

PREFACE TO REVISED EDITION

“Compliance is not a choice, it is a responsibility”

Diligence, Compliance and Good Governance have always been looked through the lens of absence of non-compliance or default. The law while enlisting the provision for actions to be undertaken and procedures to be followed under different circumstances and situations has been equally wary of the scenarios wherein such compliances may not be made in true letter and spirit. Hence, the outline of punishments in the form of fines & penalties and imprisonment also in certain cases, depending on the severity of default.

However, the downside of such punishments is that where criminal prosecution is provided for non-compliance of procedural requirements, it acts as a roadblock in attracting investment. Severe punitive measures for technical nature offences tend to hinder investment both from domestic and foreign investors. Criminalizing procedural lapses and minor non-compliances increases burden on businesses only.

Of late, in an attempt to promote the agenda of ease of doing business, to instill confidence in business and industry and to reduce the burden on the criminal justice system, the Government has initiated much needed reforms for decriminalisation of those offences under Corporate and Economic Laws which do not necessarily involve mens rea or the same is not established.

Given the altering dynamics of economic environment, business-friendly laws are the need of the hour. An act or omission which used to be of serious nature a decade ago need not necessarily be of the same gravity and consequence today. Therefore, the Government has initiated the process of decriminalisation of offences under various laws.

Keeping in view the changes made in the legal and regulatory environment, the Institute of Company Secretaries of India (ICSI) has made an attempt to analyze the amendments under various laws. The laws covered under this revised publication include the Companies Act, 2013, Limited Liability Partnership Act, 2008, Labour Codes, Jan Vishwas (Amendment of Provisions) Act, 2023 covering 42 legislations including Information Technology Act, 2000, Copyright Act, 1957, Trade Marks Act, 1999, Prevention of Money-laundering Act, 2002, and Boilers Act, 1923.

I place on record my sincere appreciation towards the Professional Research and Publication Committee headed by CS Venkata Ramana Rajavolu, Central Council Member, The ICSI for paving the way for revision of this publication titled 'Decriminalisation of Offences - Emerging Trends in Adjudication (Opportunities for Professionals)'.

I commend the dedicated efforts placed in by CS Kushal Kumar, Assistant Director and CS Bhakti Harindra Chawhan, Executive (Academics) of the Directorate of Academics headed by CS Lakshmi Arun, Director in the preparation of this revised publication under the overall leadership of CS Asish Mohan, Secretary, The ICSI.

I am hopeful that the publication will prove to be beneficial for the members as well as other stakeholders.

Place : New Delhi

CS B. Narasimhan

Date : June 07, 2024

President

The Institute of Company Secretaries of India