



THE INSTITUTE OF  
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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(Under the jurisdiction of Ministry of Corporate Affairs)

**SUPPLEMENT EXECUTIVE  
PROGRAMME  
(NEW SYLLABUS)**

*for*

*December, 2023 Examination*

(Supplement covers amendments/developments from January 01, 2023 to May 31, 2023)

**COMPANY LAW & PRACTICE  
GROUP 1  
PAPER 2**

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## **Lesson 1- Introduction to Company Law**

### **MCA Establishes Centre for Processing Accelerated Corporate Exit**

The Ministry of Corporate Affairs (MCA) vide its notification dated March 17, 2023 has notified that in exercise of the powers conferred by section 396(1) of the Companies Act, 2013, the Central Government establishes a Centre for Processing Accelerated Corporate Exit (C-PACE). The C-PACE shall be located at the Indian Institute of Corporate Affairs (IICA), Manesar, Gurugram. This notification shall come into force with effect from the 01st day of April, 2023.

#### **Brief analysis:**

Hon'ble Finance Minister Smt. Nirmala Sitharaman during Budget speech 2022 stated that "Center for accelerated corporate exit to be set up to accelerate corporate exits". In view of the same the MCA vide issuing notification dated March 17, 2023 has established the Centre for Processing Accelerated Corporate Exit (C-PACE). The C-PACE be located at the Indian Institute of Corporate Affairs (IICA), Manesar, Gurugram. It will be effective from 01st April, 2023.

C-PACE is a significant step towards providing ease to companies for closing their business and getting their names removed from the Register of Companies. It caters to make the process of removal of names more streamlined and efficient, saving time and effort for companies.

#### **For details:**

<https://egazette.nic.in/WriteReadData/2023/244467.pdf>

## **Lesson 4- Share and Share Capital**

### **1. The Companies (Share Capital and Debentures) Amendment Rules, 2023**

(MCA Notification No. G.S.R.43(E) dated January 21, 2023)

The Ministry of Corporate Affairs (MCA) has notified the Companies (Share Capital and Debentures) Amendment Rules, 2023 to further amend the Companies (Share Capital and Debenture) Rules, 2014. The provisions have come into effect from 23.01.2023.

#### **Brief Analysis:**

Through amendment in rule 17(14) the changes to the provision relating to buy-back of shares or other securities has been made. The requirement of annexing a certificate along with the return in Form SH.11 has been substituted with submitting of a declaration instead. This declaration must be signed by two directors of the company including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder.

Additionally, the amendment has also brought about revisions in the following forms:

Form No. SH. 7- Notice to Registrar of any alteration of share capital

Form No. SH. 8- Letter of Offer

Form No. SH. 9 – Declaration of Solvency

#### **For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjUwNjU2NDY4&docCategory=Notifications&type=open>

### **2. The Companies (Prospectus and allotment of securities) Amendment Rules, 2023**

(MCA Notification No. G.S.R. 37(E) dated January 20, 2023)

The Ministry of Corporate Affairs has notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2023 to amend the Companies (Prospectus and Allotment of Securities) Rules, 2014. The provisions have come into effect from 23.01.2023. Through amendment rule 12(6) has been omitted which was earlier requiring, in the case of the issue of bonus shares, a copy of the resolution passed in the general meeting authorizing the issue of such shares shall be attached to the Form PAS-3. Also that, Form PAS-2, Form PAS-3 and Form PAS-6 are substituted.

#### **For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjQxMTMwNDA2&docCategory=Notifications&type=open>

### **3. The Companies (Share Capital and Debentures) Amendment Rules, 2023**

(MCA Notification No. G.S.R. 43(E) dated January 21, 2023)

The Ministry of Corporate Affairs (MCA) has notified the Companies (Share Capital and Debentures) Amendment Rules, 2023 to further amend the Companies (Share Capital and Debenture) Rules, 2014. The provisions have come into effect from 23.01.2023.

**Brief Analysis:**

Through amendment in rule 17(14) the changes to the provision relating to buy-back of shares or other securities has been made. The requirement of annexing a certificate along with the return in Form SH.11 has been substituted with submitting of a declaration instead. This declaration must be signed by two directors of the company including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder.

Additionally, the amendment has also brought about revisions in the following forms:

Form No. SH. 7- Notice to Registrar of any alteration of share capital

Form No. SH. 8- Letter of Offer

Form No. SH. 9 – Declaration of Solvency

**For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjUwNjU2NDY4&docCategory=Notifications&type=open>

## **Lesson 5- Members and Shareholders**

### **1. The Companies (Management and Administration) Amendment Rules 2023**

(MCA Notification No. G.S.R. 44(E) dated January 21, 2023)

The Ministry of Corporate Affairs has notified the Companies (Management and Administration) Amendment Rules, 2023 to amend the Companies (Management and Administration) Rules, 2014. The provisions have come into effect from 23.01.2023. Through amendment the Form MGT- 3 relating to Notice of situation or change of situation or discontinuation of situation, of place where foreign register shall be kept, has been substituted and Form MGT- 14 relating to Filing of Resolutions and agreements to the Registrar, has been substituted.

#### **For details:**

[www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjQxMTIwNzUz&docCategory=Notifications&type=](https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjQxMTIwNzUz&docCategory=Notifications&type=)

<https://>

## **Lesson 9 - Accounts and Auditor**

### **1. The Companies (Indian Accounting Standards) Amendment Rules, 2023** (MCA Notification G.S.R. 242(E) dated March 31<sup>st</sup>, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated March 31, 2023 has notified “the Companies (Indian Accounting Standards) Amendment Rules, 2023” which has come into force with effect from April 01, 2023. According to one of the amendment, a new para has been inserted in Ind AS 101, which states deferred tax related to assets and liabilities arising from a single transaction shall apply for annual reporting periods beginning on or after 01.04.23. Various other amendments in Ind AS 102, 103, 107, 109 and 115 have also been notified.

#### **Brief Analysis:**

The Ministry of Corporate Affairs (MCA) in consultation with National Financial Reporting Authority (NFRA) has notified the Companies (Indian Accounting Standards) Amendment Rules, 2023 to further amend the Companies (Indian Accounting Standards) Rules, 2015. Following Ind AS has been amended *viz*:

- Ind AS 101 (First-time adoption of Indian Accounting Standards);
- Ind AS 102 (Share based payment);
- Ind AS 103 (Business Combinations);
- Ind AS 107 (Financial Instruments: Disclosures);
- Ind AS 109 (Financial Instruments);
- Ind AS 115 (Revenue from Contracts with Customers);
- Ind AS 1 (Presentation of Financial Statements);
- Ind AS 8 (Accounting Policies, Changes in Accounting Estimates and Errors);
- Ind AS 12 (Income Taxes); and
- Ind AS 34 (Interim Financial Reporting).

#### **For details:**

<https://egazette.nic.in/WriteReadData/2023/244871.pdf>

### **2. The Companies (Authorised to Register) Amendment Rules, 2023** (MCA Notification No. G.S.R. (E) dated January 21, 2023)

The Ministry of Corporate Affairs has notified the Companies (Authorised to Register) Amendment Rules, 2023 to amend the Companies (Authorised to Register) Rules, 2014. The provisions have come into effect from 23.01.2023. According to the amendment the Form No. AOC-5 relating to Notice of Address at which books of account are to be maintained, has been substituted.

#### **For details:**

<https://www.mca.gov.in/bin/dms/getdocument?mcs=XcGdPrIsMJTYfnc9%252BXAllw%253D%253D&type=open>

## **Lesson 10 - Compromise, Arrangement and Amalgamation -Concept**

### **1. The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023** (MCA Notification No. G.S.R. 367(E) dated May 15, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated May 15, 2023 has notified “the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023” which shall come into force with effect from June 15, 2023. According to the amendment, rule 25(5) and (6) are substituted. The new sub-rules introduce provisions regarding objections, suggestions, and confirmation orders related to schemes of merger or amalgamation under section 233 of the Companies Act, 2013.

#### **Brief Analysis:**

As per the amendment, where no objection or suggestion is received within a period of 30 days of receipt of copy of scheme under section 233(2), from the RoC/official liquidator and the Central Government is of opinion that that the scheme is in public interest then, it may, within a period of 15 days after the expiry of 30 days, issue a confirmation order of such scheme in Form No. CAA-12.

However, if Central Government not issue the confirmation order within a period of 60 days of receipt of the scheme under section 233(2), then, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly.

Further, where objections and suggestions are received within a period of 30 days of receipt of order under section 233(2) from the RoC/Official Liquidator(OL) or both by Central Government(CG) and-

a) such objections or suggestions of RoC/OL are not sustainable and CG is of opinion that scheme is in public interest/creditors interest, then , it may within a period of 30 days after the expiry of 30 days as referred above, issue confirmation order in form No. CAA-12

b) the CG is of opinion that the scheme is not in public interest/creditors interest, then, it may within 60 days of receipt of scheme file an application before the Tribunal in Form No. CAA-13 by stating its objections/opinion and requesting Tribunal may consider the scheme.

In case CG does not issue confirmation order or does not file any application to Tribunal, then, it shall be deemed that it has no objection to the scheme and a conformation order shall be issued accordingly.

#### **For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzE3MzkzNTgy&docCategory=Notifications&type=open>



## **Lesson 11: Dormant Company**

### **1. The Companies (Miscellaneous) Amendment Rules, 2023**

(MCA Notification No. G.S.R. 46(E) dated January 20, 2023)

The Ministry of Corporate Affairs (MCA) vide its notifications dated January 20, 2023 has notified the Companies (Miscellaneous) Amendment Rules, 2023, the amended rules has come into force with effect from January 23, 2023. According to the amendment, Forms No. MSC-1, MSC-3 and MSC-4 has been substituted pursuant to migration of set of forms from MCA V2 to MCA V3 portal.

Further rule 3 (Application for Obtaining Status of Dormant Company) is modified by stating that, if the company is having any outstanding unsecured loans then enclosure of concurrence from the lender in the form MSC-1 is not required. Also that, the requirement to enclose certificate in Form MSC-1, indicating that there is no management or ownership dispute persisting is also dispensed with. The Form MSC-1 is modified to include these requirements under the heading "declaration" in the form itself.

#### **For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjUwNjU2NTQ1&docCategory=Notifications&type=open>

## **Lesson 14: Directors**

### **1. Case Law:**

*Anuj Mittal & Anr. (Petitioners) vs. Union of India & Anr. (Respondents), The High Court of Delhi W.P.(C) 281/2021 dated 15.01.2021*

Directors who were disqualified before May 2018 can continue to hold office of director in companies other than defaulting company

### **Facts of the Case:**

In the instant case, the directors of a company were disqualified from 1st November 2017 to 31st October 2022 due to non-filing of financial statements or annual returns for any continuous period of three financial years which is a non-compliance under section 164(2)(a) of the Companies Act, 2013. Therefore, DINs and DSCs of the directors were deactivated.

Because of disqualification and de-activation of DINs, the petitioners were facing problems in other active companies. They were appointed as directors as they claim to be directors in other active companies and now wish to start business afresh.

The Court considered the judgment relating to activation of DIN/DSC numbers of directors of defaulting companies in *Anjali Bhargava v. UOI* [W.P. (C) No. 11264 of 2020, dated 6-1-2021] and taken reference from the Ministry of Corporate Affairs CFSS scheme and stated that the directors of struck off companies who seek to be appointed as directors of other/new companies, ought to be provided with an opportunity to avail of CFSS. The scheme seeks to provide a fresh start for directors of defaulting companies who seek appointments in other companies or wish to start new businesses.

### **Decision:**

The Court observed that since the disqualification of petitioners was prior to 7th May, 2018, petitioners would be directors who had been disqualified before 7th May, 2018, qua other companies in addition to defaulting company and proviso section 167(1)(a) would not apply. Directors would continue to be directors in companies other than defaulting company and, therefore, DINs and DSCs of petitioners would be re-activated within ten days. If the Petitioners wish to seek restoration of the struck off company, they are permitted to seek their remedies in accordance with law before the NCLT.

### **For details:**

<https://indiankanoon.org/doc/31556383/>

### **2. Case Law**

*Surendra Kumar Singhi (Petitioner) Vs. Registrar of Companies, West Bengal & Anr. (Opposite Party), Calcutta High Court CRR 1751 of 2020 dated 20.01.2023*

Additional Directors equally responsible for company affairs as other Directors

### **Facts of the Case:**

The petitioner's case is that the Opposite party has filed a complaint before the learned Chief Metropolitan Magistrate, Kolkata against the petitioner stating there in that, M/s Mani Square Limited was incorporated under the Companies Act, 1956 and according to the provisions of Section 217(3) (Board's Report) of the Companies Act, 1956, the Board of the company was bound to give fullest information and explanation in its report on every reservation, qualification or adverse remark contained in Auditor's report.

Opposite party upon scrutiny of the Balance-sheet and other documents found that the Board of Directors did not furnish fullest information and explanation in their Director's report with respect to the Auditors in their report on Balance Sheet on the their remark of that "there are no dues of Service Tax, VAT, Provident Fund, ESIC which had been deposited on

account of any dispute except disputed amount of WBST/VAT”. This has resulted in violation of provisions of Section 217(3) of the Companies Act, 1956 and the said violation was pointed out to the Directors of the company vide Show Cause Notice. On account of receipt of not satisfactory reply, the competent authority has issued instruction to launch prosecution for the aforesaid violation.

Consequently, the petitioner being a director of a company was accused of violating the provisions of Section 217(3) of the Companies Act. The Metropolitan Magistrate issued summons against the petitioner and other accused persons. The petitioner stating himself to be innocent and having no connection with the circumstances of the case chose not to take the course adopted by the rest of the accused persons and prayed for discharge by filing a petition but the same got rejected.

Following were the two issues before the High Court:

1. What post was held by the petitioner on the date of filing the report?
2. Whether the petitioner is responsible/liable for the offence alleged?

The High Court with regard to the first issue noted, “*Form No. DIR – 11 clearly shows that on the date of resignation (30.12.2016) the petitioner was the “Director” of the Company..... In spite of being shown on the portal as “Additional Director /Director” the petitioner did not lodge any complaint with the Ministry about the alleged wrong information. There is no case that the petitioner had filed any objection to the said wrong information (as alleged) on the portal.*”

With regard to the second issue, the Court said that from the records it is seen that the petitioner was then an “Additional Director” of the Company and that admittedly the other accused persons pleaded guilty.

“ROC must be informed by filing a new Form DIR 12 that the additional director has been regularized as a director in the Company”, the Court further said.

It was further observed by the Court that the petitioner was an Additional Director on the date the board report was filed and that to counter the same, the evidence is required to be adduced during the trial.

#### **Decision:**

The Court, therefore, held, “The responsibility of an Additional Director being the same as that of a director they remain responsible, as the statute provides for the same. Thus to quash the proceedings by exercising this Courts inherent powers would amount to an abuse of the process of Court and would also amount to serious miscarriage of justice.” Accordingly, the Court dismissed the plea of the petitioner.

#### **For details:**

<https://indiankanoon.org/doc/87230779/>

### **3. Case Law**

***Pranab Kumar Roy (Petitioner) v. Securities and Exchange Board of India, High Court of Calcutta CRR No. 773 of 2021, 27.03.2023***

Intimation of director's resignation by him to RoC is effective even if company failed to intimate RoC

As per Section 168 of the Companies Act, it is the duty of the company who shall inform the Registrar of Companies about the resignation of director. However, as per the provisions of the Companies Act the resigning director may also inform the RoC. In this matter, in the month of November 2013 in the General Meeting of the members, the petitioner resigned from the post of the Additional Director by serving his resignation letter to the Board of Directors i.e. after 4 months of his appointment. Despite receipt of the aforesaid letter, the name of the petitioner was not removed from the books of the Registrar of Companies, as the company failed to report the same to the Registrar of Companies. Meanwhile, the company violated the provisions of Companies Act and SEBI regulations while making public issue of securities (allotment of the NonConvertible Debentures).

It was decided by the Hon'ble Court that the director cannot be arraigned in a matter pertaining to year 2017 merely because his name continued to be reflected in RoC records as director in 2017 due to non-intimation of resignation by company. The criminal complaint for default in issuance of NonConvertible Debentures (NCDs) pertained to 2017 i.e. after director had resigned. Thus, proceedings against the petitioner are liable to be quashed.

**For details:**

<https://indiankanoon.org/doc/77218748/>

## **Lesson 17: Corporate Social Responsibility**

### **1. The Companies (Accounts) Second Amendment Rules, 2023**

(MCA Notification No. G.S.R. 408(E) dated May 31, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated May 31, 2023 has notified “The Companies (Accounts) Second Amendment Rules, 2023” which has come into force with effect from date of publication in the Official Gazette. According to the amendment in rule 12 (1B) a new proviso has been inserted stating: For the financial year 2022-2023, Form CSR-2 shall be filed separately on or before 31st March, 2024 after filing the Form No. AOC-4 or Form No. AOC-4-NBFC (Ind AS) as specified in Companies (Accounts) Rules, 2014 or Form No. AOC-4-XBRL as specified in the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015, as the case may be.

#### **For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzM5MDg2ODEz&docCategory=Notifications&type=open>

## **Lesson 19 – Key Managerial Personnel (KMP's) and their Remuneration**

### **1. The Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2023** (MCA Notification No. G.S.R.41(E) dated January 21, 2023)

The Ministry of Corporate Affairs (MCA) has notified the Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2023 to further amend the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014. The provisions have come into effect from 23.01.2023. Through amendment Form MR-1 (Return of appointment of managerial personnel) and Form MR-2 (Form of application to the Central Government for approval of appointment of managing director or whole-time director or manager) has been substituted.

#### **For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjQxMDE4ODI3&docCategory=Notifications&type=open>

## Miscellaneous

### **1. The Companies (Incorporation) Amendment Rules 2023**

(MCA Notification No. G.S.R.42(E) dated January 21, 2023)

The Ministry of Corporate Affairs (MCA) has notified the Companies (Incorporation) Amendment Rules, 2023 to further amend the Companies (Incorporation) Rules, 2014. The provisions have come into effect from 23.01.2023. According to the amendment Forms INC-3 (One Person Company – Nominee Consent Form), INC-14 (Declaration), INC-15 (Declaration) and RD-GNL-5 (filing addendum for rectification of defects or incompleteness) has been omitted. Further, Forms RUN, INC-4, INC-6, INC-9, INC-12, INC-13, INC-18, INC-20, INC-20A, INC-22, INC-23, INC-24, INC-27, INC-28, INC-31, SPICE+ (INC-32), INC-33, INC-34, INC-35 (AGILE-PRO-S) and RD-1 are substituted.

#### **Brief Analysis:**

(i) The amendment in rule 4(2) provides that the name of the nominee of the owner of an OPC shall be mentioned in the memorandum of One Person Company ((OPC) and such nomination details along with the consent of such nominee shall be filled in Form No. INC-32 (SPICE+) as a declaration and the said Form along with the fee as provided in the Companies (Registration offices and fees) Rules, 2014 shall be filed with the Registrar at the time of incorporation of the company along with its e-memorandum and e-articles.

(ii) Rule 6(3)[Conversion of One Person Company into a Public company or a Private company] is amended to reduce the number of attachments which were required be enclosed in e-Form INC-6 by stating that, the company shall file an application in e-Form No. INC-6 for its conversion into Private or Public Company, other than under section 8 of the Act, along with fees as provided in the Companies (Registration Offices and Fees) Rules, 2014 with altered e-MOA and e-AOA i.e. Further rule 6(4) is modified stating, on being satisfied that the requirements have been complied with, the Registrar after examining the latest audited financial statement shall approve the form and issue certificate.

(iii) Rule 7 (Conversion of private company into One Person Company) sub-rule 4 is modified to include an additional enclosure in Form no. INC-6 i.e. Copy of NOC of every creditor with the application of conversion.

(iv) Rule 20 is modified to introduce additional matter of consideration by the Registrar in case of issuing License under section 8 for Existing Companies i.e. the Registrar shall along with considering the objections, if any received, also consider two years financial statements immediately preceding the date of application or when the company has functioned only for one financial year, for such year including Board's reports and audit reports, relating to the existing companies.

(v) Rule 33 (Alteration of Articles) is modified to state that, subject to the provisions of sub-rule (1), for effecting the conversion of a public company into a private company, Service Request Number (SRN) of Form No. RD-1, pertaining to order of the Regional Director approving the alteration, shall be mentioned in Form No. INC-27 to be filed with Registrar along with fee together with the altered e-Memorandum of Association and e-Article of Association within fifteen days from the date of receipt of the order from the Regional Director.

#### **For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjQ2MzM0MjQ1&docCategory=Notifications&type=open>

## **2. The Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2023** (MCA Notification No. G.S.R. 298(E) dated April 17, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated April 17, 2023 has notified “the Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2023” which shall come into force with effect from May 01, 2023.

### **Brief Analysis:**

The amendments *inter alia* provide below mentioned changes:

1. An application for removal of name of company under section 248(2) shall be made to Registrar, Center for processing Accelerated Corporate Exit in Form No. STK-2 along with fee of Rupees 10,000. [Substituted rule 4(1)]
2. According to the amendment now the application in Form STK-2 shall not be accompanied by a copy of the special resolution duly certified by each of the directors of the company or consent of seventy five per cent of the members of the company in terms of paid up share capital as on the date of application.[Omitted clause iv of rule 4(3)]
3. The Registrar, Center for Processing Accelerated Corporate Exit established under section 396(1) shall be the Registrar of Companies for the purpose of exercising functional jurisdiction of processing and disposal of applications made in Form no. STK-2 and all matters related thereto under section 248 having territorial jurisdiction all over India. (Inserted sub-rule 3A to rule 4)
4. Further, Form No. STK-2 (Application by company to RoC for removing its name from register of companies), STK-6 (Public Notice) and STK-7 (Notice for striking off and dissolution) are substituted.

### **For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzE0MDE0NTQ0&docCategory=Notifications&type=open>

## **3. The Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2023** (MCA Notification No. G.S.R. 354(E) dated May 10, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated May 10, 2023 has notified “the Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2023” which shall come into force on the date of its publication in the Official Gazette. According to the amendment, under rule 4(1) [Application for removal of name of company] three provisos are inserted stating:

- a) the company shall not file an application for removal of name, unless it has filed overdue financial statements and overdue annual returns, up to the end of the financial year in which the company ceased to carry its business operations;
- b) in case a company intends to file the application for removal of name after the action under section 248(1) has been initiated by the Registrar, it shall file all pending financial statements and all pending annual returns, before filing the application;
- c) Further, once the notice of strike off under section 248(5) has been issued by the Registrar for publication in Official Gazette pursuant to the action initiated under section 248(1), a company shall not be allowed to file the application under this sub-rule.



## **Brief Analysis:**

Ministry of Corporate Affairs has notified the Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2023 dated May 10, 2023. Amendment introduces three provisos to Rule 4 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016. These three provisos impose requirements on companies seeking to file removal of its name applications, including the submission of overdue financial statements and annual returns before the filing the application, and limitations on filing the application for removal of name once the Registrar has initiated action or issued a notice under section 248(5).

### **For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzE3MDAwMjI3&docCategory=Notifications&type=open>

## **4. Ministry of Corporates Affairs amended the Rules**

(MCA Notification No. G.S.R. 45(E) dated January 23, 2023)

The Ministry of Corporate Affairs (MCA) vide its notifications dated January 20, 2023 has notified below mentioned amended rules:

- i) The Companies (Registration Offices and Fees) Amendment Rules, 2023; and
- ii) The Nidhi (Amendment) Rules, 2023;

The amended rules shall come into force with effect from January 23, 2023.

According to the amendments, Form GNL-2, GNL-3, GNL-4, NDH-1, NDH-2, NDH-3 and NDH-4 has been substituted pursuant to migration of set of forms from MCA V2 to MCA V3 portal.

Further, through notifying the Companies (Registration Offices and Fees) Amendment Rules, 2023, rule 8A has been inserted stating; e-forms wherever applicable shall be signed by Insolvency resolution professional or resolution professional or liquidator of companies under insolvency or liquidation, as the case may be, and filed with the Registrar along with the fee as mentioned in Table annexed these rules.

### **For details:**

<https://www.mca.gov.in/bin/dms/getdocument?mids=zFrQ4gUbxyNedgbfFLKcdw%253D%253D&type=open>

<https://egazette.gov.in/WriteReadData/2023/242165.pdf>

## **5. Extension of Time for filing of 45 company e-Forms and PAS-03 in MCA 21 Version 3.0 without additional fee**

(MCA Circular No. 04/2023 dated February 21, 2023)

The Ministry of Corporate Affairs (MCA) vide issuing general circular no. 03/2023 dated February 07, 2023 has notified that due to change in way of filing in Version-3, including fresh process of registration of users on MCA-21 and process of stabilization of 45 forms launched with effect from 23.01.2023, and after considering various representations, in continuation of General Circular 1/2023 dated 09.01.2023, it has been decided to allow further additional time of 15 days for filing of these forms, without additional fees, to the stakeholders. Further, Form PAS-03 which was closed for filing in Version-2 on 20.01.2023 and launched in

Version-3 on 23.01.2023, and whose due dates for filing fall between 20.01.2023 and 06.02.2023, can also be filed without payment of additional fees for a period of 15 days.

**For details:**

<https://www.mca.gov.in/bin/dms/getdocument?mds=2wjQ2Yt5XCZLAoGRr2jfOQ%253D%253D&type=open>

**6. Extension of Time for filing of 45 company e-Forms, PAS-03 and SPICE+ Part A in MCA 21 Version 3.0 without additional fee**

(MCA Circular no. 04/2023 dated February 21, 2023)

The Ministry of Corporate Affairs (MCA) vide issuing general circular no. 04/2023 dated February 21, 2023 has notified that due to change in way of filing in Version-3, including fresh process of registration of users on MCA-21 and process of stabilization of 45 forms launched with effect from 23.01.2023, and after considering various representations, in continuation of General Circulars No. 1/2023 dated 09.01.2023 and 03/2023 dated 07.02.2023, it has been decided to allow further additional time till 31.03.2023 for filing of these forms which are due for filing between 07.02.2023 and 28.02.2023, without additional fees, to the stakeholders.

Further, Form PAS-03 which was closed for filing in Version-2 on 20.01.2023 and launched in Version-3 on 23.01.2023, and whose due dates for filing fall between 20.01.2023 and 28.02.2023, can also be filed without payment of additional fees till 31.03.2023.

**For details:**

<https://www.mca.gov.in/bin/dms/getdocument?mds=2wjQ2Yt5XCZLAoGRr2jfOQ%253D%253D&type=open>

**7. The Companies (Incorporation) Amendment Rules 2023**

(MCA Notification No. G.S.R. 42(E) dated January 21, 2023)

The Ministry of Corporate Affairs (MCA) has notified the Companies (Incorporation) Amendment Rules, 2023 to further amend the Companies (Incorporation) Rules, 2014. The provisions have come into effect from 23.01.2023. According to the amendment Forms INC-3 (One Person Company – Nominee Consent Form), INC-14 (Declaration), INC-15 (Declaration) and RD-GNL-5 (filing addendum for rectification of defects or incompleteness) has been omitted. Further, Forms RUN, INC-4, INC-6, INC-9, INC-12, INC-13, INC-18, INC-20, INC-20A, INC-22, INC-23, INC-24, INC-27, INC-28, INC-31, SPICE+ (INC-32), INC-33, INC-34, INC-35 (AGILE-PRO-S) and RD-1 are substituted.

**Brief Analysis:**

(i) The amendment in rule 4(2) provides that the name of the nominee of the owner of an OPC shall be mentioned in the memorandum of One Person Company ((OPC) and such nomination details along with the consent of such nominee shall be filled in Form No. INC-32 (SPICE+) as a declaration and the said Form along with the fee as provided in the Companies (Registration offices and fees) Rules, 2014 shall be filed with the Registrar at the time of incorporation of the company along with its e-memorandum and e-articles.

(ii) Rule 6(3)[Conversion of One Person Company into a Public company or a Private company] is amended to reduce the number of attachments which were required be enclosed in e-Form INC-6 by stating that, the

company shall file an application in e-Form No. INC-6 for its conversion into Private or Public Company, other than under section 8 of the Act, along with fees as provided in the Companies (Registration Offices and Fees) Rules, 2014 with altered e-MOA and e-AOA i.e. Further rule 6(4) is modified stating, on being satisfied that the requirements have been complied with, the Registrar after examining the latest audited financial statement shall approve the form and issue certificate.

(iii) Rule 7 (Conversion of private company into One Person Company) sub-rule 4 is modified to include an additional enclosure in Form no. INC-6 i.e. Copy of NOC of every creditor with the application of conversion.

(iv) Rule 20 is modified to introduce additional matter of consideration by the Registrar in case of issuing License under section 8 for Existing Companies i.e. the Registrar shall along with considering the objections, if any received, also consider two years financial statements immediately preceding the date of application or when the company has functioned only for one financial year, for such year including Board's reports and audit reports, relating to the existing companies.

(v) Rule 33 (Alteration of Articles) is modified to state that, subject to the provision of sub-rule (1), for effecting the conversion of a public company into a private company, a copy of order of the Tribunal approving the alteration, shall be filled with the Registrar in Form No. INC -27 with fee together with the printed copy of altered articles within fifteen days from the date of receipt of the order from the Tribunal. And the requirement to mention Service Request Number (SRN) of Form No. RD- 1, pertaining to order of the Regional Director approving the alteration in Form No. INC -27 has been done away.

**For details:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjQ2MzM0MjQ1&docCategory=Notifications&type=open>

*Note: Students appearing in December, 2023 Examination should also update themselves on all the relevant Notifications, Circulars, Clarifications, Orders etc. issued by MCA, SEBI, ICSI & or other authority till May 31, 2023.*

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