

LEGAL CHECKLIST FOR INDIAN STARTUPS

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1. BUSINESS FORMATION & REGISTRATION

Company Incorporation Checklist

Pre-Incorporation Requirements:

- ☐ **Digital Signature Certificate (DSC)**
 - Required for all directors
 - Class 2 DSC from authorized agencies
 - Valid for 2 years
 - Cost: ₹1,000-₹2,000 per DSC
- ☐ **Director Identification Number (DIN)**
 - Mandatory for all directors
 - Apply online at MCA portal
 - Processing time: 1-2 days
 - Cost: ₹500 per DIN
- ☐ **Company Name Reservation**
 - Check availability on MCA portal
 - Reserve through RUN (Reserve Unique Name)
 - Valid for 60 days (extendable)
 - Cost: ₹1,000

Incorporation Documents Required:

- ☐ **Memorandum of Association (MOA)**
 - Company's constitution and scope
 - Objects clause defining business activities
 - Capital clause with authorized capital
 - Must be signed by subscribers
- ☐ **Articles of Association (AOA)**
 - Internal management rules
 - Board composition and powers
 - Shareholder rights and obligations
 - Amendment procedures
- ☐ **Form SPICE+ (Simplified Proforma for Incorporating Company Electronically)**
 - Part A: Company incorporation
 - Part B: Application for services
 - PAN and TAN application included
 - Bank account opening facilitation

Post-Incorporation Compliance:

- ☐ **Certificate of Incorporation**
 - Issued by Registrar of Companies
 - Enables business commencement
 - Corporate Identity Number (CIN) assigned
 - Keep original safely
- ☐ **PAN (Permanent Account Number)**
 - Mandatory for all companies
 - Required for bank account opening
 - Needed for tax compliance
 - Processing time: 15 days
- ☐ **TAN (Tax Deduction Account Number)**
 - Required if deducting TDS
 - Mandatory for salary payments
 - Apply within 30 days of incorporation
 - Processing time: 7-10 days

Startup India Registration

Benefits of Startup India Recognition:

- ☐ **Tax Benefits**
 - 3-year income tax exemption
 - No capital gains tax on sale of residential property
 - Investment above fair market value not taxable
- ☐ **IPR Benefits**
 - 80% reduction in patent filing fees
 - Fast-track patent examination
 - Panel of facilitators for IP services
- ☐ **Compliance Benefits**
 - Self-certification for labor and environment laws
 - Faster exit through fast-track closure
 - No inspection for first 3 years

Eligibility Criteria:

- ☐ **Age Requirement**
 - Incorporated not more than 10 years ago
 - For biotechnology startups: 10 years from date of incorporation
- ☐ **Turnover Criteria**
 - Annual turnover not exceeding ₹100 crores in any financial year
- ☐ **Innovation Requirement**
 - Working towards innovation, development of new products/services
 - Improvement of existing products/services/processes
 - Must have scalable business model with high potential for employment generation

Required Documents:

- ☐ Certificate of Incorporation
 - ☐ Memorandum and Articles of Association
 - ☐ Brief description of business and how it qualifies as startup
 - ☐ Letter of recommendation (if applicable)
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2. INTELLECTUAL PROPERTY PROTECTION

Patents

Patent Filing Checklist:

- ☐ **Prior Art Search**
 - Search existing patents in relevant field
 - Check global patent databases
 - Ensure novelty and non-obviousness
 - Document search results
- ☐ **Patent Application Types**
 - Provisional Application (₹1,600 for startups)
 - Complete Application (₹8,000 for startups)
 - PCT International Application
 - Deadline: 12 months from provisional filing
- ☐ **Required Documents**
 - Patent specification with claims
 - Abstract of invention
 - Drawings (if applicable)
 - Form 1 (Application for patent)
 - Power of attorney (if filing through agent)

Patent Portfolio Strategy:

- ☐ **Core Technology Protection**
 - Identify key innovations
 - File patents for critical features
 - Consider international filing strategy
 - Budget for maintenance fees
- ☐ **Freedom to Operate Analysis**
 - Check for existing patents that might be infringed
 - Conduct landscape analysis
 - Plan design-around strategies
 - Consider licensing opportunities

Trademarks

Trademark Registration Process:

- [] **Trademark Search**
 - Search existing trademarks in relevant classes
 - Check similar marks in related goods/services
 - Verify availability of domain names
 - Document search results
- [] **Application Filing**
 - Choose appropriate trademark classes
 - File Form TM-A with required fees
 - Provide clear representation of mark
 - Include goods/services description
- [] **Registration Timeline**
 - Examination: 12-18 months
 - Opposition period: 4 months
 - Registration certificate: 1-2 months
 - Total process: 18-24 months

Trademark Strategy:

- [] **Brand Protection Portfolio**
 - Register company name as trademark
 - Protect product/service names
 - Consider logo and tagline registration
 - Plan for international markets

Copyrights

Copyright Protection:

- [] **Automatic Protection**
 - No registration required for copyright
 - Protection from date of creation
 - Maintain records of creation dates
 - Use copyright notices
- [] **Voluntary Registration**
 - File application with Copyright Office
 - Provides legal evidence of ownership
 - Useful for enforcement actions
 - Processing time: 12-18 months

Software Copyright:

- [] **Source Code Protection**
 - Copyright in computer programs
 - Maintain version control records
 - Use appropriate licensing terms
 - Consider open source implications

Trade Secrets

Trade Secret Protection:

- [] **Identification of Trade Secrets**
 - List confidential information
 - Assess commercial value
 - Ensure secrecy measures
 - Limit access on need-to-know basis
- [] **Protection Measures**
 - Non-disclosure agreements (NDAs)
 - Employee confidentiality clauses
 - Physical and digital security measures
 - Regular training on confidentiality

3. EMPLOYMENT & HR LEGAL FRAMEWORK

Founder Agreements

Founder Agreement Essentials:

- [] **Equity Distribution**
 - Initial equity allocation among founders
 - Vesting schedules for founder shares

- Conditions for equity forfeiture
- Anti-dilution protections
- [] **Roles and Responsibilities**
 - Clearly defined roles for each founder
 - Decision-making authority
 - Time commitment requirements
 - Performance expectations
- [] **Exit Provisions**
 - Voluntary exit procedures
 - Involuntary removal conditions
 - Buyback terms for departing founders
 - Non-compete and non-solicitation clauses

Key Clauses to Include:

- [] **Vesting Schedule**
 - 4-year vesting with 1-year cliff
 - Acceleration on termination without cause
 - Acceleration on change of control
 - Good leaver vs. bad leaver provisions
- [] **Intellectual Property Assignment**
 - All IP created belongs to company
 - Pre-existing IP disclosure
 - Work-for-hire provisions
 - Future invention assignment

Employee Stock Option Plan (ESOP)

ESOP Framework:

- [] **ESOP Pool Creation**
 - Reserve 10-20% shares for employees
 - Board approval for ESOP scheme
 - Valuation for exercise price determination
 - Vesting and exercise conditions
- [] **Legal Documentation**
 - ESOP scheme document
 - Individual option grant letters
 - Exercise agreements
 - Share certificates

ESOP Best Practices:

- [] **Vesting Schedule Design**
 - 4-year vesting with 1-year cliff
 - Performance-based vesting options
 - Accelerated vesting triggers
 - Treatment on termination
- [] **Tax Implications**
 - FBT (Fringe Benefit Tax) considerations
 - Employee tax on exercise
 - Capital gains on sale
 - Tax planning strategies

Employment Contracts

Essential Employment Terms:

- [] **Job Description and Role**
 - Detailed role responsibilities
 - Reporting structure
 - Performance expectations
 - Review and promotion criteria
- [] **Compensation Structure**
 - Base salary and components
 - Variable pay and bonuses
 - Benefits and perquisites
 - ESOP participation
- [] **Termination Provisions**
 - Notice period requirements
 - Severance payment terms
 - Garden leave provisions
 - Return of company property

Protective Clauses:

- ☐ **Confidentiality and Non-Disclosure**
 - Definition of confidential information
 - Obligations during and after employment
 - Remedies for breach
 - Survival of obligations
- ☐ **Non-Compete and Non-Solicitation**
 - Restrictions on competing activities
 - Customer non-solicitation
 - Employee non-solicitation
 - Geographic and temporal limitations

Labor Law Compliance

Central Labor Laws:

- ☐ **The Code on Wages, 2019**
 - Minimum wage compliance
 - Timely payment of wages
 - Record maintenance
 - Annual returns filing
- ☐ **The Industrial Relations Code, 2020**
 - Standing orders (if >300 employees)
 - Trade union recognition
 - Dispute resolution mechanisms
 - Retrenchment and layoff procedures
- ☐ **The Code on Social Security, 2020**
 - EPF registration and compliance
 - ESI registration (if applicable)
 - Gratuity payment
 - Maternity benefit compliance

State-Specific Compliances:

- ☐ **Professional Tax**
 - Registration with state authorities
 - Monthly deduction and deposit
 - Annual returns filing
 - Employee enrollment
 - ☐ **Contract Labor Laws**
 - Registration if using contract labor
 - License for contractors
 - Welfare fund compliance
 - Record maintenance
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4. CONTRACTS & AGREEMENTS

Customer Agreements

Software/SaaS Agreements:

- ☐ **Service Level Agreements (SLAs)**
 - Uptime guarantees
 - Performance metrics
 - Penalty clauses for non-compliance
 - Service credits and remedies
- ☐ **Terms of Service**
 - User rights and obligations
 - Acceptable use policies
 - Limitation of liability
 - Dispute resolution mechanisms
- ☐ **Data Processing Agreements**
 - Data controller vs. processor roles
 - Data processing purposes and scope
 - Security measures and obligations
 - Data breach notification procedures

E-commerce Terms:

- ☐ **Terms and Conditions**
 - Product/service descriptions

- Pricing and payment terms
- Delivery and fulfillment
- Return and refund policies
- **[] Privacy Policy**
 - Data collection practices
 - Use and sharing of information
 - User rights and choices
 - Cookie policies

Vendor and Supplier Agreements

Key Commercial Terms:

- **[] Scope of Work/Services**
 - Detailed specifications
 - Deliverables and timelines
 - Quality standards
 - Change management process
- **[] Payment Terms**
 - Payment schedule and milestones
 - Invoice processing procedures
 - Late payment penalties
 - Currency and tax implications

Risk Management Clauses:

- **[] Liability and Indemnification**
 - Limitation of liability caps
 - Mutual indemnification clauses
 - Insurance requirements
 - Force majeure provisions
- **[] Intellectual Property**
 - IP ownership and licensing
 - Work-for-hire provisions
 - IP indemnification
 - Open source compliance

Partnership and Joint Venture Agreements

Strategic Partnership Framework:

- **[] Partnership Objectives**
 - Clearly defined goals
 - Success metrics and KPIs
 - Resource commitments
 - Timeline and milestones
- **[] Governance Structure**
 - Joint steering committee
 - Decision-making process
 - Dispute resolution mechanisms
 - Performance review procedures

Revenue and Cost Sharing:

- **[] Financial Arrangements**
 - Revenue sharing models
 - Cost allocation mechanisms
 - Billing and collection procedures
 - Financial reporting requirements
- **[] Termination and Exit**
 - Termination triggers and procedures
 - Wind-down process
 - Post-termination obligations
 - Asset and data return

5. COMPLIANCE & REGULATORY REQUIREMENTS

Corporate Governance

Board Compliance:

- **[] Board Composition**
 - Minimum 3 directors for private companies
 - Independent director requirements (if applicable)

- Woman director (if paid-up capital > ₹100 crores)
- Resident director requirement
- [] **Board Meetings**
 - Minimum 4 meetings per year
 - Quorum requirements
 - Notice and agenda circulation
 - Minutes preparation and approval
- [] **Annual Compliance**
 - Annual General Meeting (AGM)
 - Board report preparation
 - Auditor appointment/reappointment
 - Filing of annual returns

ROC Filings:

- [] **Mandatory Annual Filings**
 - Form AOC-4 (Financial statements)
 - Form MGT-7 (Annual return)
 - ADT-1 (Auditor's report)
 - Due date: Within 30 days of AGM
- [] **Event-Based Filings**
 - Changes in directors (Form DIR-12)
 - Changes in share capital (Form PAS-3)
 - Changes in registered office (Form INC-22)
 - Charge creation/modification (Form CHG-1/CHG-9)

Tax Compliance

Direct Tax Obligations:

- [] **Income Tax Compliance**
 - Advance tax payments
 - TDS compliance and returns
 - Annual income tax return filing
 - Transfer pricing documentation
- [] **Startup Tax Benefits**
 - Section 80-IAC exemption application
 - DPIIT recognition maintenance
 - Fair market value compliance
 - Capital gains exemption claims

Indirect Tax Compliance:

- [] **GST Registration and Compliance**
 - GST registration (if turnover > ₹40 lakhs)
 - Monthly/quarterly GST returns
 - E-way bill compliance
 - Input tax credit management
- [] **Digital Services Tax**
 - Equalisation Levy (2% on specified digital services)
 - Applicability to non-resident service providers
 - B2B services above ₹1 lakh threshold
 - Annual return filing

Foreign Exchange Regulations

FEMA Compliance for Foreign Investment:

- [] **FDI Reporting Requirements**
 - Form FC-GPR for FDI receipt
 - Annual return in Form FC-IL
 - Downstream investment reporting
 - Compliance certificates from auditors
- [] **ESOP and Share Allotment to NRIs**
 - RBI approval for ESOP to NRI employees
 - Pricing guidelines compliance
 - Reporting requirements
 - Repatriation permissions

Foreign Remittances:

- [] **Outward Remittances**
 - LRS (Liberalised Remittance Scheme) compliance
 - Form A2 for business remittances

- CA certification for remittances above \$25,000
 - RBI reporting requirements
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6. FUNDING & INVESTMENT LEGAL FRAMEWORK

Pre-Investment Legal Preparation

Corporate Housekeeping:

- ☐ **Cap Table Cleanup**
 - Accurate shareholding records
 - Resolution of any share transfer disputes
 - Proper documentation of all share allotments
 - ESOP accounting and disclosure
- ☐ **Legal Audit**
 - Review of all material contracts
 - Compliance status verification
 - Litigation and dispute analysis
 - IP portfolio review

Due Diligence Preparation:

- ☐ **Document Organization**
 - Virtual data room setup
 - Categorization of all documents
 - Access control and logging
 - Regular updates and maintenance
- ☐ **Legal Documentation**
 - Corporate documents (MOA, AOA, resolutions)
 - Financial statements and auditor reports
 - Material contracts and agreements
 - IP registration certificates

Investment Documentation

Term Sheet Negotiation:

- ☐ **Commercial Terms**
 - Investment amount and valuation
 - Liquidation preferences
 - Anti-dilution provisions
 - Board composition
- ☐ **Investor Rights**
 - Information rights
 - Inspection rights
 - Tag-along and drag-along rights
 - Preemptive rights

Definitive Documents:

- ☐ **Share Purchase Agreement (SPA)**
 - Purchase price and payment terms
 - Representations and warranties
 - Conditions precedent
 - Indemnification provisions
- ☐ **Shareholders' Agreement (SHA)**
 - Governance and control provisions
 - Board composition and functioning
 - Reserved matters and consent rights
 - Transfer restrictions

Post-Investment Compliance

Regulatory Filings:

- ☐ **ROC Filings**
 - Form PAS-3 for share allotment
 - Form SH-7 for changes in shareholding
 - Updated memorandum filing
 - Board resolutions filing
- ☐ **FEMA Compliance**
 - Form FC-GPR for foreign investment
 - Pricing guidelines compliance
 - Sectoral cap compliance

- Downstream investment implications

Ongoing Obligations:

- ☐ **Investor Reporting**
 - Monthly/quarterly management reports
 - Annual audited financials
 - Budget and forecast updates
 - Material event notifications
 - ☐ **Corporate Governance**
 - Board meeting compliance
 - Investor consent for reserved matters
 - Information sharing obligations
 - Audit committee functioning
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7. DATAPROTECTION & PRIVACY LAWS

Personal Data Protection Bill (Expected)

Data Protection Framework:

- ☐ **Data Classification**
 - Personal data identification
 - Sensitive personal data categorization
 - Critical personal data classification
 - Cross-border transfer restrictions
- ☐ **Consent Management**
 - Free, informed, and specific consent
 - Granular consent options
 - Consent withdrawal mechanisms
 - Age verification for minors

Compliance Requirements:

- ☐ **Data Protection Officer (DPO)**
 - Appointment requirements
 - Qualifications and independence
 - Reporting and governance
 - Training and awareness
- ☐ **Data Protection Impact Assessment (DPIA)**
 - High-risk processing identification
 - Impact assessment methodology
 - Mitigation measures
 - Regular review and updates

IT Act, 2000 and Rules

Reasonable Security Practices:

- ☐ **Data Security Measures**
 - Technical safeguards implementation
 - Organizational security measures
 - Access controls and authentication
 - Incident response procedures
- ☐ **Data Breach Notification**
 - Internal breach response team
 - Data subject notification procedures
 - Regulatory reporting requirements
 - Documentation and record keeping

Intermediary Liability:

- ☐ **Safe Harbor Compliance**
 - Due diligence requirements
 - Content monitoring obligations
 - Grievance redressal mechanisms
 - Government cooperation
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8. TAX & FINANCIAL COMPLIANCE

Startup Tax Benefits

Section 80-IAC Benefits:

- ☐ **Eligibility Criteria**
 - DPIIT recognition as startup
 - Incorporation after April 1, 2016
 - Annual turnover below ₹100 crores
 - Innovation and scalability requirements
- ☐ **Tax Exemption Claims**
 - 100% deduction of profits for 3 consecutive years
 - Election of beneficial assessment year
 - Carry forward of losses
 - MAT implications

Angel Tax Relief:

- ☐ **Fair Market Value Compliance**
 - Valuation by merchant banker
 - DCF method application
 - DPIIT-recognized startup exemption
 - Documentation requirements

Transfer Pricing

Applicability and Compliance:

- ☐ **International Transactions**
 - Associated enterprise identification
 - Transaction documentation
 - Arm's length pricing
 - Economic analysis
- ☐ **Domestic Transfer Pricing**
 - Specified domestic transactions
 - ₹20 crore threshold
 - Documentation requirements
 - Compliance obligations

GST Compliance

Registration and Returns:

- ☐ **GST Registration**
 - Threshold limit monitoring
 - State-wise registration
 - E-commerce operator registration
 - Composition scheme eligibility
- ☐ **Return Filing**
 - GSTR-1 (Monthly/Quarterly)
 - GSTR-3B (Monthly)
 - Annual return (GSTR-9)
 - Reconciliation statements

9. INDUSTRY-SPECIFIC REGULATIONS

Technology Sector

Software and IT Services:

- ☐ **Software Technology Parks (STP) Scheme**
 - Export benefits and incentives
 - Duty-free import permissions
 - Single window clearance
 - Performance obligations
- ☐ **Quality Certifications**
 - ISO 27001 for information security
 - CMMI for process maturity
 - SOC 2 for service organizations
 - Industry-specific certifications

E-commerce and Digital Platforms:

- ☐ **FDI Policy Compliance**
 - Marketplace vs. inventory model
 - Related party transaction restrictions
 - Equity funding limitations
 - Compliance monitoring
- ☐ **Consumer Protection**

- Consumer Protection Act compliance
- Grievance redressal mechanisms
- Product liability considerations
- Advertising and marketing regulations

FinTech Sector

Digital Payments:

- ☐ **Payment Aggregator Licensing**
 - RBI authorization requirements
 - Capital and operational criteria
 - Compliance and monitoring
 - Reporting obligations
- ☐ **Prepaid Payment Instruments**
 - PPI licensing requirements
 - KYC and AML compliance
 - Operational guidelines
 - Consumer protection measures

Lending and NBFC:

- ☐ **NBFC Registration**
 - RBI registration requirements
 - Minimum capital requirements
 - Compliance framework
 - Prudential norms
- ☐ **Digital Lending Guidelines**
 - Lending service provider regulations
 - Data privacy and protection
 - Fair practices code
 - Grievance redressal

HealthTech Sector

Telemedicine:

- ☐ **Telemedicine Practice Guidelines**
 - Doctor registration requirements
 - Technology platform compliance
 - Patient consent and privacy
 - Medical record maintenance
- ☐ **Digital Health ID**
 - ABDM (Ayushman Bharat Digital Mission) compliance
 - Health ID generation and linking
 - Data sharing protocols
 - Interoperability standards

Medical Devices:

- ☐ **Medical Device Rules**
 - Classification and registration
 - Clinical evaluation requirements
 - Quality management systems
 - Post-market surveillance

10. EXIT STRATEGY LEGAL CONSIDERATIONS

Mergers and Acquisitions

Pre-Transaction Preparation:

- ☐ **Legal Due Diligence**
 - Comprehensive document review
 - Compliance status verification
 - Material contract analysis
 - Litigation and dispute assessment
- ☐ **Corporate Housekeeping**
 - Board and shareholder approvals
 - Regulatory compliance updates
 - Financial statement preparation
 - Tax clearance certificates

Transaction Documentation:

- ☐ **Letter of Intent (LOI)**

- Transaction structure outline
- Key commercial terms
- Due diligence scope
- Exclusivity provisions
- [] **Definitive Agreements**
 - Asset/share purchase agreement
 - Disclosure schedules
 - Escrow arrangements
 - Post-closing adjustments

Initial Public Offering (IPO)

Pre-IPO Preparation:

- [] **Corporate Restructuring**
 - Shareholding simplification
 - Subsidiary consolidation
 - Related party transaction cleanup
 - Governance enhancement
- [] **Regulatory Compliance**
 - SEBI ICDR regulations compliance
 - Minimum public shareholding requirements
 - Promoter classification
 - Independent director appointment

IPO Process:

- [] **DRHP Filing**
 - Draft Red Herring Prospectus preparation
 - SEBI review and comments
 - Public comment period
 - Final prospectus filing
- [] **Post-IPO Compliance**
 - Continuous disclosure obligations
 - Quarterly result filings
 - Annual report requirements
 - Corporate governance compliance

Strategic Exit Planning

Investor Exit Rights:

- [] **Tag-Along Rights**
 - Co-sale rights implementation
 - Proportionate participation
 - Price and terms matching
 - Documentation requirements
- [] **Drag-Along Rights**
 - Mandatory sale provisions
 - Minority protection measures
 - Fair value determination
 - Completion conditions

Tax Optimization:

- [] **Capital Gains Planning**
 - Holding period optimization
 - Long-term vs. short-term gains
 - Exemption availment
 - Tax efficient structures

COMPLIANCE CALENDAR

Monthly Compliance:

- [] **15th of every month:**
 - TDS deposit for salary payments
 - Professional tax deposit
- [] **20th of every month:**
 - GSTR-3B filing (if GST registered)
 - TDS return filing (if applicable)

Quarterly Compliance:

- [] **Within 15 days of quarter end:**
 - Investor reporting (if applicable)
 - Board meeting for quarterly results
- [] **Within 30 days of quarter end:**
 - Advance tax payment
 - TDS certificate issuance

Annual Compliance:

- [] **Within 30 days of AGM:**
 - ROC annual filing (AOC-4, MGT-7)
 - Auditor's report filing
- [] **By September 30:**
 - Income tax return filing
 - Transfer pricing documentation
- [] **By December 31:**
 - Annual GST return filing
 - FEMA annual return filing

EMERGENCY LEGAL CONTACTS

Government Agencies:

- **ROC Helpdesk:** 1800-208-8944
- **GST Helpline:** 1800-103-4786
- **Income Tax Helpline:** 1800-103-0025
- **Startup India Helpdesk:** 1800-115-565

Professional Services:

- **Legal Emergency:** [Your legal counsel contact]
- **CA Emergency:** [Your chartered accountant contact]
- **CS Emergency:** [Your company secretary contact]

This legal checklist is compiled by SAKEC E-Cell based on current Indian laws and regulations. Always consult with qualified legal professionals for specific legal advice.

Disclaimer: This checklist is for informational purposes only and should not be considered as legal advice. Laws and regulations change frequently, and professional legal consultation is recommended.

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