



Comments on the amendments to the Companies Act, 2017 through Companies (Amendment) Ordinance, 2020

- a) A new section related to "Start-up Company" is added in Act. Common criteria of start-up is a company which is **not in existence > 10 years** from incorporation date and its **turnover is not > 500 Million PKR** in any financial year since incorporation and is working towards the innovation, development or improvement of products or processes or services or any class of company specified.
- b) In order to improve protection of minority shareholder's rights, some amendments are made in Act that are as follows:
- As per section 140, shareholder having 10% shares/voting power" may give notice of resolution to Company. **The % is reduced to 5%.**
 - In Public Co. & Private Co. (sub Co of Public Co.), previously no information regarding "remuneration package of directors & CEO" that include salary and other incentive were not disclosed in directors' report but now it is mandatory to disclose.**
 - If Public listed company could not declare dividend in General Meeting in spite of earning profits, **no reason was given to SECP. Now, it is mandatory to give "legitimate reason" for non-declaration.**
 - If company declared but **need to defer the payment** then it may **apply to SECP within 45 days of declaration but now this period is reduced to 15 days** of declaration.
- c) Previously, company having operations outside Pakistan needed to have official seal which should be a facsimile of common seal **which meant that official seal=common seal**, now this section has been removed and it is required that **official seal may be used outside Pakistan by addition on its face the name of territory in which it shall be used.**
- d) Section 83-A is introduced for the clarity of section 83 "employee stock option scheme" for public listed company which **previously allowed to reserve certain % of further share capital** in such scheme at the time of increase in share capital **but now such proviso has been removed.**
- e) Previously, SECP provided option to company having share capital < Rs. 3 Million to file "Form C" if no change occurred during the year from the date of last annual return. **But now such option has been removed.**
- f) The requirement to publish notice of AGM of listed company in one English and Urdu newspaper is now applicable in case of notice of **Extra-Ordinary General Meeting (EOGM)** as well.
- g) Previously, Government can nominate CEO in Public Sector Company but **now such proviso has been removed.**
- h) Section 233 (**filing of audited financial statements**) is **not applicable on private companies other than PIC's or subsidiary/holding of public company and having share capital < Rs. 10 Million. Section 234 relating to filing of unaudited financial statements has been removed.**
- i) Previously, **dividend which was unpaid or unclaimed** (within time limit provided by the company) shall be **paid to Federal Govt.** through specified procedure. **Now**, such unpaid/unclaimed amount shall not be paid to FG rather it shall be deposited **in a bank account to be opened by the company for such purpose in any scheduled bank and profit thereon shall be used for CSR activities of the Company.**
- j) **Previously one/more persons from Mediation & Conciliation Panel was appointed by SECP for dispute resolution as per section 276 but now section has been removed.**
- k) Through amendments in sections (279 to 287), SECP has transferred its powers to Court by replacing "**Commission**" with "**Court**". Previously, SECP called and conduct all matters between creditors and members of the company.
- l) Previously, under section 424, **any company** (except listed), **not carrying on any business activities during last two financial years with filing of "Form D" may obtain status of "inactive"** or, **SECP may issue notice to company** which could not file its financial statements or its annual return from last **two** consecutive periods and **enter the name of such company in "register of inactive companies"**. This **section has been removed** so neither any company would be able to apply for obtaining the status of inactive nor SECP could make any company inactive.
- m) As under section 84, **no company** (except banking company or other companies specified by SECP) **can invite or accept deposits from public but exception was provided u/s 456 to the real estate companies. But now such exception has been removed** through amendment.
- n) **New section 458-A has been inserted by SECP for promoting ease of business of technological and IT related businesses.** Under this section, SECP may implement measures for providing greater ease of doing business, improving regulatory quality, efficiency and facilitating innovation and the use of technology in conducting business by the corporate sector.
- o) Section 459 (**quota for disable person in public interest companies**), section 460 (**valuation by registered valuer**) and section 461 (**security clearance of shareholders**) have been deleted. **Previously, listed co. employing > 100 employees should have 2% quota for disabled person**, a valuer registered with SECP was required for **valuation of assets** and **Minister could require security clearance from any shareholder** but now no such requirements and provisions has been removed.
- p) Section 479-A is inserted which **allow any person / registrar to apply to SECP for revision** of any section amended as on 30 April 2020 within 60 days of amendment.
- q) **New Section 496-A is inserted to provide civil penalty** for providing any "false statement" to SECP which is equal to level 2 on the standard scale which is up to Rs. 500,000/-
- r) **Previously various critical matters** e.g. rehabilitation of sick units, fraud investigation, record inspection or seize, issuance of redeemable capital instrument etc. concerned **minister** of specific province in which relevant CRO falls passed order regarding it. But **now such order shall be passed by the Federal Govt. only.**
- s) In section 452 "**Companies' Global Register of Beneficial Ownership**", previously **no shareholding %** was defined to report to SECP any shareholding in a foreign company of any substantial shareholder/officer of Pakistani Company. But, **now such % is defined as 10% in a foreign company.**