

SBEC

NIDHI & PRODUCER COMPANY

New Forms were notified in place of existing NDH-1, NDH-2 & NDH-3.

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
<p>NDH-1 NDH-2 NDH-3</p>	<p>(a) FORM NO. NDH-1: Return of Statutory Compliances (b) FORM NO. NDH-2: Application for extension of time (c) FORM NO. NDH-3: Return of Nidhi Company for the half year ended</p>

In the Nidhi Rules, 2014, in rule 23A, for the words “six months” the words “nine months” shall be substituted.

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
<p>In the Nidhi Rules, 2014, in rule 23A, apply period was 3 months.</p>	<p>In the Nidhi Rules, 2014, in rule 23A, for the words “six months” the words “nine months” shall be substituted. Impact <i>As per the amended rule 23A- every company referred to in clause (b) of Rule 2 of Nidhi Rules and every Nidhi incorporated under the Act, before the commencement of Nidhi (Amendment) Rules, 2019 i.e.15.08.2019, shall also get itself declared as Nidhi in accordance with rule 3A of Nidhi Rules,2014 within a period of one year from the date of its incorporation or within a period of nine months from the date of commencement of Nidhi (Amendment) Rules, 2019 i.e. 15.08.2019, whichever is later. (The period was initially 6 months from commencement of Nidhi (Amendment) Rules, 2019 which is hereby extended for another 3 months.)</i></p>

Notification Number G.S.R. 128(E)-The Companies (Incorporation) Amendment Rules, 2020, dated 18th February, 2020 (Effective from 23rd February, 2020)

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
<p>Before amendment used RUN and SPICe form for Company formation.</p>	<p>In the Companies (Incorporation) Rules, 2014, for rule 9, <i>The following rule shall be substituted, namely:-</i> Rule 9 of the Companies (Incorporation) Rules, 2014 - Reservation of name or change of name An application for reservation of name shall be made through</p>

the web service available at www.mca.gov.in by using web service SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC-32) and for change of existing name by using web service RUN (Reserve Unique Name) along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014, which may either be approved or rejected, as the case may be, by the Registrar, Central Registration Centre after allowing re-submission of such web form within fifteen days for rectification of the defects, if any, with effect from the 23rd February, 2020.

Rules 10, 12, sub-rule (1) of rule 19, sub-rules (1), (2), (3), (4), (7) and (9) of rule 38 of the Companies (Incorporation) Rules, 2014, for the words, “Form No INC-32 (SPICe), wherever they occur, the following words “**SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC -32)**” shall be substituted with effect from the 23rd February, 2020.

In Rule 38 of the Companies (Incorporation) Rules, 2014

In the marginal heading, for the word, “**Electronically (SPICE)**”, the words, “**Electronically Plus (SPICE +)**” shall be substituted with effect from the 23rd February, 2020.

In rule 38A of the Companies (Incorporation) Rules, 2014

–

- a. In the marginal heading for the words, '**and Employees' Provident Fund Organisation (EPFO) Registration** the following words, “**Employees' Provident Fund Organisation (EPFO) Registration and Profession Tax Registration and Opening of Bank Account**” shall be substituted.
- b. for the letters “AGILE”, the letters “AGILE - PRO”, shall be substituted;
- c. after clause (c), *the following clauses shall be inserted, namely: -*

“(c) Profession Tax Registration with effect from the 23rd February, 2020

(d) Opening of Bank Account with effect from 23rd February, 2020.”

Impact

As part of Government of India's Ease of Doing Business (EODB) initiatives, the Ministry of Corporate Affairs has introduced a new Web Form 'SPICe+' w.e.f. 23rd February, 2020 replacing the existing SPICe form. SPICe+ is an integrated Web form offering multiple services viz. name reservation, incorporation, DIN allotment (Maximum 3 DIN), mandatory issue of PAN, TAN, EPFO registration, ESIC registration, Profession Tax registration (Maharashtra) and Mandatory opening of Bank Account for the Company. It also facilitates allotment of GSTIN wherever so applied for by the Stakeholders. After introduction of SPICe+ web form RUN is applicable only for the change of name of the existing companies.

	5) New companies incorporated through SPICe+ and thereby have obtained EPFO/ESI numbers will have to file statutory returns only when they cross thresholds prescribed under the relevant Acts.
--	---

MCA has further amended the Exemptions notification no: G.S.R. 463(E), dated 5th June, 2015 related to Government Companies vide notification no: G.S.R. 151(E), dated 02nd March, 2020.

Before Amendment (Earlier)	After Amendment (Now)
<p>“Government Company” means any company in which not less than fifty one per cent of the paid-up share capital is held by;-</p> <p>(a) the Central Government, or</p> <p>(b) by any State Government or Governments, or</p> <p>(c) partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company;</p>	<p>(i) With this amendment the following new explanation is inserted in the definition of Government Company as per Section 2(45) of the Companies Act, 2013:</p> <p><i>Explanation-</i> For the purposes of this clause, the "paid up share capital" shall be construed as "total voting power", where shares with differential voting rights have been issued.</p> <p>Impact <i>With this insertion more clarity has been given to the definition of Government Company which has issued the Shares with the differential voting rights.</i></p> <p>(ii) The Serial Number 1 and entries relating thereto of notification number G.S.R.463 (E), dated 5th June, 2015, has been renumbered as Serial Number 1A.</p>

For serial number 26 relating to Chapter XII, first and second proviso to Section 188 (1) and the entries relating thereto of exemption notification number G.S.R.463(E), dated 5th June, 2015, the following entries has been substituted as under:

Before Amendment (Earlier)	After Amendment (Now)
	<p>First and Second proviso to Section 188 (1) shall not apply to –</p> <p>(a) A Government company in respect of contracts or arrangements entered into by it with any other Government company, or with Central Government or any State Government or any combination thereof;</p> <p>(b) A Government company, other than a listed company, in respect of contracts or arrangements other than those referred to in clause (a), in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before entering into such contract or arrangement.</p> <p>Impact <i>Before this amendment the contracts or arrangements with any other Government Company is only exempted,</i></p>

with this amendment the exemption is also extended to the contracts or arrangements with the Central Government or any State Government or any combination thereof.

Sensitization of Nidhi Companies towards compliance of provisions of Section 406 of the Companies Act, 2013 and Nidhi Rules, 2014 as amended vide Nidhi (Amendment) Rules, 2019 w.e.f 15.08.2019 and general public to invest in genuine and compliant Nidhis only.

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
	<p>In order to make regulatory regime for Nidhi Companies more effective and also to accomplish the objectives of transparency & investor friendliness in corporate environment of the country, the Central Government has recently amended the provisions related to NIDHI under the Companies Act, 2013 and the Rules (effective from 15.08.2019).</p> <p>Under Nidhi Rules, 2014, Nidhi is a company which has been incorporated as a Nidhi with the object of cultivating the habit of thrift and saving amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit.</p> <p>The amended provisions of the Companies Act (Section 406) and Nidhi rules (as amended w.e.f. 15.08.2019) require that the Nidhi companies have to apply to the Central government for updation of their status/declaration as Nidhi Company in Form NDH-4.</p> <p>The time-frame for applying to Central Government in form NDH-4 is as under: -</p> <p>(I) Companies incorporated as Nidhi before Nidhi Amendment Rules, 2019 i.e. 15.08.2019 have to apply within a period of one year from the date of its incorporation or within 9 months of the Nidhi Amendment Rules i.e. 15.08.2019 whichever is later.</p> <p>II) Companies incorporated as Nidhi on or after Nidhi Amendment Rules, 2019 i.e. 15.08.2019 have to apply within 60 days of expiry of one year from the date of incorporation or extended period (as granted by concerned Regional Director).</p> <p>1) In case a company does not comply with the above requirements, it shall not be allowed to file Form No. SH-7 (Notice to Registrar for any alteration of share capital) and Form PAS-3 (Return of Allotment).</p> <p>2) Such companies are required to ensure strict adherence to provision of Companies Act, 1956/2013 and Nidhi Rules, 2014 as amended. In case of contravention of the provisions of these Rules, the company and every officer of the company who is in default shall initially be punishable with fine which may extend to five thousand rupees and further fine in case of continuous violations.</p>

	3) Investors are advised to verify the status of Nidhi company from the notification issued by Central Government in official gazette before making any investment or deposit.
--	--

Notification No: G.S.R. 372(E)-The Companies (Share Capital and Debentures) Amendment Rules, 2020, dated 5th June, 2020

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
	<p>(i) In Rule 8, in sub-rule (4), in the second proviso of the Companies (Share Capital and Debentures) Rules, 2014, MCA has substituted the old definition of startup-company which was issued by the Department of Industrial Policy and Promotion (DIPP) vide Notification No. G.S.R. 180(E) dated 17th February, 2016 with the new definition as issued by the Department for Promotion of Industry and Internal Trade (DPIIT) vide Notification No. G.S.R. 127(E) dated 19th February, 2019.</p> <p>(ii) In Rule 8(4) in the second proviso of the Companies (Share Capital and Debentures) Rules, 2014 for the words: "five years" <i>The following shall be substituted</i> "ten years"</p> <p>Post Amendment Second proviso to Rule 8(4) of the Companies (Share Capital and Debentures) Rules, 2014 shall be read as under: A startup company as defined in notification number G.S.R. 127(E), dated the 19th February, 2019 issued by the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India, may issue sweat equity shares not exceeding 50% of its paid-up capital upto 10 (ten) years from the date of its incorporation or registration. <i>(Earlier the time period was upto 5 (five) years from the date of incorporation or registration.)</i></p>

Notification No: G.S.R. 59(E)-Application of Provisions of Companies Act, 2013 to a Limited Liability Partnership, dated 30th January, 2020

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
	After this notification the provisions of section 460 of the Companies Act, 2013 relating to Condonation of delay in certain cases were also be applicable to a limited liability partnership from the date of publication of this notification i.e. 30 th January, 2020.

Notification No: G.S.R.60 (E)-The Companies (Accounts) Amendment Rules, 2020, dated 30th January, 2020

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
	<p>In the Companies (Accounts) Rules, 2014 in rule 12, after sub-rule (1), the following sub- rule shall be inserted, namely: -</p> <p>(1A) Every Non-Banking Financial Company (NBFC) that is required to comply with Indian Accounting Standards (Ind AS) shall file the financial statements with Registrar together with Form AOC-4 NBFC (Ind AS) and the consolidated financial statement, if any, with Form AOC-4 CFS NBFC (Ind AS).</p>

INSOLVENCY & BANKRUPTCY CODE, 2016

Notification under section 4 of the Insolvency and Bankruptcy Code, 2016

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
	<p>In exercise of the powers conferred by the proviso to section 4 of the Insolvency and Bankruptcy Code, 2016, the Central Government hereby specifies <i>one crore rupees as the minimum amount of default</i> for the purposes of the said section.</p>

Extent of the Insolvency and Bankruptcy Code, 2016 to whole of India

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
	<p>According to the Jammu and Kashmir Reorganisation (Adaptation of Central Laws) Order, 2020, the Insolvency and Bankruptcy Code, 2016 applicable to whole of India.</p>

The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
	<p>The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 amended the Insolvency and Bankruptcy Code 2016.</p> <p>The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 inserted a new section 10A and new sub-section (3) in Section 66.</p>

	<p><i>Section 10A read as under:</i></p> <p>Section 10A. Suspension of initiation of corporate insolvency resolution process: Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf.</p> <p>Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.</p> <p>Explanation.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020.</p> <p><i>Section 66(3) read as under:</i></p> <p>Section 66(3): Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub-section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.</p>
--	---