

Companies (Second Amendment) Act, 2002

Section 120 - Substitution of New Section for Section 621a

For section 627A of the principal Act, the following section shall be substituted, namely:--

621A. Composition of certain offences.-- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act (whether committed by a company or any officer thereof) not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by the Central Government on payment or credit, by the company or the officer, as the case may be, to the Central Government of such sums as that Government may prescribe:

Provided that the sum prescribed shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded:

Provided further that in prescribing the sum required to be paid or credited for the compounding of an offence under this sub-section, the sum, if any, paid by way of additional fee under sub-section (2) of section 611 shall be taken into account.

(2) Nothing in sub-section (1) shall apply to an offence committed by a company or its officer within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.--For the purposes of this section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) (a) Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon to the Central Government.

(b) Where any offence is compounded under this section, whether before or after the institution of any prosecution, an intimation thereof shall be given by the company to the Registrar within seven days from the date on which the offence is so compounded.

(c) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, either by the Registrar or by any shareholder of the company or by any person authorised by the Central Government against the offender in relation to whom the offence is so compounded.

(d) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the Registrar in writing, to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the company or its officer in relation to whom the offence is so compounded shall be discharged.

(4) The Central Government while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires a company or its officer to file or register with, or deliver or send to, the Registrar any return, account or other document, may, direct, by order, if it or he thinks fit to do so, any officer or other employee of the company to file or register

with, or on payment of the fee, and the additional fee, required to be paid under section 611, such return, account or other document within such time as may be specified in the order.

(5) Any officer or other employee of the company who fails to comply with any order made by the Central Government under sub-section (4) shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding (fifty thousand rupees) or with both.

(6) Notwithstanding anything contained in the Code of Criminal procedure, 1973--

(a) any offence which is punishable under this act with imprisonment or with fine, or with both, shall be compoundable with the permission of the Court, in accordance with the procedure laid down in that Act for compounding of offences;

(b) any offence which is punishable under this Act with imprisonment only or with imprisonment and also with fine shall not be compoundable.

(7) No offence specified in this section shall be compounded except under and in accordance with the provisions of this section."