

# **Entrepreneurs**

**Avoid penalties to Ensure Compliance and Peace of mind**

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Entrepreneurs are risk-takers but Smart Entrepreneurs also **Manage Risk** well and proactively !

This article reflects specifically on the **risk of non-compliance, penalties and penal action** !

While planning for their ventures Entrepreneurs generally prepare pilot plan and growth plan and they consider factors like idea, competition, business plan, finance & investment, brand, team (people) and launch. But do they prepare a plan to **Manage Risks** ?

They do factor in cost of legal fees and cost of compliances but they forget to factor in the **risk of penalties**, damages, cost, claims, class action suits and imprisonment for any kind of non-compliances and governance issues.

As per the new Companies Act, 2013 in India all Directors and Key Managerial Personnel are equally responsible for any non-compliance of law. Entrepreneurs need to protect themselves from all this liabilities and cost.

An Entrepreneur need to scope for compliances of various laws like

- The Companies Act 2013
- Income Tax Act , 1966
- GST, 2017
- IPR
- POSH, 2013
- FEMA, 1999
- Labour Laws
- Sector specific licenses and approvals

Under the Companies Act, 2013 recently section 454 of the Act regarding e-Adjudication has been notified, which means power is now with the regulator to levy penalties in case of any non-compliances and if repeated then stricter penalties to be levied in terms of monetary payment.

## **Amita Desai & Co., Company Secretaries, Mumbai –India**

Entrepreneurs should have their checklist for the various “relevant”\_compliances of the Companies Act, 2013. Though it can be outsourced to good professional Company Secretaries firm who are experts, efficient, cost effective, passionate, proactive, client oriented, valued adder and driven by ethics e.g. one key step could be to proactively organise a 12 month compliance calendar to avoid any non-compliances or heavy penalties.

**Simplifying & Ensuring compliance** for Business owners should be at the core of such Firm and the same could be achieved through organised checklists of relevant compliances, supported by proactive Compliance Calendars for timely reminders and actions.

We present a broad checklist of some key considerations and watchouts for Entrepreneurs. (Relevance may vary as per nature, structure and scale of Business)

1. Which type of entity the organisation has formed
2. Action calendar of 12 months with pop ups before last date
3. Action or no action brings disqualification and vacation of office
4. Disclosure of Interest and Related Party Transactions
5. Expiry of Digital Signature Certificate
6. Creation of charge on any assets to avoid advelorum fees for delay in filing
7. Taking care of interest of all stakeholders
8. Thresh hold limit of Turnover, Capital and Borrowings for applicability of various sections on Directors, the loan given or taken
9. Valuation of shares for fresh allotment
10. Investments made and safe custody of title deeds
11. Repository of various legal documents, title deeds, licenses and approvals
12. List of power of attorney holders
13. List of litigations , status and advocate , counsel opinion and strategy
14. Insurance Policies, Gratuity Policies and retention of employees plan
15. ESOP , granting , vesting and exercise as a tool to retain and attract team
16. Management of Investors section on website of the Company
17. Data Security and Cyber Security
18. Board process, Video Conference facilities and its recording
19. Compliance of Secretarial Standards
20. Various Policies like CSR, Risk Management, Related Party Transactions, POSH etc.

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21. Arrange for presentation to Board and employees updating about changes in law affecting the company
22. Chart of responsibility of each department heads

This is the minimum Company Law knowledge, a business owner needs to have in current times of increasing focus on corporate governance and zero tolerance in compliance is a buzz word. If he is alert and well aware he will maintain share of profit from such sudden unfactored penalties.

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