

IMPACTS OF AMENDMENTS ON STARTUPS AND MSMES: A COMPARATIVE STUDY

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BEST CITATION – PRACHI KUMARI, IMPACTS OF AMENDMENTS ON STARTUPS AND MSMES: A COMPARATIVE STUDY, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 5 (7) OF 2025, PG. 947-951, APIS – 3920 – 0001 & ISSN – 2583-2344.

2.1 Key Amendments Relevant to Startups and MSMEs (2019–2023)

There have been several amendments to the Companies Act, 2013, in recent years with the aim of ease of doing business and making the regulatory landscape more startup and MSME-friendly. With the understanding of the contribution of these businesses to economic growth, employment, and innovation, the Government of India initiated reforms to simplify compliance requirements, increase access to finance, and reduce regulatory requirements. The 2019-2023 amendments have been a deciding factor in promoting entrepreneurship and sustainable development of MSMEs and startups.

Companies (Amendment) Act, 2019

The Companies (Amendment) Act, 2019 was proposed with a robust emphasis on decriminalizing minor offenses and lowering penalties for startups and MSMEs. It aimed to mitigate worries over over-regulation that usually discouraged small-scale businesses from formalizing business operations.

Relaxation of penalties for non-compliance – Previously, non-compliance with procedural provisions under the Companies Act was inviting harsh penalties even for minor defaults. The amendment eased these penalties to a certain extent for small companies so that compliance was made simpler.

Corporate Social Responsibility (CSR) Compliance Flexibility – The amendment gave flexibility to the companies in availing CSR compliance. It permitted the unused CSR amount to be transferred to a separate account to be utilized within a period of three years. This facility was extended to startup companies that did not have funds but needed CSR compliance.

Dispute Resolution Mechanism – The amendment provided an effective mechanism for resolution of compliance disputes so that

MSMEs and startups will never be bogged down in long legal processes.

Through reduced cost of compliance and fines, the 2019 amendment motivated small businesses to register under the Companies Act, causing more formalization of the economy.

Companies (Amendment) Act, 2020

The 2020 amendment further facilitated easy compliance procedures for MSMEs and startups along with robust corporate governance principles.

Revised Definition of Small Firms – The revision raised the turnover and paid-up capital ceilings for firms that were considered "small." This was aimed at allowing more MSMEs to enjoy rules on ease of compliance, including exemptions from cumbersome board resolutions and reduced filing fees.

Decriminalization of Technical and Procedural Offences – A few procedural offenses, including delay in filing of financial statements, were decriminalized. This alleviated the fear of hefty penalties for startups that may have trouble complying in an initial stage.

Fast-Track Merger Process – A streamlined merger process was implemented to enable startups and MSMEs to merge with comparable businesses with ease without time-consuming approval processes.

Exemption from Certain Board Meeting Formalities – Low-complexity startups, particularly private firms, were exempted from certain board resolution formalities to enable rapid decision-making without administrative delays.

The 2020 amendment gave a significant fillip to MSMEs and startups by eliminating unnecessary procedural formalities and promoting a business-friendly ecosystem.

Companies (Amendment) Act, 2022

The 2022 amendment addressed issues of corporate governance and facilitated compliance for MSMEs and startups. Some of the major provisions were:

Enlargement of Small Company Sizes – The size of paid-up capital was enlarged to cover more MSMEs as "small companies." They could then be exempted from compliance requirements such as rotation of auditors on a mandatory basis and intricate governance procedures.

Sophisticated Electronic Filing Mechanisms – MSMEs and start-ups were now able to file statutory documents electronically, thus saving time and making their compliance process easier.

Environmental, Social, and Governance (ESG) Reporting – High-growth start-ups and big firms had to furnish sustainability disclosures in order to stay in sync with worldwide ESG norms. Though it encouraged transparency, it added more compliance complexities for subsequent start-ups as well.

This amendment weighed corporate governance reforms against simplifying MSME operations, though enforcement problems were there for new digital compliance structures.

Companies (Amendment) Act, 2023

The 2023 amendment included significant reforms pertaining to fundraising, compliance, and governance of MSMEs and start-ups. It sought to improve India's regulatory landscape for the benefit of attracting investors and entrepreneurs.

Extension of Angel Tax Exemptions – Relief from taxation was provided at an earlier stage to early-stage investors through the introduction of extensions of angel tax exemptions. This extended investment in the early stage and eased the financial burden on start-ups.

Alternative Regulatory Framework for Startups – A distinct regulatory framework for start-ups was initiated that provided liberal reporting and documentation.

Relaxation in Audit Obligations – Small and medium-sized businesses that crossed specific revenue thresholds were exempted from specific compulsory audit obligations, lowering the cost of compliance.

Digital Financial Tool Integration – The amendment made it easier to use online platforms to file compliances, taxes, and financial statements, making MSMEs more effective in their operation.

With its addressing of fundraising, compliance, and governance, the 2023 amendment enhanced India's startup market and increased access to capital for MSMEs.

2019-2023 reforms have still increased the business ease of MSMEs and start-ups through easier compliance mechanisms, lighter penalty, making government more responsive, and higher availability of finance. Though reforms in general have come to be hailed with open arms, apprehension exists for universal enforcement, access of digital system to small firms, and bureaucracies' inefficiency.

2.2 Simplification of Compliance Processes

Simplification of compliance processes under the Companies Act, 2013 has gone a long way in making the ease of doing business for MSMEs

and startups. The Government of India has persisted with efforts to de-regulate through simplification of procedural requirements, digitalization of compliance, and exemption of small companies. Such reforms have made it possible for MSMEs and startups to concentrate on innovation and business growth instead of getting entangled in legal complexity.

Decriminalization of Minor Offences

Among the main provisions of the Companies (Amendment) Acts of 2019 and 2020 was the decriminalization of technical and procedural offenses. Some of the offenses punishable with criminal prosecution, such as late filing of accounts, petty corporate governance defaults, and default of CSR, were transformed to civil offenses. This made the threat of punitive legal remedies against small business decrease and brought about a friendlier business regulation regime.

Introduction of Web-Based Compliance Portals

Simplification of compliance systems with respect to digital compliances has been brought about by the enforcement by the Ministry of Corporate Affairs (MCA). Company registration, annual filing compliances, and KYC validation of the directors are done through MCA21 Version 3.0 portal. Additionally, portals like SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus) enable the startup to undertake various registration processes, i.e., PAN, TAN, and GST, at a single window

Exemptions for Small Business and Startups

The Government also widened the scope of small business by expanding the paid-up capital and turnover limits under the Companies (Amendment) Act, 2021. The measure enabled more start-ups and MSMEs to qualify for less stringent compliance procedures, including:

Relaxation of compulsory board meetings for small business with near-zero operational sophistication.

Relaxation of some of the corporate governance requirements, including appointment of independent directors and audit committees, to reduce compliance cost burdens on small and medium enterprises.

Faster mergers and restructuring approvals under the fast-track merger facility under Section 233 of the Act.

Ease of Audit and Reporting Requirements

To further facilitate compliance, startups and MSMEs of a specific turnover and capital size have been exempted from compulsory statutory audits. The Companies (Amendment) Act, 2023 has also enabled companies to use self-certification frameworks for specific filings, avoiding administrative delays. In addition, the amendment streamlined annual return filings under Section 92 by removing unnecessary disclosures for small companies.

Simplification of Corporate Social Responsibility (CSR) Compliance

The Companies (Amendment) Act, 2021 brought in flexibility in CSR compliance through the provision that companies can transfer unspent CSR amounts to a specific fund and spend them within three years rather than rolling them over with immediate effect. It benefited startups as well as small companies in better managing their financial planning while remaining compliant with the law.

Streamlining processes of compliance has immensely enhanced ease of doing business in India, particularly for MSMEs as well as startups.

The shift towards decriminalization, digitalization, and exemption-based compliance has lessened the regulatory barriers, enabling companies to concentrate on growth and innovation. Yet, bureaucratic delays, poor digital literacy among small business owners, and uneven roll-out of reforms are cause for concern. Future reforms must emphasize boosting automation, enhancing accessibility, and incorporating AI-aided compliance tracking interfaces to facilitate effortless regulatory compliance.

2.3 Provisions for Raising Capital and Reducing Regulatory Burden

The Companies Act, 2013, amendments during 2019-2023 have brought various provisions with a focus to increase accessibility of capital as well as reducing regulatory burden for MSMEs and startups. The reforms have gone a long way to boost the business environment by making fundraising easier, simple compliances, and a more streamlined regulatory framework.

1. Ease in Private Placement Norms

One of the reforms was simplifying private placement procedures. Previously, companies had to adhere to a complicated process with the submission of several forms and stringent timelines. The amendments simplified the process by cutting down on the filing of private placements.

Allowing for quicker infusion of funds through easier requirements of offer letters.

Allowing for access to angel funds and venture capital funds at a lower level of difficulty for start-ups.

These reforms have facilitated access to money for MSMEs and start-ups from investors without procedural delays.

2. Enlarging the Definition of Small Companies

The Companies (Amendment) Act, 2021 raised the limit for determining small companies, thus enlarging relief in compliance to more MSMEs. The new definition raised:

Paid-up capital limit from ₹50 lakh to ₹2 crore.

Turnover limit from ₹2 crore to ₹20 crore.

This improvement made more companies take advantage of lower compliance costs, fewer governance filings, and waivers of selected governance provisions so that small business entities can conduct their businesses at a lower cost.

3. Making Compliance Easier for Startups and MSMEs

Assuming compliance filings would impose an unreasonable burden on small businesses, the amendment proposed a series of compliance simplifications of burdens including:

Exceptions to the mandatory rotation of auditors in a category of smaller companies.

Streamlining board meetings for startups.

Simplification of filing processes for annual return and financial statements.

These changes have simplified operational intricacies for MSMEs and startups to a considerable extent, enabling them to spend more time on business growth rather than compliance management.

4. Launch of Fast-Track Mergers for Startups and MSMEs

The Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016 were amended in an effort to implement a fast-track merger regime for small companies and start-ups. Under this arrangement, such qualifying companies can merge without the approval of the National Company Law Tribunal (NCLT), thus:

Cutting the business restructuring time frame for mergers and acquisitions.

Minimizing legal and administrative expenses of business reorganization.

Enabling rapid business consolidations to way pave the path for growth and competitiveness.

5. Promotion of Crowdfunding and Alternative Fundraising Mechanisms

In order to facilitate startups to raise funds from various sources, the government has put in place regulatory structures that:

Permit equity crowdfunding.

Promote venture capital investment in MSMEs.

Facilitate the use of SEBI-registered Alternative Investment Funds (AIFs) for investment in startups.

These measures have widened the fundraising space, allowing startups and MSMEs to raise funds from alternative sources with lesser regulatory burden.

The latest amendments to the Companies Act, 2013 have enormously increased access to capital while at the same time easing compliance requirements for MSMEs and startups. Through easing private placements, broadening the scope of small companies, lessening compliance, allowing fast-track mergers, and making alternate modes of funding simpler, these amendments have made India's MSME and startup ecosystem more robust, driving innovation and growth. Beyond this, but still needed, are ongoing improvement to regulatory frameworks and ongoing monitoring of implementation issues to realize long-term gains.

