



Inside this edition

- Companies (Appointment and Qualification of Directors) Amendment Rules, 2021
- Limited Liability Partnership (LLP) Amendment Act, 2021
- Companies (Specification of definitions details) Third Amendment Rules, 2021 & more...

Companies (Appointment and Qualification of Directors) Amendment Rules, 2021



MCA has amended the Companies (Appointment and Qualification of Directors) Rules where an individual shall not be required to pass the online proficiency self-assessment test to be included in independent directors databank when he has served for a total period of not less than three years as on the date of inclusion of his name in the data bank in the pay scale of Director or equivalent or above in any Ministry or Department, of the Central Government or any State Government, and having experience in handling —

- (i) the matters relating to commerce, corporate affairs, finance, industry or public enterprises; or
- (ii) the affairs related to Government companies or statutory corporations set up under an Act of Parliament or any State Act and carrying on commercial activities.

It is further provided that the following individuals, who are or have been, for at least ten years: —

- (A) an advocate of a court; or
- (B) in practice as a chartered accountant; or
- (C) in practice as a cost accountant; or
- (D) in practice as a company secretary,

shall not be required to pass the online proficiency self-assessment test.

Limited Liability Partnership (LLP) Amendment Act, 2021



The Ministry of Law has notified the Limited Liability Partnership (LLP) Amendment Act, 2021 which sought to encourage the start-up ecosystem and further boost the ease of doing business. Key features of this amendment are:

Decriminalization of certain offences: The Act specifies the manner of operations of LLPs and provides that violating these requirements will be punishable with a fine (ranging between two thousand rupees and five lakh rupees). Now the same has been substituted with the penalty with revised amount of penalty. These include:

- (i) changes in partners of the LLP,
 - (ii) change of registered office,
 - (iii) filing of a statement of account and solvency, and annual return, and
 - (iv) arrangement between an LLP and its creditors or partners, and reconstruction or amalgamation of an LLP.
- The Bill decriminalizes these provisions and imposes a monetary penalty.

Change of Name of LLP: The Act states that the central government may direct an LLP to change its name on certain grounds (such as the name being undesirable or identical to a trademark pending registration). Failing to comply with such direction was punishable with a fine ranging from Rs 10,000 to five lakh rupees. Under the amendment some of these grounds have been withdrawn and

instead of levying a fine, empowered the central government to allow a new name to such LLP.

Punishment for Fraud: The term of imprisonment of in case an LLP or its partners carrying out an activity to defraud their creditors, or for any other fraudulent purpose, has been increased from two years to five years.

Non-Compliance of Orders of Tribunal: The amendment removes the offence of imprisonment up to six months and a fine up to Rs 50,000 in case of non-compliance with an order of the National Company Law Tribunal (NCLT).

Compounding of Offences: The Amendment provides that a regional director (or any officer above his rank), appointed by the central government, may compound any offence under the Act which is punishable only with a fine provided, the amount imposed must be within the minimum and maximum fine for the offence. If an offence by an LLP or its partners was compounded, then a similar offence cannot be compounded within a three-year period.

Adjudicating Officers: Under the Amendment, the central government may appoint central government officers not below the rank of Registrar as adjudicating officers for awarding penalties under the Act. Appeals against orders of the Adjudicating Officers will lie with the Regional Director.

Special Courts: The Amendment allows the central government to establish special courts for ensuring speedy trial of offences under the Act that shall consist of:

- (i) a Sessions Judge or an Additional Sessions Judge, for offences punishable with imprisonment of three years or more; and
- (ii) a Metropolitan Magistrate or a Judicial Magistrate, for other offences. They will be appointed with the concurrence of the Chief Justice of the High Court. Appeals against orders of these special courts will lie with High Courts.

Appeals to Appellate Tribunal: The Amendment adds that appeals cannot be made against an order of the NCLT that have been passed with the consent of the parties. Appeals against such orders must be filed within 60 days (extendable by another 60 days) of the order.

Small LLP: The Amendment provides for the formation of a small LLP where:

- (i) the contribution from partners is up to Rs 25 lakh (may be increased up to five crore rupees),
- (ii) turnover for the preceding financial year is up to Rs 40 lakh (may be increased up to Rs 50 crore).

Standards of Accounting: The central government may prescribe the standards of accounting and auditing for classes of LLPs, in consultation with the National Financial Reporting Authority as per the amendment.

Companies (Specification of definitions details) Third Amendment Rules, 2021

Companies (Specification of Definitions Details) Third Amendment Rules, 2021

MCA vide Notification has inserted the following explanation in the definition of “Electronic Mode” Rule 2 of the Companies (Specification of definitions details) Rules, 2014, namely: “Explanation- For the purposes of this clause, electronic based offering of securities, subscription thereof or listing of securities in the International Financial Services Centre set up under section 18 of the Special Economic Zones Act, 2005 (28 of 2005) shall not be construed as ‘electronic mode’ for the purpose of clause (42) of section 2 of the Act.”

Notification under Section 393A of the Companies Act, 2013



The MCA in exercise of the powers conferred by Section 393A of the Companies Act, 2013, hereby exempts, the following class of companies from the provisions of Sections 387 to 392 (both inclusive) of the Companies Act, 2013, namely:

- (a) Foreign companies;
- (b) Companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India,

insofar as they relate to the offering for subscription in the securities, requirements related to the prospectus, and all matters incidental thereto in the International Financial Services Centre set up under Section 18 of the Special Economic Zones Act, 2005

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