

# LEGALFOXES LAW TIMES

## AMENDMENT: A BOON OR BANE ?

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Abstract-

The society is changing rapidly and the dynamic change in the society demands for an unmitigated change or amendment in the field of legislation as well. In order to be able to keep its pace with the society the legal field should evidence a consistent yet balanced change. A change in the law does not imply just an amendment in the Official Gazette. Law makers generally go through a lot of difficulties in amending these ongoing tenets that are being followed since forever. The law makers are bound to be very careful about the various consequences of such amendments. The revocation of a particular legal statute becomes more difficult, when the law is immensely accepted by the public and the law gained itself a lot of belief from the human domain. There is always a dilemma within the lawmakers, whether the later law will be accepted by the society like the former one. The most relevant change arrived in the society as a result of globalisation. This globalisation demands for an exclusive change in the legal structures of the society. As a result of drastically changing connections and economic curves, there needs to be an amendment in the functioning of the national governance, in order to keep up with the process of globalisation.

Introduction-

A firm discussion on amendments gradually leads us to the imperceptive notion pertinent to the condition of the various law suits that have been pending since long back and falls under the former statutes. [When the companies Act,1956](#), got amended, many such questions or confusions were witnessed in the people. The human domain was bewildered with the thought that what if the court annuls all the previous suits that fall under the former statute. The companies use mammoth amount of money in bringing the suits, the revocation of a single suit would lead to massive loss on the company's part. India consists of numerous multinational corporations, domestic companies which are entrenched in various industrial and service sectors. India involved itself into the global trade market and permitted the entry of the foreign trade companies in the country. The entry of the foreign merchants helped the Indian markets in order to gain a proper exposure of the global trading markets. The Indian merchants were able to enhance their knowledge regarding various aspects of foreign business pertinent to their respective sectors. The entry of the foreign trade market also led to an immense progress in the country's economy. The rise in the economy demanded a better legislation system which could conduct the legal work more impeccably and efficiently without any kind of retrogression.

[The companies Act, 2013](#), was introduced by the Government of India in order to provide a robust framework to the business statutes that are already present in the country. This new act has been introduced by making proper amendments to the former companies Act,1956. The newly formed companies act provides more modern and flexible approach in meeting the requirements or urgencies of the business sectors present in India. This new act helped a lot in coping up with the economic abyss as well. There have been many newly formed or reformed legislations that were introduced by the government in order to keep the legislation system

moving in a good pace along with the society and also to maintain a proper balance with consistently changing policies pertinent to different sectors in the field of business.

[The Arbitration and Conciliation act,1996, got amended on August 9,2019.](#) Some of the changes that took place in the existing act includes-

1. Section 1(ca) has been introduced to define an arbitral institution which needs to be designated by the Supreme Court and the High Court.
2. Section 11 discusses the appointment of arbitrators under which the Supreme Court ( in cases of international commercial arbitration) and the High Court ( in cases other than international commercial arbitration) needs to designate the arbitral institutions for the appointment of respective arbitrators. The arbitration council of India needs to grade these arbitral institutions. In case, there is an absence of such arbitral institutions, the Chief Justice of the pertinent High Court is supposed to organise a panel of arbitrators in order to continue the proper functionality of the arbitral institutions.
3. Part 1A of this act, has acknowledged the concept of Arbitration Council of India, which will be appointed by the Central Government. The council would witness the presence of a judge of the Supreme Court or the High Court, as the Chairperson of the Council. The associated members of the Council would include other intellectual personalities having enormous knowledge in the field of arbitrational practices. The area of focus of the Arbitration Council will be the promotion and encouragement of mediation and arbitration in the country. The council is supposed to establish the rules and regulations for the proper functioning of the arbitrational institutions, their gradations and the proper conduct of the arbitrators.

4. The gradation of the Arbitrational institutions will be done by the Council, exclusively, on the basis of the performance, credibility, functionality and the conduct of the respective arbitrational institution.
5. The amendment of section 23, says that, the statement of claim and defence needs to be completed within six months from the date on which the arbitrators received a notice of their appointment. In case of a pending application, the duty of the appointed arbitrator will continue until the discard of the mentioned application.
6. In Section 34, the words “furnishes proof that” got replaced with “establishes on the basis of the record of the arbitral tribunal”, in order to give the assertion to the parties that they can keep their faith on the records prepared by the arbitral tribunal.

The above mentioned legislative changes is of course a milestone that the government has achieved. These changes in the arbitration policies is a positive step towards the betterment of the field of arbitration and these changes helps the arbitrational institutions in bringing out their efficiency in the field of arbitration. India is still in going through an abyss in this particular field. The introduction of such amendments might lead to a positive change in the performance of Indian Arbitrational institutions in the global pedestal.

#### Conclusion-

Companies in the business sector, invest prodigiously in the various judicial proceedings or legal suits that they bring in. Globalisation at certain times, might lead to unanticipated changes in the field of business, which the companies might find strenuous to cope up with. However, there is

the presence of NCLT, in order to smoothen the transactions of the cases between the company and its creditor with a notion to avoid any kind of legal dilemma in the respective sectors of work. Although, these amendments might have brought certain difficulties or hurdles to the business practitioners, these amendments have also provided substantial resources to the companies in order to develop their performance in their respective sectors.



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