



**“What’s
New?”**

January 8, 2020

“Major changes with respect to appointment of Company Secretary and Secretarial Audit under the Companies Act”

Ministry of Corporate Affairs (MCA) has issued notification which seeks to (a) increase the threshold for appointment of whole time Company Secretary and (b) broaden the scope of Secretarial Audit to private limited companies as well.

These changes are summarised in next page.

Source: MCA Notification F. No. 01/05/2013-CL-V-Pt-I, dated January 03, 2020



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MCA amendment in the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 (1/2)

Hike in threshold limit for appointment of whole-time Company Secretary under Rule 8A

- MCA circular provides that every private limited company which has a paid-up share capital of INR 100 Million or more shall have to appoint a whole-time Company Secretary
- The present threshold limit is INR 50 Million
- It is further clarified that paid-up share capital shall be as per last audited financial statements
- Earlier, a listed or a public limited company having paid-up share capital of INR 50 Million to 100 Million was also required to appoint whole-time Company Secretary. Now, since Rule 8A has been made applicable on private limited companies only, this means that listed and public limited companies having paid-up share capital of INR 50 Million to 100 Million are exempted from whole-time Company Secretary requirement.

Non-compliance of the above provision attracts a penalty of INR 0.5 Million on the company and INR 50,000 on every director and Key Managerial Personnel which may extend upto INR 0.5 Million in case of continuing default.

The above amendment will be effective for FY 2020-21 and subsequent years.

MCA amendment in the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 (2/2)

Secretarial Audit made applicable to private limited companies as well by inserting a new clause (c) in Rule 9

- The newly inserted clause (c) in Rule 9 requires that every company (which includes private limited companies as well) having outstanding loans or borrowings from banks or public financial institutions of INR 1 Billion or more should get its secretarial records audited by a Company Secretary in practice.
- Currently, secretarial audit applies only to listed companies and public companies satisfying following conditions. These conditions remain unchanged.
 - Paid-up share capital of INR 500 Million or more, or
 - Turnover of INR 2.5 Billion or more.
- Paid-up share capital, turnover, or outstanding loans or borrowings as the case may be, shall be as per last audited financial statements.

Non-compliance of the above provision would attract penalty which ranges between INR 0.1 Million to INR 0.5 Million on the company and every officer of the company (who is in default).

The above amendment will be effective for FY 2020-21 and subsequent years.

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