

The Companies (Amendment) Bill 2014 passed in Rajya Sabha

The Companies (Amendment) Bill 2014 was introduced in the Lok Sabha on December 12, 2014 by the Minister of Finance, Mr. Arun Jaitley. It was passed in Lok Sabha on December 17, 2014 and subsequently passed in Rajya Sabha Today 13-05-2015

- The Bill introduces certain amendments in relation to Related Party Transactions, fraud reporting by auditors, making common seal optional, and jurisdiction of special courts to try certain offences etc. The Statement of Objects and Reasons of the Bill states that this is to ensure ease of business.
- Removal of minimum paid up share capital: The Act defines a private company as one that is required to have a minimum paid-up share capital of one lakh rupees or higher. A public company is required to have a minimum paid up share capital of five lakh rupees or higher. The Bill removes the requirement of a minimum paid up share capital amount for private and public companies.
- Punishment for contraventions for acceptance of deposits from the public: The Bill inserts a new provision which states that when a company:
 - a) accepts, invites or allows another person to accept or invite on its behalf any deposit which is in contravention to the provisions specified in the Act or rules under it; or
 - b) fails to repay the deposit or any interest, either in part or whole, within the time specified in the Act, or further time allotted by a Tribunal, it shall be subject to certain penalties. The penalties include:
 - a) A minimum fine of Rs one crore and a maximum of Rs 10 crore, in addition to the deposit or interest that is due; and
 - b) Up to seven years imprisonment and fine between Rs 25 lakh to Rs two crore, or both, for every defaulting officer of the company;



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- If proved that the defaulting officer of the company did so willfully, he will be liable for the offence of fraud, under this Act.
- Powers and duties of auditors: The Act requires that if the auditor of a company has reason to believe that an offence of fraud has been committed against the company, by its employees, he must report the matter to the central government within a time period and in a manner prescribed.
- The Bill replaces this provision. It now requires that to qualify as an offence of fraud, it must be of a specific amount as prescribed. Only in such cases, is the auditor required to report the matter to the central government.
- In case of a fraud involving lesser than the specified amount, the auditor is to report the matter to the audit committee, or to the Board. Companies must disclose details of such frauds in the Board's report.
- Related Party Transactions: The Act states that a company may not enter into any contract or third party arrangement on certain matters without the consent of the Board of Directors. The specific matters include sale, purchase or supply of goods or materials, selling, leasing of any property etc.
- Further, any contract of a particular sum that a company wants to enter into must have prior approval of the company by a special resolution.
- The Bill replaces the requirement of obtaining a special resolution with that of a resolution.
- The Bill now states that a resolution would not be necessary for transactions between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and have been placed before the shareholders for their approval.



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- Special Courts: For the purpose of providing speedy trial of offences under the Act, the central government may establish or designate as many special courts, as may be necessary. The Bill amends this provision to limit the constitution of such benches only for the trial of offences where punishment is imprisonment of two years or more.
- Further, all other offences are to be tried by a metropolitan or first class judicial magistrate.
- Removal of requirement of a common seal: The Act states that a body corporate would be required to have a common seal, from the date of incorporation. The Bill deletes the requirement of a common seal throughout the Act.

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