (Notice to be given to Registrar for alteration of share capital)
28	Section 65 (Unlimited company to provide for reserve share capital on conversion into Limited company)
29	Section 72 (Power to nominate)
30	Section 73 (Prohibition on acceptance of deposit from

	public)
31	Section 74 (Repayment of deposits etc accepted before commencement of this Act)
32	Section 77 to Section 79 (both inclusive) (Register of Charges)
33	Section 82 (Company to report Satisfaction of Charge)
34	Section 84 (Appointment of Receiver)
35	Section 85 (Company's Register of Charges)
36	Section 90 to Section 93 (Mangement and Administration)

Companies (Registered Valuers and Valuation) Amendment Rules, 2018

As per Companies (Registered Valuers and Valuation) Rules, 2017 any person who may be rendering valuation services under the Act, on the date of commencement of these rules, may continue to render valuation services without a certificate of registration under these rules upto 31st March, 2018.

Provided that if a company has appointed any valuer before such date and the valuation or any part of it has not been completed before 31st March, 2018, the valuer shall complete such valuation or such part within three months thereafter.

Now as per the Companies (Registered Valuers and Valuation) Rules, 2017, in rule 11, for the figures, letters and word "31st March, 2018", occurring at both the places, the figures, letters and word "30th September, 2018" shall be substituted.

➤ They shall come into force on the date of their publication in the Official Gazette.



Exemption for segment reporting to the companies engaged in defence production

Ministry of Corporate Affairs vide its notification dated 23th February, 2018 in the interest of public, hereby amends the notification dated 5th June 2015 as follows:



S.No	Section	Exemption
1	Chapter IX, section 129	Shall not apply to the companies engaged in defence production to the extent of application of relevant Accounting Standard on segment reporting".

Designation of Court as Special Court

The Chief Justices of the High Courts of Kerala, Orissa and Gauhati, hereby designates the following Courts mentioned in column (2) of the Table below as Special Courts for the purposes of providing speedy trial of offences punishable with imprisonment of two years or more under the said sub-section, namely:-

Table		
Sl. No	Courts	Jurisdiction as Special Courts
1	Additional District and Sessions Court- VII, Ernakulam	State of Kerala
2	District and Sessions Court, Kavaratti	Union territory of Lakshadweep
3	District and Sessions Judge,	State of Odisha

	Cuttack	
4	Additional District and Sessions Judge, No.1, Kamrup (M), Guwahati	State of Assam

Cabinet approves proposal for Amendment to the Micro, Small and Medium Enterprises Development Act, 2006 to change the criteria of classification

To encourage ease of doing business, make the norms of classification growth oriented and align them to the new tax regime The Union Cabinet chaired by the Prime Minister Shri Narendra Modi has approved change in the basis of classifying Micro, Small and Medium enterprises from 'investment in plant & machinery/equipment' to 'annual turnover'.



Section 7 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 will accordingly be amended to define units producing goods and rendering services in terms of annual turnover as follows:

- A micro enterprise will be defined as a unit where the annual turnover does not exceed five crore rupees;
- A small enterprise will be defined as a unit where the annual turnover is more than five crore rupees but does not exceed Rs 75 crore;
- A medium enterprise will be defined as a unit where the annual turnover is more than seventy five crore rupees but does not exceed Rs 250 crore.

➤ Additionally, the Central Government may, by notification, vary turnover limits, which shall not exceed thrice the limits specified in Section 7 of the MSMED Act.

At present the MSMED Act (Section 7) classifies the Micro, Small and Medium Enterprises (MSMEs) on the basis of investment in plant and machinery for manufacturing units, and investment in equipment for service enterprises. The criterion of investment in plant and machinery stipulates self declaration which in turn entails verification if deemed necessary and leads to transaction costs.



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