

# COMPLIANCE UPDATE

September – October, 2020

## Companies Act, 2013

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

- **Relaxation to start-ups regarding deposits**

***Rule 2 read with Rule 3 of the Companies (Acceptance of Deposits) Rules, 2014***

As per the Companies (Acceptance of Deposits) Rules, 2014, start-up companies were earlier allowed to raise capital by accepting an amount of twenty-five lakh rupees or more, by way of a convertible note in a single tranche from a person. Such acceptance of capital was excluded from definition of deposits if the note was convertible into equity shares or repayable within a period not exceeding five years from the date of issue.

**Notification:** The notification dated September 07, 2020 amended the period of repayment to ten years from the existing period of five years, thereby offering more flexibility to start-ups for raising capital. Post this notification, any amount of twenty-five lakh rupees or more raised by start-up companies through a convertible note in a single tranche from a person will not be treated as deposits under the Companies Act, 2013, provided the note is converted into equity shares or repaid within ten years from date of issue.

Further, definition of start-up companies under Companies Act, 2013, has been changed to be in concurrence with the policy of Department for Promotion of Industry and Internal Trade.

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

- **Extension of the due date to hold AGM for FY 2019-20**

***Section 96 of the Companies Act, 2013***

As per the Companies Act, 2013, a company is required to conduct the first Annual General Meetings (AGM) within six months from date of closing of the financial year i.e. September 30 of every year.

**Notification:** For financial year 2019-20, the aforementioned requirement has been relaxed by a period of three months. Hence, for the financial year ended on March 31, 2020, companies may hold the AGM on or before December 31, 2020. To avail such relaxation, the companies are required to file Form No. GNL-1 with the concerned Registrar of Companies.

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



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- **Extension of due date for filing CRA-4**

***Rule 6 of the Companies (Cost Records and Audit) Rules, 2014***

As per the Companies (Cost Records and Audit) Rules, 2014, the Cost Auditor's report must be forwarded to the Board of Directors of the company within hundred and eighty days from the close of the financial year. The same should be submitted to the Central Government in Form CRA-4 within 30 days from receipt of the copy of the said report.

**Notification:** Vide a circular dated September 10, 2020, the date for filing the Cost Auditor's report before the Board stands extended to November 30, 2020. Further, in case the company has availed the extension of time for their Annual General Meeting, then the Form CRA-4 may be filed within the resultant extended period of filing financial statements.

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

- **Relaxation regarding matters to be dealt in a Board meeting through video conferencing and OAVM**

***Rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014***

The Companies Act, 2013 read with Companies (Meetings of Board and its Powers) Rules, 2014 provides for a list of subject matters which shall not be dealt with in any meeting held through video conferencing or other audio-visual means.

**Notification:** The Companies (Meetings of Board and its Powers) Amendment Rules, 2020 dated September 28, 2020 relaxed the aforementioned restriction until December 31, 2020. Hence, companies may deal in the matters specified in Rule 4 in a meeting held through video conferencing or other audio-visual means (OAVM) till December 31, 2020.

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

- **Extension of Fresh Start Scheme, 2020**

MCA, vide circular dated March 30, 2020, introduced the Companies Fresh Start Scheme, 2020 (CFSS-2020) as a one-time opportunity for condoning any delay in filing documents including Annual Return, Financial Statement and other documents by the companies incorporated in India.

**Circular:** Through the circular dated September 28, 2020, the benefits under the Fresh Start Scheme, 2020 have been extended till December 31, 2020.

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

- **Extension of LLP Settlement Scheme, 2020**

On March 4, 2020, the MCA had introduced the LLP Settlement Scheme under which default in filing of statutory forms – such as Notice Appointments, Statement of Account & Solvency and Annual Return of LLPs – was declared to be condoned, subject to payment of applicable late fee.

**Circular:** The MCA on September 28, 2020, has extended the applicability of the LLP Settlement Scheme, 2020 till December 31, 2020.

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

- **Extension of Scheme for relaxation of time for filing forms related to creation or modification of charges**

***Section 77 of the Companies Act, 2013***

In order to condone the delay in filing of forms related to creation and modification of charges, the MCA introduced 'Scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013' on June 17, 2020. The scheme provided relief to companies by excluding the period between March 01, 2020, to September 30, 2020, for calculation of the timeline under Section 77 for filing Form No. CHG-1 and Form No. CHG-9.

**Circular:** On September 28, 2020, the MCA extended the applicability of the scheme till December 31, 2020. Hence, the period between March 01, 2020 to December 31, 2020 will be discarded for calculation of the timeline under Section 77.

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

- **Extension of time to conduct EGMs through video conferencing**

***Section 108 read with Section 110 of the Companies Act, 2013***

The MCA, vide circular dated April 8, 2020, allowed companies to hold Extraordinary General Meetings (EGMs) through video conferencing and other audio-visual means when such EGMs become unavoidable. The MCA also prescribed the proper manner to conduct such EGMs and procedure of voting on ordinary and special resolutions.

**Circular:** On September 28, the MCA further allowed companies to conduct the EGMs through video conferencing and other audio-visual means and transact items through postal ballots following the prescribed procedure.

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

- **Extension of time for the creation of Deposit Repayment Reserve and investment of debentures**

The Companies Act, 2013 mandates that a company shall create Deposit Repayment Reserve of 20% of deposits maturing during the financial year 2020-21 before April 30, 2020. Further, the Act requires a company to invest or deposit a minimum of 15% of the number of debentures maturing in specified methods of investments or deposits before April 30, 2020.

**Circular:** The MCA, vide circular dated September 28, 2020, has extended the due date to comply with the aforementioned requirements till December 31, 2020.

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

## Reserve Bank of India Notifications and Master Circulars

- **Regulation of compliance functions in banks**

Banks are required to maintain an effective compliance environment and compliance risk management programme which should be headed by a Chief Compliance Officer (CCO). The Reserve Bank of India (RBI) prescribes that such compliance function should be independent and the appointment of the CCO must be done through a suitable process with an appropriate 'fit and proper' evaluation.

**Notification:** The RBI observed that banks undertake divergent practices regarding the appointment of CCO and hence, vide notification dated September 11, 2020, it prescribed guidelines to bring uniformity to such appointments. The guidelines provide for:

- Framing of compliance policy
- Fixing of tenure of the CCO to a minimum of 3 years and procedure of removal, if required
- Qualifications and disqualifications of the CCO
- The procedure of selection of the CCO and reporting requirements for selection, removal or transfer and restriction on giving any conflicting responsibility to the CCO 'dual hatting'
- Line of reporting, authority, duties and functions of the CCO
- The mandatory internal audit of the compliance functions

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

## Goods and Services Tax Act, 2017

- **Extension of the timeline for anti-profiteering compliances**

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

The Goods and Services Tax Act, 2017 provides for anti-profiteering measures to ensure that the suppliers of goods and services pass on the benefit of any reduction in the rate of tax or the benefit of input tax credit to the recipients by way of commensurate reduction in prices.

**Notification:** The Central Board of Indirect Taxes and Customs on September 01, 2020, extended the due dates till November 31, 2020, for completion or compliance with any anti-profiteering provisions by a supplier of goods and services registered under the GST regime.

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

- **Extension of the due date of issuing the invoice for goods sent out of India on approval basis**

***Section 31 of the Goods and Services Tax Act, 2017***

The Goods and Services Tax Act, 2017 provides that invoices concerning goods being sent or taken on approval for sale or return must be issued at the time of supply or six months from the date of removal, whichever is earlier.

**Notification:** The Central Board of Indirect Taxes and Customs on September 21, 2020, extended the time limit for the invoicing of such goods till October 31, 2020, in case the time limit for the issuance of the invoice in respect of such goods sent out of India on approval basis falls between the period from March 20, 2020 to October 30, 2020.

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

- **Extension of due date for filing Annual Return**

***Section 44 of the Goods and Services Tax Act, 2017***

The Goods and Services Tax Act, 2017 requires every taxpayer under the GST regime to file an Annual Return in Form GSTR-9 and, in case of a person having turnover of two crore rupees or more in the financial year, a Reconciliation Statement in Form GSTR-9C on or before December 31 of the subsequent financial year.

**Notification:** For the financial year 2018-2019 the due date of filing Form GSTR-9 and Form GSTR-9C has been extended till October 31, 2020.

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

## Industry-wise Updates

### Insurance

- **Use of video-based identification process for KYC requirements**

In order to make the compliance process for onboarding customers easier and reduce the paperwork, IRDAI has advised all insurance companies to use video-based identification process (VBIP) for the Know Your Customer (KYC) requirements. Insurance companies will have to develop an app and appoint a designated person to undertake live VBIP for the establishment, continuation, and verification of an account-based relationship with the customer.

The Insurance Regulatory and Development Authority of India (IRDAI) in the circular has advised that the authorized person of the insurance company doing the VBIP for KYC will have to record the video and take photographs of the customer present for identification and obtain the identification information through Aadhaar.

(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 the 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 crores

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

### Food & Beverage

- **Interim relaxation to use Diatomaceous Earth as processing aid for filtration of honey**

**Notification:** FSSAI vide its order dated September 2, 2020 temporarily allowed the use of Diatomaceous Earth as processing aid for filtration of honey. The Food Business Operators (FBOs) shall not be facing any enforcement action for using the Diatomaceous Earth-based filtration process during the manufacturing of honey.

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

- **New standards for dairy products**

***Rule 2.1 of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011***

The Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 prescribe various standards for food products, including limits of various food additives used across different food groups.

**Notification:** On September 2, 2020, the FSSAI amended the provisions of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations 2011 laying down additional standards for milk, dairy and cheese products including the standards dealing with low lactose and lactose-free milk, dairy permeate powders and labelling standards of such products.

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

- **Extension of the timeline for compliance relating to printing ink on food packages**

The Food Safety and Standards (Packaging) Regulations, 2018 mandated compliance with IS standards for the purpose of packaging materials. The IS standards, as prescribed by the Bureau of Indian Standards, are based on the latest technological updates and adhere to applicable global standards. The Food Business Operators (**FBOs**) were facing significant difficulties regarding immediate implementation of such packaging standards.

**Notification:** On September 11, 2020, the FSSAI acknowledged the difficulties faced by the FBOs and allowed them to comply with the revised IS standards by either January 01 or July 01 of 2021, as the case may be, subject to a minimum transition period of 180 days from the date of publication of such standards by BIS.

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

- **Extension of due date for the mandatory audit of premises by FBOs**

As per the Food Safety and Standards (Food Safety Auditing) Regulations, 2018 FBOs holding Central License are required to have an audit of their premises.

**Notification:** The FSSAI on September 28, 2020, has extended the due date for complying with the audit and directed the FBOs to get such mandatory audit of their premises conducted by December 31, 2020.

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

## State-wise updates

### Bihar

- **Revised minimum wages rates**

The Minimum Wages Act, 1948, aims at fixing the rate of minimum wages for the skilled and unskilled labours. The Act enables the state governments to fix the rate of minimum wages applicable to all the establishments in the respective state.

**Notification:** The Government of Bihar, exercising its power under the Minimum Wages Act, 1948, revised the rate of minimum wages for the state of Bihar which shall take effect from October 1, 2020.

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

### Goa

- **Amendment to the Contract Labour (Regulation and Abolition) Act, 1970**

The Contract Labour (Regulation and Abolition) Act, 1970 was introduced to regulate contract labour and the work conditions to prevent their exploitation.

**Amendment:** Section 1 articulates the applicability of this Act to every establishment in which twenty or more workmen are or were employed as contract labour. The new amendment, effective from June 26, 2020, has increased this threshold from twenty to fifty workmen in the state of Goa. Further, a Section 25A has been inserted which lays down provisions for compounding of offences.

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

### Himachal Pradesh

- **Change in applicability of the Contract Labour (Regulation and Abolition) Act, 1970**

The Contract Labour (Regulation and Abolition) Act, 1970, aims to prevent the exploitation of contract labour at the workplace and ensure better working conditions. In the state of Himachal Pradesh, the Act applied to every establishment having twenty or more workmen on any day of the preceding twelve months as contract labour.

**Notification:** To provide more employment opportunities and to facilitate employers of small units and petty contractors, the Government of Himachal Pradesh has amended the applicability clause and expanded its scope. Now, the Act shall apply to an establishment having a minimum of thirty workmen employed as contract labour on any day of the preceding twelve months.

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

- **Prohibition on conversion permanent posts to fixed-term posts**

***Rule 3A of Industrial Employment (Standing Orders) Himachal Pradesh Rules, 1973***

The Industrial Employment (Standing Orders) Act, 1946 mandates the employers to formally define conditions of employment in the respective establishments ensuring safeguard for the workmen regarding terms and conditions of the employment.

**Notification:** The Government of Himachal Pradesh has amended the Industrial Employment (Standing Orders) Himachal Pradesh Rules, 1973 stating that no employer of an industrial establishment shall convert the posts of the permanent workmen existing in his industrial establishment to fixed-term employment.

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

- **Change in frequency of inspection under the Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016**

The Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016, provides for periodic inspection and sampling of authorized plants processing the hazardous wastes for utilization.

**Notification:** The Government of Himachal Pradesh, to enhance the effectiveness of the Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016, has changed the frequency of inspection to monthly basis and sampling of registered units processing the hazardous waste for utilization.

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

## Jharkhand

- **Revised minimum wages rates**

The Minimum Wages Act, 1948, aims at fixing the rate of the minimum wages for the skilled and unskilled labours. The Act enables the state governments to fix the rate of minimum wages applicable to all the establishments in the respective state.

**Notification:** The Government of Jharkhand exercising its power under the Minimum Wages Act, 1948, revised the rate of minimum wages for the state of Jharkhand which shall take effect from April 1, 2020.

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

## Kerala

- **The Kerala Minimum Wages Notification (July 2020)**

**Notification:** On September 17, 2020, the Government of Kerala issued the Consumer Price Index (Cost of Living Index) Numbers applicable to employees in employment under the Minimum Wages Act 1948 for July 2020.

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

## Maharashtra

- **Extension of time to deposit labour welfare fund**

Maharashtra Labour Welfare Fund Act, 1953 requires labour welfare fund to be collected from establishments by the Maharashtra Labour Welfare Board, in order to organize all-round beneficial welfare activities, promoting welfare schemes for the labour.

**Notification:** The Notification has extended the time limit to deposit labour welfare fund till September 30, 2020.

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

- **Amendment of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975**

The Maharashtra State Tax on Professions, Trade, Callings and Employment Act, 1975 provides for the levy and collection of tax on professions, trades, callings and employment. Section 5 deals with registration and enrolment of employers whereas Section 6 deals with returns.

**Amendment:** The amendment makes it mandatory for a company to obtain the certificate of enrollment and certificate of registration under this Act on its incorporation under the Companies Act, 2013 after July 22, 2020, and file returns in such manner and form as may be prescribed.

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

- **Extension of due date for filing annual returns**

The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 lays down manner, form and date within which annual returns have to be filed. The Government of Maharashtra had earlier extended the due date to July 31, 2020.

**Notification:** The Notification has extended the due date to pay tax or submit return up to June 2020 till September 30, 2020, on the website of the Maharashtra Goods and Services Tax Department.

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

## Odisha

- **Disposal of hazardous waste for units not requiring consent under State PCB**

**Rule 6(1) of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016**

In 2019, the Odisha State Pollution Control Board had directed that an occupier shall not be required to obtain an authorization under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

**Notification:** The notification dated September 07, 2020 provides that hazardous and other waste generated by occupiers, who are not required to obtain a consent under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, shall be given to the actual users, waste collector or operator of the disposal facilities following the CPCB guidelines.

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

## Tamil Nadu

- **Extension of Period for Renewal of Registration of Workers Under Various Boards**

**Order:** The Government of Tamil Nadu vide order dated September 04, 2020 extended the period of renewal of workers registered under various board such as Tamil Nadu Construction Workers Welfare Board and Tamil Nadu Manual Workers Social Security and Welfare Board until December 31, 2020. Also, the cut-off date for submission of life certificate for pensions is extended until December 31, 2020.

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

## Telangana

- **Automatic Online Renewal of License Under Contract Labour (Regulation and Abolition) Act, 1970**

The Government of Telangana, to enhance ease of doing business in the State, has ordered that the license granted under the Contract Labour (Regulation and Abolition) Act, 1970 shall be renewed automatically through an online system.

**Notification:** The notification dated September 17, 2020 grants an exemption from renewal of license granted under the said Act, subject to payment of the fee prescribed by the Government from time to time, within the time prescribed, to implement 'Automatic non-discretionary deemed renewal of license through the online system'.

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

## UT Administration of Dadra and Nagar Haveli and Daman and Diu

- **Notification for mode for payment of wages**

**Section 6 of the Payment of Wages Act, 1936**

This section specifies the mode of payment of wages which includes current coin, currency notes and cheques.

**Notification:** The Office of Secretary (Labour and Employment) has emphasized the seriousness of the notifications issued in 2017 which made it mandatory for the wages to be paid to every person employed in the Industrial or other establishments only, either in cheques or by crediting it to the bank accounts. After continued violation was observed, the office has directed the employers to comply with the notifications strictly.

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

▪ **Introduction of the Dadra and Nagar Haveli and Daman and Diu Industrial Employment Model Standing Orders, 2020**

Section 15 of the Industrial Employment (Standing Orders) Act, 1946 empowers the UT Administration to frame and amend rules relating to model standing orders from time to time. Every employer in an industrial establishment is required to formally define conditions of employment under them in the form of standing orders and for the same, the government issues a model standing order which can be adopted by the employer.

**Notification:** The new orders, effective from September 04, 2020, have been introduced to extend the Model Standing Order to the district of Daman and Diu. The notification has added 'fixed-term employment' for industrial establishments in which twenty or more workers are employed or were employed on any day of the preceding twelve months. A fixed-term employment workman has been explained as a workman who is engaged based on a written contract for a fixed period and fulfils other conditions as given.

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

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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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