

## LAWS

Startup in India is like the face of a new innovative idea under practical application and expression of an idea that is implemented to be worked on. A startup is an entrepreneurial business which is eager to catch the market pace and walk with matching the footsteps for other business to exist in the market for a long time and secure a position.

A startup can be in the form of partnership, sole proprietorship, etc. Though a startup venture does not fall into proper corporate culture in starting, it does have the legal responsibilities to be fulfilled while starting and engaging in the business for growth and proper legal advancements. An entrepreneur faces and tries to solve a lot of problems in business but he/she should not forget the eyes of laws on all decisions.

There are basic legal responsibilities and acts which are divided into 8 legal points for every business efficient working.

### 1) Business Structure Formalization

There is a need for understanding and applying proper business structure because of the different business structure have different business applications while carrying out the business. There are different forms of business structure such as a proprietorship, partnership, limited liability partnership, and private limited company.

There are different basic legal details such as registration, legal status, taxation, member liability, number of members allowed, etc. Example:- legal status explains that the proprietorship and partnership do not have different legal entities and liability is on the promoter himself and in limited liability partnership, a private limited company separate legal entity is recognized and the promoters are not responsible personally for the liabilities.

### 2) Licensing Business

Every business needs licenses according to the type of business carried out. Before launching a startup the appropriate licensing issuing process must start to stay away from the legal battles at the inception. All the licenses vary from business to business. For example:- if an e-commerce company has to be started then VAT tax, service tax, registration, and professional taxes would be applied. The common licensing applied for most of the business under the law is the shop and establishment act, 1953.

### 3) Taxation And Accounting Laws

The government scheme of startup India launched provided many tax exemptions for startups. Different business needs different tax policy to be applied according to the tax and business structure applied. For tax exemptions in a startup, the first 7 years' lifespan has can be availed for tax benefits. The organization must be registered as the limited liability partnership, company. The **total** turnover for the starting years must not be more than 25 crores annually.

**Every** firm or business needs to maintain proper accounts and tax audits to adhere to the taxation rules **applied** and adhered to in the country.

### 4) Labour Laws

As **every** business firm has employees or labour which helps in proper and efficient functioning daily. **Many laws related to labours** like minimum wages act, gratuity, Provident funds payment, paid holidays to workers, maternity benefits, harassment at workplace, payment of bonus, etc.

Even the government has provided an exemption from labour inspection for a startup if they apply all the major 9 labour laws of the country regularly for worker's benefit:

- The Industrial Disputes Act, 1947
- The Trade Union Act, 1926
- The Inter-State Migrant Workmen (Regulation of Employment and Service) Act, 1979
- The Payment of Gratuity Act, 1972
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Employees' State Insurance Act, 1948.
- Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996

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- The Industrial Employment (Standing Orders) Act, 1946
- The Contract Labour (Regulation and Abolition) Act, 1970

Proper employee's and worker's policies may help in increasing the morale and efficiency in the working of the workers.

### 5) Intellectual Property Rights Protection

Startups many times come up with unique unusual ideas that can be protected in this world using certain laws. Our innovative product, improved process or procedure of making something in a better way can be counted as our innovative property rights.

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The startup scheme for intellectual property rights is related to the startup India program. This scheme would make sure the protection and commercialization of intellectual property and manage the trademark, copyright, and designs involved in the business startup. Under these regulations for new startups, the government has reduced the patent fees by 80%. The panel would also have the duty to inform people in the market about the procedure of filing for patents or any other intellectual property.

### 6) Foreign Investments

For encouraging foreign investment in the startup there are regulations for foreign venture capital investors (FVCI). Schedule 6 of the foreign exchange management act (FEMA), 2000, and the third amendment in this same act in 2016 has used for regulating investments.

Any investor from abroad may contribute to the 100% of the capital of the Indian startup engaged in any activity or business under Schedule 6 of Notification No. FEMA. The equity or debt instruments can be issued instead of foreign remittance in a firm.

### 7) Business Contract Management

The proper legal contract is judged under the Indian contract act, 1872. For making a valid contract the conditions in Section 10 of the Contract Act must be fulfilled. The first contract in business is the employment contract which should be effectively made. The salary, stock options, scope of work, etc should be discussed properly.

The non-disclosure agreements would also prove beneficial for the startup as for setting up the startup host has to share ideas about the working to investors, suppliers, customers and from this, there is a huge possibility of misuse of ideas. So the nondisclosure contracts help in preventing the information from getting spread.

### 8) Winding Up Of Business

**When** a business has started the laws must be known about the windup because no one knows **when the worst** would come. The winding-up process is a systematic process with 3 modes of **winding-up** which are fast track exit, court or tribunal route, and voluntary closure.

In the **fast track exit**, the company should not have any assets liabilities left and no past business must be entertained in the process of winding up and the company's name can be removed afterward from the registrar of companies (ROC).

In the **voluntary closure**, all the accounts must be settled by the company that is the shareholders and the creditors must be on the same line.

In the **court or tribunal closure**, the prolonged court proceedings are involved and are a hectic procedure with the stakeholders.

The Insolvency and Bankruptcy Bill, 2015 is also used for easy and efficient business windup. The Ministry of Corporate Affairs has notified sections 55 to 58 of the Insolvency and Bankruptcy Code, 2016, to efficiently monitor the insolvency resolution process and the fast track process requires a startup as per government policy.

Hence, these are the basic legal steps for a framework of the startup to be formed. The legal knowledge helps to be aware of the process for setting up and availing the benefits provided by the government under different schemes for efficient working and establishing a startup.

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