

## **6. Cabinet approves Companies (Second Amendment) Bill, 2019**

**Prelims Syllabus:** Governance- Schemes & Policies

**Mains Syllabus:** GS-II Government policies and interventions for development in various sectors and Issues Arising out of their design and Implementation.

### **Why in News?**

- The Union Cabinet, chaired by the Prime Minister, Shri Narendra Modi has approved the Companies (Second Amendment) Bill, 2019 to amend the Companies Act, 2013.

### **Provisions of the Bill:**

- The Bill would remove criminality under the Act in case of defaults which can be determined objectively and which, otherwise, lack the element of fraud or do not involve larger public interest.
- This would also lead to further de-clogging of the criminal justice system in the country.
- The Bill would also further ease of living for law abiding corporates.
- Earlier, the Companies (Amendment) Act, 2015 amended certain provisions of the Act to remove difficulties faced in implementation of various provisions of the Act.
- **The major provisions of The Companies (Second Amendment) Ordinance, 2019:**

### **Re-categorisation of certain Offences:**

- The Ordinance re-categorizes 16 of these offences as civil defaults, where adjudicating officers may now levy penalties instead.
- These offences include: (i) issuance of shares at a discount, and, (ii) failure to file annual return.

### **Issue of shares at a discount:**

- It prohibits a company from issuing shares at a discount, except in certain cases.
- The company is liable to pay a fine between one lakh rupees and five lakh rupees every officer in default may be punished with imprisonment up to six months or fine between one lakh rupees and five lakh rupees on failure.
- Ordinance changes this to remove imprisonment for officers as a punishment.

### **Commencement of Business:**

- A company may not commence business, unless
- It files a declaration within 180 days of incorporation, confirming that every subscriber to the Memorandum of the company has paid the value of shares agreed to be taken by him.

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- It files a verification of its registered office address with the Registrar of Companies within 30 days of incorporation.

### **Registration of Charges:**

- **The Ordinance changes this to permit registration of charges:**
- within 300 days if the charge is created before the Ordinance, if not then it must be completed within six months from the date of the Ordinance, if not then the Registrar may grant another 60 days for registration.

### **Change in Approving Authority:**

- Change in period of financial year for a company associated with a foreign company, has to be approved by the have been transferred to central government.
- Similarly, any alteration in the incorporation document of a public company which has the effect of converting it to a private company, has to be approved by central government.

### **Declaration of Beneficial Ownership:**

- If a person holds beneficial interest of at least 25% shares in a company or exercises significant influence or control over the company, he is required to make a declaration of his interest.
- Failure to declare this interest, a person may either be fined, or imprisoned for up to one year, or both under the Ordinance.

### **Compounding:**

- Under the Act, a regional director can compound (settle) offences with a penalty of up to five lakh rupees.
- The Ordinance increases this ceiling to Rs 25 lakh.