

# COMPLIANCE UPDATE

October – November, 2020

## Companies Act, 2013

The Ministry of Corporate Affairs (MCA) has announced several relaxations in various regulatory and statutory compliances. The key notification and circulars are as follows:

- **Relaxation for private placement to qualified institutional buyers**

***Insertion of the fourth proviso in Rule 14(1) of the Companies (Prospectus and Allotment of Securities) Rules, 2014***

The Companies Act, 2013 read with the Companies (Prospectus and Allotment of Securities) Rules, 2014 mandates that every offer or invitation to subscribe to the securities of the company through private placement should be approved by the shareholders of the company by a special resolution.

**Notification:** The Companies (Prospectus and Allotment of Securities) Amendment Rules, 2020 dated October 16, 2020, relaxes the requirement of obtaining approval of the shareholders by a special resolution in case of offer or invitation of any securities to qualified institutional buyers. Post this relaxation, a company offering securities through private placement to qualified institutional buyers is required to pass only one special resolution in a year for all the allotments to such buyers during the year.

(To view the notification, please [click here](#))

- **Extension of relaxation for the resident director**

***Section 149(3) of the Companies Act, 2013***

Section 149(3) of the Companies Act, 2013 mandates every company to have at least one director who stays in India for a total period of not less than one hundred and eighty-two days during the financial year. This requirement was eased by the MCA on March 24, 2020, prescribing that non-fulfilment of minimum residency in India for a period of at least one hundred and eighty-two days by at least one director of the company will not be treated as non-compliance for the financial year 2019-20.

On October 20, 2020, the MCA further extended the relaxation of the minimum residency requirement for the financial year 2020-21.

(To view the notification, please [click here](#))

## Table of contents

- **Companies Act, 2013**
  - Relaxation for private placement to qualified institutional buyers
  - Extension of relaxation for the resident director
- **Goods and Services Tax Act, 2017**
  - Due date prescribed for filing FORM GSTR-1
  - Due date for filing FORM GSTR-1 for turnover of more than INR 1.5 crore
  - Required Number of HSN Digits on Tax Invoice
- **Industry-wise updates**
  - Insurance
  - Petroleum & Natural Gas
  - Drugs & Cosmetics
  - IT & ITES
  - Food & Beverages
  - Power & Energy
  - Ports & Shipping
- **State-wise updates**
  - Chhattisgarh
  - Goa
  - Haryana
  - Karnataka
  - Ladakh
  - Odisha
  - Rajasthan



# Goods and Services Tax Act, 2017

## ▪ Due date prescribed for filing FORM GSTR-1

### *Section 171 of the Goods and Services Tax Act, 2017*

The Central Board of Indirect Taxes and Customs on October 15, 2020 has notified the due date for filing Form GSTR-1. The registered persons, having aggregate turnover of up to INR 1.5 crore in the preceding financial year or the current financial year, shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 for the following periods:

- For the period of October-December 2020, due date of filing is January 13, 2021
- For the period of January-March 2021, due date of filing is April 13, 2021

(To view the notification, please [click here](#))

## ▪ Due date for filing FORM GSTR-1 for turnover of more than INR 1.5 crore

### *The second proviso to Section 37(1) read with Section 168 of the Central Goods and Services Tax Act, 2017*

The Central Board of Indirect Taxes and Customs on October 15, 2020, notified that the registered persons having aggregate turnover of more than INR 1.5 crore in the preceding financial year or the current financial year shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 by the eleventh day of the succeeding month. The FORM GSTR-1 is required to be furnished for each of the months from the period of October 2020 to March 2021.

(To view the notification, please [click here](#))

## ▪ Required Number of HSN Digits on Tax Invoice

### *Rule 46 of the Central Goods and Services Tax Rules, 2017*

The Central Board of Indirect Taxes and Customs vide its notification dated October 15, 2020 has notified that the taxpayers having aggregate turnover up to INR 5 crore shall have 4 HSN Digits in their tax invoice and the taxpayers having aggregate turnover of more than INR 5 crore shall have 6 HSN Digits in their tax invoice.

(To view the notification, please [click here](#))

# Industry-wise Updates

## Insurance

## ▪ Additional norms on portability under health insurance policies

The Insurance Regulatory and Development Authority of India (IRDAI) on October 07, 2020, has issued additional norms on portability under health insurance policies under the IRDAI (Health Insurance) Regulations, 2016. These will come into force with immediate effect.

**Circular:** As per the circular, members of an indemnity-based group health insurance policy offered to account holders of a bank are allowed portability of their coverage to another indemnity-based group health insurance policy offered by a different insurer to the account holders of the same bank. The portability will be offered subject to the option exercised by an individual member of the group policy.

(To view the circular, please [click here](#))

## ▪ Issuance of electronic policies and dispensing with physical documents and wet signature on the proposal form for health insurance policies

### *Rule 4 of the IRDAI (Issuance of e-Insurance Policies) Regulations, 2016*

The IRDAI (Issuance of e-Insurance Policies) Regulations, 2016 mandate that all policies issued in the electronic form by the insurer directly to the policyholders should also be issued in the physical form.

**Circular:** The IRDAI on September 10, 2020 issued a circular allowing all the general insurers to issue electronic policies without the required condition of issuing policy document and copy of the proposal in physical form in respect of the following types of insurances:

- Motor insurance policies
- Fire insurance policies covering dwellings and/or contents thereof issued to individuals
- Package insurance policies issued to individuals
- Miscellaneous policies issued to individuals where the sum Insured does not exceed INR 5 crore

(To view the circular, please [click here](#))

▪ **Draft Insurance Regulatory and Development Authority of India (Insurance Advertisements and Disclosure) Regulations, 2020**

On October 20, 2020, IRDAI issued an Exposure Draft on IRDAI (Insurance Advertisements and Disclosure) Regulations, 2020 to further amend the IRDAI (Insurance Advertisements and Disclosure) Regulations, 2000.

As per the Exposure Draft, the objectives of the regulation are:

- To ensure that insurers, intermediaries or insurance intermediaries are adopting fair, honest and transparent practices while issuing advertisements and avoiding practices that tend to impair the confidence of the public
- To ensure that the publicity material is relevant, fair and in simple language enabling informed decision making

(For the Exposure Draft, please [click here](#))

## Petroleum & Natural Gas

▪ **Introduction of natural gas market reforms for ease of doing business**

The Ministry of Petroleum and Natural Gas, Government of India, has introduced the Natural Gas Marketing Reforms to promote ease of doing business in this sector and move towards a gas-based economy. While the bidding will be conducted through transparent e-portal by an independent agency selected from a panel maintained by Directorate General of Hydrocarbons (DGH), the Contractor or its constituents shall not be eligible to participate in the bidding process, in order to ensure that the seller and buyer are not the same entity. Further, the bidding process will not be valid if affiliate(s) of the Contractor or its constituents are the only participant(s) in the bidding process.

Marketing freedom is granted for natural gas produced from Field Development Plans (FDPs) which were approved before February 28, 2019 pertaining to Production Sharing Contracts (PSCs), where Contractor has pricing freedom but market freedom is restricted. This policy will not apply to those contracts/PSCs where Contractor is required to get the formula or basis of sale approved from the Government or the Contractor is required to sell the gas as per the specific conditions of the contract.

(To view the notification, please [click here](#))

## Drugs & Cosmetics

▪ **Deferment of date for use of ultrasound equipment as a drug**

***Section 3(b)(iv) of the Drugs and Cosmetics Act, 1940***

- The Ministry of Health and Family Welfare (MoHFW) had vide notification dated October 16, 2019, appointed November 01, 2020, as the date for use of ultrasound equipment as a drug for external or internal use in human beings under the Drugs and Cosmetics Act, 1940.
- **Notification:** Vide notification dated October 21, 2020, MoHFW has amended the date of implementation of the notification to November 01, 2021.

(To view the notification, please [click here](#))

▪ **Deferment of date for commencement of Acetic Acid (Quality Control) Order, 2019**

***Section 16 of the Bureau of Indian Standards Act, 2016***

- The Ministry of Chemicals and Fertilizers on August 5, 2019, passed the Acetic Acid (Quality Control) Order, 2019. The Acetic Acid (Quality Control) Order, 2019 was notified to come into force on the one hundred and eighty-first day from the date of publication. The aforementioned order mandated that goods of Acetic Acid shall conform to the Indian Standard IS 695: 1986 and shall bear the Standard Mark under a license from the Bureau of Indian Standards as per Scheme-I of Schedule-II of BIS (Conformity Assessment) Regulations, 2018.
- **Notification:** The enforcement of the Acetic Acid (Quality Control) Order, 2019 has been revised to May 03, 2021.

(To view the notification, please [click here](#))

## Food & Beverage

### ▪ Food Safety and Standards (Import) First Amendment Regulations, 2020

#### *Section 92(2)(e) Food Safety and Standards Act, 2006*

- Food safety and Standards Authority of India (FSSAI) had earlier notified the Food Safety and Standards (Import) Regulations 2017 which ensured safety and wholesomeness of articles of food imported into India. The directive laid down provisions for import of food in India and packaging and labelling of such imported food items as well as a comprehensive procedure for clearance of imported food products, including procedures for effective inspection and analysis of food articles to ensure that health of consumers is not compromised.
- **Amendment:** On October 20, 2020, FSSAI published the Food Safety and Standards (Import) First Amendment Regulations, 2020 which provide that for clearance of imported food products by FSSAI, the importer shall pay non-refundable basic food import clearance fee as specified by FSSAI from time to time.
- In case of imported pre-packaged retail food article, the Authorized Officer, after successful completion of visual inspection and sampling, may issue a provisional no-objection certificate in Form 13A to move the food consignment to a well-equipped storage facility.

(To view the notification, please [click here](#))

### ▪ Food Safety and Standards (Prohibition and Restriction on Sales) Second Amendment Regulations, 2020

#### *Section 92(2)(e) Food Safety and Standards Act, 2006*

- Food Safety and Standards (Prohibition and Restriction on Sales) Regulations, 2011 issued guidance for licensing and registration of food businesses, packaging and labelling, food product standards and food additives as well as setting out the prohibition and restriction on sales, contaminants, toxins and residues, laboratory and sampling analysis.
- **Amendment:** On October 20, 2020, FSSAI issued the Food Safety and Standards (Prohibition and Restriction on Sales) Second Amendment Regulations, 2020 and omitted the regulation 2.3 which granted permission to manufacture, store, distribute, transport, display and sell *paan masala* containing magnesium carbonate.

(To view the notification, please [click here](#))

### ▪ Food Safety and Standards (Food Products Standards and Food Additives) Ninth Amendment Regulations, 2020

- **Notification:** On October 13, 2020, FSSAI published Food Safety and Standards (Food Products Standards and Food Additives) Ninth Amendment Regulations, 2020 notifying that use of a substance as a processing aid will be allowed only when such use performs a technological purpose during treatment or processing. Further, residues of processing aids remaining in the food after processing should not perform a technological function in the final product.
- It further lays down certain manufacturing processes that are to be followed:
  - The quantity of the substance used shall be limited to the lowest achievable level necessary to accomplish its desired technological function
  - Residues or derivatives of the substance remaining in food should be reduced to the extent reasonably achievable and should not pose any health risk
  - The substance should be prepared and handled in the same way as a food ingredient

(To view the notification, please [click here](#))

### ▪ Extension of due date for the mandatory audit of food businesses

- Business operators holding a central license under Food Safety Standards (Food Safety Auditing) Regulations, 2018 are required to conduct mandatory audits.
- **Notification:** FSSAI, vide its notice dated Oct 19, 2020, has extended the due date for complying with the audit and directed the Food Business Operators to get the mandatory audit of their premises conducted by Dec 31, 2020.

(To view the update, please [click here](#))

## IT and ITeS

### ▪ [Amendment to Schedule of the Electronics and Information Technology Goods \(Requirements for Compulsory Registration\) Order, 2012](#)

*Clause 10 (1)(p) of the Bureau of Indian Standards Act, 1986 read with Rule 13(fa) of the Bureau of Indian Standards Rules, 1987*

- Under the Electronics and IT Goods (Requirement of Compulsory Registration) Order 2012, imports of goods are allowed through registration with the Bureau of Indian Standards (BIS) or on specific exemption letter from the Ministry of IT and Electronics (MeitY). Without the registration, the imported goods would be re-exported by the importer.
- **Amendment:** The Schedule of the 2012 Order was amended to include Bluetooth speakers, LED products, video and digital cameras, webcams, and wireless microphones. Now all these products imported from other countries will be subjected to stringent quality tests before clearance from the Customs. If the consignments do not meet the required standards, the entire bulk will be sent back or destroyed.

(To view the notification, please [click here](#))

### ▪ [Amendment to Schedule II of the Information Technology Act, 2000](#)

*Section 3A(4) of the Information Technology Act, 2000*

- Information Technology Act, 2000 (Schedule 2) lists electronic signatures and electronic authentication techniques and procedures, which shall be considered as reliable if the requisite conditions prescribed under the Act are fulfilled.
- **Amendment:** The Amendment introduced a new head under e-authentication technique and procedure for creating and accessing the subscriber's signature key facilitated by a trusted third party.

(To view the notification, please [click here](#))

## POWER & ENERGY

### ▪ [License for export/import of Deuterium & Heavy Water \(OA301\) and Nuclear Grade Graphite \(OA302\) for nuclear activities](#)

- Categories OA301 (Deuterium & Heavy Water) and OA302 (Nuclear Grade Graphite) under the 'O' category of the SCOMET list have been amended.
- **Notification:** As per the notification issued by the Director-General of Foreign Trade (DGFT) dated Oct 7, 2020, licence for export/import shall only be issued if the above-mentioned components are used in nuclear reactors or other nuclear activities. Firms exporting Deuterium & Heavy Water and Nuclear Grade Graphite for non-nuclear activities are only to submit half-yearly statements of details of all export by July 15 for dispatches made between January to June, and January 15 for dispatches made between July to December.

(To view notification, please [click here](#))

## PORTS & SHIPPING

### ▪ [Extension to the validity of Ship Sanitation Certificate for Indian registered vessels operating on the coast of India](#)

- Directorate General of Shipping vide DGS Order No. 09 dated April 04, 2020, had extended the validity of Ship Sanitation Certificate for all Indian registered vessels operating on the coast of India up to June 30, 2020, which was further extended vide DGS Order No. 18 dated July 07, 2020, up to September 30, 2020.
- **Order:** In order to facilitate the operations of Indian ships on the coast of India during the Covid-19 pandemic, the validity of Ship Sanitation Certificate for all Indian registered vessels operating on the coast of India is extended for a further period up to March 31, 2021, subject to a condition that the Master needs to ensure that the ship remains free of infection and contamination, including vectors and reservoirs of transmission of diseases. All records of disinfection and sanitization including inspections carried out are required to be maintained on-board for verification.

(To view the notification, please [click here](#))

# State-wise updates

## CHHATTISGARH

### ▪ Revised minimum rate of wages and Variable Dearness Allowance effective from October 2020

The Chhattisgarh Labour Department on September 29, 2020, has issued minimum rate of wages and Variable Dearness Allowance (VDA) for agricultural workers and other schedule employments in the industry, which shall be effective from October 01, 2020, till March 2021.

**Notification:** As per the notification, the minimum wage per month and per year will be INR 6900 and INR 230 per month, respectively. The VDA is fixed at INR 810 per month.

(To view the notification, please [click here](#))

## GOA

### ▪ Introduction of the Goa Non-Biodegradable Garbage (Control) (Amendment) Ordinance, 2020

The Goa Non-Biodegradable Garbage (Control) Act, 1996 has been enacted to prevent pollution from throwing non-biodegradable garbage in public spaces.

**Notification:** The ordinance amends Section 7 to change the expression from 'two per cent of sale price' as defined in clause (ad) of Section 2 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) of such items, to 'two per cent of the consideration received on the outward supply of goods'.

(To view the notification, please [click here](#))

### ▪ Amendment to the Factories Act, 1948

The Factories Act, 1948, as in force in State of Goa, was introduced to regulate conditions of work and lay down standards for safety, health and welfare of workers. The Act applies to any factory using power & employing 10 or more workers and if not using power, employing 20 or more workers.

**Amendment:** As per the notification, the government has increased threshold limit for applicability to the Factories Act, 1948 from ten or more workers to twenty or more workers for factories operating with the aid of power, and from twenty or more workers to forty or more workers for factories operating without the aid of power. The new amendment, effective from July 7, 2020, has introduced a new Section 5A which confers power on the State Government to exempt any new factory or class of factories from the provisions of the Act for a period for one thousand days in the public interest.

(To view the amendment, please [click here](#))

### ▪ Amendment to the Industrial Disputes Act, 1947

The Industrial Disputes Act, 1947, in force in the State of Goa, was introduced to set up a machinery for settlement of industrial disputes.

**Amendment:** The Industrial Disputes (Goa Amendment) Act, 2020, effective from June 26, 2020, has brought about the following changes:

- Insertion of a new Sub-Section (4) to Section 2A which lays down that a dispute connected with discharge will be considered as an industrial dispute only when it is raised before the conciliation officer within one year
- Under Section 25F and 25N, which talk about conditions precedent to retrenchment, the workman now should be paid a compensation equivalent to forty-five days' average pay instead of fifteen days
- Section 25K has been substituted to amend the applicability of the Chapter VB of the Act (which deals with special provisions regarding lay-off, retrenchment and closure) to an industrial establishment, except for a seasonal establishment or in which work is performed only intermittently, where minimum three hundred workmen were employed on an average per working day for the preceding twelve month
- Section 31A has been inserted which lays down provision for compounding of offences
- Section 36C has been added to confer power on the State Government to exempt any new undertaking or class of undertaking from the provisions of the Act for a period for one thousand days in the public interest

(To view the amendment, please [click here](#))

## HARYANA

### ▪ **Revised Variable Dearness Allowance**

The Government of Haryana vide its Notification dated September 30, 2020, has revised the Variable Dearness Allowance with effect from January 01, 2020. As an example, unskilled labour is now entitled to receive INR 358.43 as daily wage. For other categories of daily wages, please refer to the notification.

(To view the notification, please [click here](#))

### ▪ **Maintenance of records in electronic form**

In an attempt to simplify industrial compliances and increase the ease of doing business in the state, the Labour Department of Haryana has approved the maintenance of records under Contract Labour (Regulation and Abolition) Act, 1970, Factories Act, 1948, Industrial Disputes Act, 1947, Payment of Wages Act, 1936, Punjab Shops And Commercial Establishments Act, 1958, in electronic form.

(To view the notification, please [click here](#))

### ▪ **Auto-Renewal of Factory Licence**

The Government of Haryana has approved auto-renewal of licences under Factories Act, 1948 read with Rule 10 of the Punjab Factories Rules, 1952. However, the approval is subject to three conditions: firstly, there is no change in the particulars of the applicant; secondly, the requisite fee is paid.; and thirdly, the mentioned fee is paid through E-GRAS via the departmental website ([www.hrylabour.gov.in](http://www.hrylabour.gov.in)) through the login ID of the applicant factory.

(To view the notification, please [click here](#))

### ▪ **Auto-Renewal of contract labour and inter-State migrant workmen licences**

The government of Haryana has approved the auto-renewal of licenses under the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 read with Haryana Contract Labour (Regulation and Abolition) Rules, 1975 and Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 read with Haryana Inter-State Migrant Workmen Rules, 1981, subject to three conditions: firstly, the renewal shall be for one year; secondly, there is no change in the particulars of the applicant; and thirdly, the requisite fee for auto-renewal has been deposited by e-GRAS via the departmental website ([www.hrylabour.gov.in](http://www.hrylabour.gov.in)).

(To view the Notification, please [click here](#))

## KARNATAKA

### ▪ **Conditions for the regulation of employment of women during night in a shop or commercial establishment**

#### ***Section 25 of The Karnataka Shops and Commercial Establishments Act, 1961***

The Government of Karnataka, by the notification dated October 19, 2020, has amended provisions of the Karnataka Shops and Commercial Establishments Act, 1961 towards the regulation of employment of women at night. As per the Amendment, the conditions for the regulation of employment of women during the night in a shop or commercial establishment shall be as follows:

- The regulations relating to daily and weekly hours, extra wages for overtime work, the interval for rest, spread over and weekly holidays shall continue to apply to the women employee working during the night shift.
- The willingness of women employees shall be obtained in writing.
- The establishment shall provide transport facilities from the residence of the woman employee to the workplace and back free of cost and with adequate security. Such transport facility shall have GPS for tracking and monitoring.
- Employment of women employee shall be on a rotation basis.
- An adequate number of security guards shall be posted during the night shift.
- Sufficient restrooms, electricity, latrines lockers, dispensary facility and washing facilities with adequate water supply shall be provided separately for women employees to secure privacy.
- The establishment shall bear the cost of crèche obtained by the women employees from voluntary or other organizations.

- The establishment shall obtain bio-data of each driver and conduct pre-employment screening of the antecedents of all drivers employed on their own. As regards the driver employed through outsourcing, the company shall ensure to its satisfaction that the collection of bio-data and conduct pre-employment screening of the antecedents of the drivers is carried out by the service provider.

(To view the Notification, please [click here](#))

## LADAKH

- **Ladakh Procurement Policy for Micro and Small Enterprises 2020**

To expedite the growth of enterprises in the Union Territory of Ladakh, Micro and Small Enterprises will be governed by Ladakh Procurement Policy 2020. The objectives of the policy are of two-fold, giving these enterprises preference in the purchase of goods and services and facilitating purchases from such Micro and Small Enterprises.

(To view the notification, please [click here](#))

## ODISHA

- **Revised Variable Dearness Allowance to be paid to industrial workers effective from October 2020**

The Labour Commissioner of Odisha has notified that Variable Dearness Allowance at the rate of INR 4.65 shall be payable per day to unskilled, semi-skilled, skilled and highly skilled categories of employees in addition to the minimum rate of wages, effective from October 01, 2020.

(To view the notification, [click here](#))

## RAJASTHAN

- **Automatic online license renewal**

**Circulars:** The latest circulars aim to promote ease of doing business by ensuring transparency and efficiency in the renewal of a license under the Factories Act, 1948 and Contract Labour (Regulation and Abolition) Act, 1970 (Contractor). The renewal shall now be made only in an automatic and online manner along with the required fee, via the portal of the factories and boilers inspection and the labour department, respectively.

(To view the notification, please click [here](#) and [here](#))

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## ABOUT US

UnComplycate is an end-to-end compliance and contract management solutions provider that integrates domain experience with IT-enabled implementation, monitoring and management protocols.

With more than thirty years' experience in helping clients discharge their compliance obligations, we have developed a repository of significant knowledge and practical experience in advising and assisting businesses on their regulatory compliance, litigation management, notice and contract management and other attendant requirements. We create bespoke products for clients that include, among other things, an audit of the functions of the company, offering technology-enabled platforms that provide solutions for effective control over the compliance and contract management functions. These services are not limited by geography and can be seamlessly extended to all operating sites of the client.

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