



**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

June, 2025 Examination

SETTING UP OF BUSINESS, INDUSTRIAL & LABOUR LAWS

GROUP 1

PAPER 3

Students appearing in Examination shall note the following:

Students appearing June, 2025 Examination should also update themselves on all the relevant Notifications, Circulars, Clarifications, Orders etc. issued by MCA, SEBI, RBI & Central Government upto November, 2024.

The students are advised to acquaint themselves with the monthly and Regulatory updates published by the Institute.

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PART I: SETTING UP OF BUSINESS

Lesson 2 - Corporate Entities – Companies

1. The Companies (Incorporation) Amendment Rules 2023 * (MCA Notification No. G.S.R. 42(E) dated January 19, 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:

1. 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.
2. Vide this notification, Rule 20(5) is modified to introduce additional matter of consideration by the Registrar in case of issuing License under section 8 for Existing Companies, namely: -

The Registrar shall after considering 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, and after considering objections, if any received by it within thirty days from the date of publication of notice, and after consulting any authority, regulatory body, Department or Ministry of Central Government or the State Government(s), as it may, in its discretion, decide whether the license should or should not be granted.

(*Note: Section 8 companies amendments as covered under the Companies (Incorporation) Amendment Rules 2023 is also relevant for Lesson No. 12 - Identifying Laws applicable to various Industries and their Initial Compliances.)

For details:

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

2. Nidhi (Amendment) Rules, 2023 (MCA Notification No. G.S.R. 35(E) dated January 20, 2023) *

The Ministry of Corporate Affairs (MCA) vide its notifications dated January 20, 2023 has notified the Nidhi (Amendment) Rules, 2023. The amended rules shall come into force with effect from January 23, 2023.

According to the amendments, Form 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.

(*Note: The Nidhi (Amendment) Rules, 2023 is also relevant for Lesson No. 8 - Financial Services Organisation.)

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

3. The Companies (Incorporation) Third Amendment Rules, 2023 (MCA Notification No. G.S.R. 790(E) dated 20th October, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated October 20, 2023 has notified “the Companies (Incorporation) Third Amendment Rules, 2023” which has come into force with effect from October 21, 2023. According to the amendment, under rule 30(9) (Shifting of Registered Office from one State or Union Territory to another State), the Ministry has come up with following two modifications:

1. The words under rule 30(9) “and may include such order as to costs as it thinks proper” shall be omitted;
2. Further the amendment inserted a new proviso to rule 30(9):

“Provided further that where the management of the company has been taken over by new management under a resolution plan approved under section 31 of the Insolvency Bankruptcy Code, 2016 and no appeal against the resolution plan is pending in any Court or Tribunal and no inquiry, inspection, investigation is pending or initiated after the approval of the said resolution plan, the shifting of the registered office may be allowed.”

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=uqnggXxHARXXjysr4uSRjQ%253D%253D&type=open>

4. The (Incorporation) Amendment Rules, 2024* (MCA Notification No. G.S.R. 411(E) dated July 16, 2024)

In exercise of the powers conferred under section 469 of the Companies Act, 2013 the Central Government notified (Incorporation) Amendment Rules, 2024.

In the Companies (Incorporation) Rules, 2014, in rule 8A, in sub-rule (1),-

- (i.) in clause (p), the word “Nidhi”, shall be omitted;
- (ii.) clause (v) shall be omitted.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=TaZb6FKHcrk2uA%252B354fxBA%253D%253D&type=open>

Brief analysis:

As per the amended rules the word Nidhi shall be omitted from clause (p) which means that if the proposed name includes word Nidhi a declaration to be submitted by the applicant that the requirements mandated by the respective regulator have been complied with by the applicant is not mandatory.

Clause (v) which states that the proposed name of a Nidhi company under the Act does not have the last words “Nidhi Limited” as a part of its name shall be omitted.

5. The Nidhi (Amendment) Rules, 2024* (MCA Notification No. G.S.R. 413(E) Notified on July 16, 2024)

In exercise of the powers conferred by sub-section (1) of section 406 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 the Central Government notified the Nidhi (Amendment) Rules, 2024

According to the Amended Rules in the Nidhi Rules, 2014, in rule 4, in sub-rule (5,) the following proviso shall be inserted, namely:

“Provided that a company shall not use the words “Nidhi Limited” in its name unless it is declared as such under sub-section (1) of section 406 of the Act.”

Brief Analysis:

Thus, A Company shall not use the words “Nidhi Limited unless it is declared by the Central Government by notification in the Official Gazette as declared to be a Nidhi or Mutual Benefit Society, as the case may be.

For details: [https://egazette.gov.in/\(S\(5clyb24sjrcnfwa3oznezwpi\)\)/ViewPDF.aspx](https://egazette.gov.in/(S(5clyb24sjrcnfwa3oznezwpi))/ViewPDF.aspx)

(*Note: The Nidhi (Amendment) Rules, 2023 is also relevant for Lesson No. 8 - Financial Services Organisation.)

6. Companies (Registration of Foreign Companies) Amendment Rules, 2024 (MCA Notification No. G.S.R. 491(E) dated August 12, 2024)

In exercise of the powers conferred by section 381, section 385, clause (a) of section 386, section 389 and section 390, read with section 469 of the Companies Act, 2013 the Central Government has notified Companies (Registration of Foreign Companies) Amendment Rules, 2024 which shall come into force with effect 09th day of September, 2024.

As per the amendment, in rule 3, in sub-rule (3) a foreign company within a period of thirty days of the establishment of its place of business in India shall now file with the Registrar, Central Registration Centre Form FC-1 with such fee as provided in Companies (Registration Offices and Fees) Rules, 2014.

Accordingly, changes are also made in in rule 8, in sub-rule (1), by inserting the following proviso:

“Provided that the documents for registration by a foreign company referred to in sub-rule (3) of rule (3) shall be delivered in Form FC-1 to the Registrar, Central Registration Centre.”.

For details: [https://egazette.gov.in/\(S\(mbgjznztoohjbnoed1szj5oz\)\)/ViewPDF.aspx](https://egazette.gov.in/(S(mbgjznztoohjbnoed1szj5oz))/ViewPDF.aspx)

Brief Analysis:

MCA has operationalized Central Processing Centre (CPC) for Centralised Processing of Corporate Filings that processes applications in time-bound and faceless manner on the lines of Central Registration Centre (CRC). In order to implement the same amendments are made in Companies (Registration of Foreign Companies) Rules, 2014.

7. The Companies (Prospectus and Allotment of Securities) Amendment Rules, 2024

(MCA Notification No. G.S.R. 583(E) dated September 20, 2024)

In exercise of the powers conferred under the Companies Act, 2013 the Central Government hereby has notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2024.

Rule 9B relates to Issue of securities in dematerialised form by private companies.

In the Companies (Prospectus and Allotment of Securities) Rules, 2014, in sub-rule (2) of rule 9B, the following

proviso shall be inserted, namely: —

“Provided that a producer company covered under this sub-rule shall, within a period of five years of closure of such financial year, comply with the provision of this sub-rule.”

Brief analysis

As per the amendment in the Companies (Prospectus and Allotment of Securities) Rules, 2014, a producer company covered under rule 9B (2) shall issue the securities only in dematerialised form and facilitate dematerialisation of all its securities, in accordance with provisions of the Depositories Act, 1996 and regulations made thereunder and comply with the provision within a period of five years of closure of such financial year.

For details: [https://egazette.gov.in/\(S\(udocmspd2yw5rbet2jduvdyd\)\)/ViewPDF.aspx](https://egazette.gov.in/(S(udocmspd2yw5rbet2jduvdyd))/ViewPDF.aspx)

Lesson 3- Limited Liability Partnership

1.The Limited Liability Partnership (Amendment) Rules, 2023 (MCA Notification No. G.S.R. 411(E) dated June 02, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated June 02, 2023 has notified “The Limited Liability Partnership (Amendment) Rules, 2023” which shall come into force with effect from date of publication in the official gazette. The amendment revised the format of LLP Form No. 3, which pertains to “Information concerning Limited Liability Partnership Agreement and changes, if any.”

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=iiQZzbSNrcRVS%252F9wRBqOew%253D%253D&type=open>

2. The Limited Liability Partnership (Second Amendment) Rules, 2023 (MCA Notification No. G.S.R. 644(E)- September 01, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification G.S.R (E) dated September 01, 2023, has notified “the Limited Liability Partnership (Second Amendment) Rules, 2023” which has come into force on the date of its publication in the Official Gazette. According to the amendment the LLP Form No. 3 (Information with regard to Limited Liability Agreement and changes, if any, made therein) and LLP Form No. 4 (Notice of appointment, cessation, change in name/address/designation of designated partner or partner and consent to become a partner/designated partner) are substituted.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=ywlii5hvZvLABylQ7KmtNA%253D%253D&type=open>

3. The Limited Liability Partnership (Third Amendment) Rules, 2023 (MCA Notification No. G.S.R. 803(E) dated October 27, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated October 27, 2023 has notified “the Limited Liability Partnership (Third Amendment) Rules, 2023” which has come into force on the date of its publication in the Official Gazette. According to the amendment Rule 22A and Rule 22B are inserted by stating matters pertaining to:

- o Every limited liability partnership shall, from the date of its incorporation, maintain a register of its partners in Form 4A which shall be kept at the registered office of the limited liability partnership;
- o Declaration in respect of beneficial interest in any contribution.

Brief Analysis:

According to the Limited Liability Partnership (Third Amendment) Rules, 2023:

- i) Rule 22A-Register of Partners: Every limited liability partnership (LLP) shall, from the date of its incorporation, maintain a register of its partners in Form 4A which shall be kept at the registered office of the limited liability partnership.

Existing LLPs shall comply within thirty days from the commencement of aforesaid amendment Rules. The register shall consist certain particulars of partners viz. name/address/PAN/date of becoming partner/cessation etc.

The entries in the register maintained under this rule shall be made within seven days pursuant to any change made in the contribution amount, or in name and details of the partners in the Limited Liability Partnership agreement, or in cases of cessation of partnership interest.

Rectifications made pursuant to orders by competent authorities must be recorded.

ii) Rule 22B- Declaration in respect of beneficial interest in any contribution: A person whose name is entered in the register of partners of a Limited Liability Partnership but does not hold any beneficial interest fully or partly in contribution (hereinafter referred to as “the registered partner”), such person shall file with the Limited Liability Partnership, a declaration to that effect in Form 4B within a period of thirty days from the date on which his name is entered in the register of partners specifying the name and other particulars of the person who actually holds any beneficial interest in such contributions. Changes in beneficial interest should also be reported within 30 days.

Beneficial partners who have an interest in contributions not registered in their name must file a declaration in Form 4C within 30 days. Changes in beneficial interest should also be reported within 30 days.

In case of receipt of any declaration under Form 4B or Form 4C by the Limited Liability Partnership, it shall record such declaration in the register of partners and shall file, within a period of 30 days from the date of receipt of declaration by it, a return in Form 4D to the Registrar in respect of such declaration with fees.

Every Limited Liability Partnership shall specify a designated a partner who shall be responsible for furnishing of and extending co-operation for providing, information with respect to beneficial interest in contribution in Limited Liability Partnership to the Registrar or any other officer authorised by the Central Government and shall file information of such designated partner with the Registrar in Form 4.

Further, until a designated partner is specified, every designated partner shall be deemed to be responsible for furnishing of, and extending co-operation for providing, information with respect to beneficial interest in contribution under this sub-rule.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=VYVpE7YcjovnhBqcW9gtsw%253D%253D&type=open>

4. The Limited Liability Partnership (Significant Beneficial Owners) Rules, 2023 (MCA notification no. G.S.R. 832(E) dated November 09, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated November 07, 2023 has notified “the Limited Liability Partnership (Significant Beneficial Owners) Rules, 2023” which has come into force on the date of its publication in the Official Gazette. The provisions of these rules shall specifically apply to all the LLPs. The aforesaid rules, conferred under section 79 of the Limited Liability Partnership Act, 2008, directs to regulate and identify significant beneficial owners in Limited Liability Partnerships and such individual to make a declaration in Form No. LLP BEN-I.

Brief Analysis:

Following are the certain major rules mentioned:

1. The provisions of these rules shall specifically apply to all the LLPs. (Rule 2)
2. Aforesaid rules mentioned various definitions viz, control; majority stake; significant beneficial owner; significant influence; ultimate holding company etc. (Rule 3)
3. Duty of the reporting limited liability partnership to take necessary actions in identifying the significant beneficial owner and causing such individual to file Form No. LLP BEN-1. (Rule 4)
4. Upon receipt of declaration as mentioned above sub point, the reporting limited liability partnership shall file a return in Form No. LLP BEN-2 with the Registrar. (Rule 6)
5. The limited liability partnership shall maintain a register of significant beneficial owners in Form No. LLP BEN-3 and keep it open for inspection during the business hours for such reasonable time as mentioned in the rules. (Rule 7)
6. Rules specified Form No. LLP BEN-4 for notice seeking information about significant beneficial owners. (Rule 8)
7. Provisions related to the filing of application to the Tribunal under certain circumstances. (Rule 9)
8. Provisions related to non-applicability of aforesaid rules to the certain entities. (Rule 10)

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=pJZaasqhxL5W9F46Ukp5lw%253D%253D&type=open>

5. Relaxation of additional fees and extension of last date of filing of LLP BEN-2 and LLP Form No. 4D under the Limited Liability Partnership Act, 2008. (7th May,2024)

The Ministry of corporate Affairs has notified Limited Liability partnership (significant Beneficial owners) Rules, 2023 vide G.S.R. No. 832 (E) dated 09.11.2023 and has prescribed E-form LLP BEN-2 to file Return to the Registrar in respect of declaration under section 90 of the Companies Act, 2013.

Similarly, the Ministry of corporate Affairs has notified Limited Liability Partnership (Third Amendment) Rules, 2023 vide G.S.R. No. 803(E) dated, 27.10.2023 and prescribed E-form LLP Form no. 4D to file Return to the Registrar in respect of declaration of beneficial interest in contribution received by the LLP.

Keeping in view of transition of MCA-21 from version-2 to version-3 and to promote compliance on part of reporting Limited Liability Partnerships, and in continuation of General circulars No. 01/2024 dated 07.02.2024, it has been decided by the competent authority that LLPs may file Form LLP BEN-2 and LLP Form No. 4D, without payment of any further additional fees, up to 01.07.2024

For details

<https://www.mca.gov.in/bin/dms/getdocument?mds=URMz2bS8F8Djdq9d7o0gpw%253D%253D&type=open>

Lesson 4 - Startups and its Registration

1. Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2024.

(MCA notification No. G.S.R. 555 (E) dated 9th September, 2024)

In exercise of the powers conferred under section 469 read with sections 233 and 234 of the Companies Act, 2013, the Central Government has notified the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2024 which shall come into effect from 17th day of September, 2024.

In the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, in rule 25A, after sub-rule (4), the following sub-rule shall be inserted, namely:

Where the transferor foreign company incorporated outside India being a holding company and the transferee Indian company being a wholly owned subsidiary company incorporated in India, enter into merger or amalgamation, –

- (i) both the companies shall obtain the prior approval of the Reserve Bank of India;
- (ii) the transferee Indian company shall comply with the provisions of section 233;
- (iii) the application shall be made by the transferee Indian company to the Central Government under section

233 of the Act and provisions of rule 25 shall apply to such application; and

- (iv) the declaration referred to in sub-rule (4) shall be made at the stage of making application under section 233 of the Act."

Brief Analysis:

The Ministry of Corporate Affairs (MCA) has introduced a sub-rule to fast-track the approval process for the merger of a startup incorporated outside India into its wholly owned Indian subsidiary. The foreign holding company and its wholly owned Indian subsidiary will only need to obtain approval from the Reserve Bank of India (RBI) for such mergers or amalgamations, eliminating the need for clearance from the National Company Law Tribunal (NCLT).

This amendment ensures compliance with regulatory authorities and the Companies Act, 2013 by providing clarification and procedural requirements for cross-border mergers involving foreign holding Companies and their Indian subsidiaries.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=qTyAFp6vBFvAlie1mgFTbg%253D%253D&type=open>

Lesson -5 Micro, Small and Medium Enterprises

1. Aadhaar Authentication of Enterprises

According to Rule 5 of the Aadhaar Authentication for Good Governance (Social Welfare, Innovation, Knowledge) Rules, 2020 the Ministry of Micro, Small and Medium Enterprises, having been authorised by the Central Government, hereby notifies that Aadhaar authentication of enterprises shall be performed, on voluntary basis, using Yes/No authentication facility, during the process of registration of owners of informal micro enterprises on its digital platform, to facilitate access for availing of priority sector lending.

2. Provision applicable for Udyam Assist Certificate issued through Udyam Assist Platform (UAP):

With reference to the launch and implementation of Formalization Project of the Ministry of MSME and SIDBI for bringing the Informal Micro Enterprises (IMEs) into the formal ambit, it is to be noted that the certificate issued on the Udyam Assist Platform (UAP) would be treated at par with Udyam Registration Certificate for IMEs for availing of the benefits of Priority Sector Lending (PSL).

3. Case Law

In the case of *M/s India Glycols Limited and Another vs. Micro and Small Enterprises Facilitation Respondents Council, Medchal - Malkajgiri and Others*, Civil Appeal No 7491 of 2023 (Arising out of SLP (C) No 9899 of 2023), the Apex Court in its order dated November 6, 2023 inter alia observed that in terms of Section 19, an application for setting aside an award of the Facilitation Council cannot be entertained by any court unless the appellant has deposited seventy-five per cent of the amount in terms of the award. In view of the provisions of Section 18(4), where the Facilitation Council proceeds to arbitrate upon a dispute, the provisions of the Act of 1996 are to apply to the dispute as if it is in pursuance of an arbitration agreement under sub-section (1) of Section 7 of that Act. Hence, the remedy which is provided under Section 34 of the Act of 1996 would govern an award of the Facilitation Council. However, there is a super added condition which is imposed by Section 19 of MSMED Act 2006 to the effect that an application for setting aside an award can be entertained only upon the appellant depositing with the Council seventy-five per cent of the amount in terms of the award. Section 19 has been introduced as a measure of security for enterprises for whom a special provision is made in the MSMED Act by Parliament. In view of the provisions of Section 18(4), the appellant had a remedy under Section 34 of the Act of 1996 to challenge the award which it failed to pursue.

In the judgment of Supreme Court in *Gujarat State Civil Supplies Corporation Limited vs Mahakali Foods Private Limited (Unit 2) and Another* (2023) 6 SCC 401, a two-Judge Bench of the Court has observed, in the course of drawing its conclusions, that: "*The proceedings before the Facilitation Council/institute/centre acting as an arbitrator/Arbitral Tribunal under Section 18(3) of the MSMED Act 2006 would be governed by the Arbitration Act, 1996.*"

4. Micro, Small and Medium Enterprises Development (MSMED) Act, 2006

In terms of Gazette Notification S.O. 2119 (E) dated June 26, 2020, an enterprise shall be classified as a micro, small or medium enterprise on the basis of the following criteria viz.,

- i. a micro enterprise, where the investment in plant and machinery or equipment does not exceed ₹1 crore and turnover does not exceed ₹5 crore;
 - ii. a small enterprise, where the investment in plant and machinery or equipment does not exceed ₹10 crore and turnover does not exceed ₹50 crore; and
 - iii. a medium enterprise, where the investment in plant and machinery or equipment does not exceed ₹50 crore and turnover does not exceed ₹250 crore.
- All the above enterprises are required to register online on the Udyam Registration portal and obtain 'Udyam Registration Certificate'. For Priority Sector Lending(PSL) purposes banks shall be guided by the classification recorded in the Udyam Registration Certificate (URC).
 - Retail and Wholesale trade are included as MSMEs for the limited purpose of priority sector lending and are allowed to be registered on Udyam Registration Portal
 - The certificate issued on Udyam Assist Portal (UAP) to Informal Micro Enterprises (IMEs) shall be treated at par with Udyam Registration Certificate for the purpose of availing Priority Sector Lending benefits. IMEs with an Udyam Assist Certificate shall be treated as micro enterprises for the purpose of PSL classification.

5. Notification under Section 7 of Aadhaar Act 2016 to identify the targeted beneficiaries by Aadhaar Authentication in in respect of ESDP Scheme. (Dated July 01, 2024)

In exercise of the powers conferred by section 7 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 read with regulation 12 of the Aadhaar (Enrolment and Update) Regulations, 2016, the Central Government hereby notifies the following, namely: -

(i) an individual eligible for receiving the benefits under the Scheme shall hereby be required to furnish proof of possession of the Aadhaar number or undergo Aadhaar authentication;

(ii) any individual desirous of availing benefits under the Scheme, who does not possess the Aadhaar number or has not yet enrolled for Aadhaar, shall be required to make application for Aadhaar enrolment and in case such person is entitled to obtain Aadhaar as per section 3 of the said Act, such individual may visit any Aadhaar enrolment centre [as per the list available at Unique Identification Authority of India (UIDAI) website www.uidai.gov.in] to get enrolled for Aadhaar;

(iii) the Implementing Agencies shall offer Aadhaar enrolment facilities for the beneficiaries who are not yet enrolled for Aadhaar and in case there is no Aadhaar enrolment centre located in the respective Block or Taluka or Tehsil, the Implementing Agencies shall provide Aadhaar enrolment facilities at convenient locations in coordination with the existing Registrars of UIDAI or by becoming UIDAI Registrar

themselves by applying under regulation 21 of the Aadhaar (Enrolment and Update) Regulations, 2016 and contact Regional Offices of UIDAI for the said purpose.

This notification shall come into effect from the date of its publication in the Official Gazette in all the States and Union Territories.

For details: [https://egazette.gov.in/\(S\(visvvr3z43jregkn43qgh1is\)\)/ViewPDF.aspx](https://egazette.gov.in/(S(visvvr3z43jregkn43qgh1is))/ViewPDF.aspx)

6. Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Amendment Order, 2024 (MCA Order No. 9th September, 2024 dated 15th July 2024)

In exercise of the powers conferred by section 405 of the Companies Act, 2013 the Central Government notifies the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Amendment Order, 2024

As per the amendment in Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019 namely:

- in paragraph 3, the following proviso shall be inserted, namely:
“Provided that only those specified companies which are having payments pending to any micro or small enterprises for more than 45 days from the date of acceptance or the date of deemed acceptance of the goods or services under section 9 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006) shall furnish the information in MSME Form-1.”
- In Annexure, MSME Form-1 shall be substituted.

Brief Analysis

Companies Act, 2013 provides that those specified companies which are having payments pending to any micro or small enterprises for more than 45 days from the date of acceptance or the date of deemed acceptance of the goods or services under section 9 of the Micro, Small and Medium Enterprises Development Act, 2006 shall furnish the information in MSME Form-I.

For details:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NDU50TcwNjc0&docCategory=Others&type=open>

7. Notification under the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 for enhancing the scope for mandatory onboarding on TReDS (7th November, 2024)

In exercise of powers conferred by section 9 of the Micro, Small and Medium Enterprises Development Act, 2006 and in supersession of the notification of the Government of India, in the Ministry of Micro, Small and Medium Enterprise numbers S.O. 5621(E), dated the 2nd November, 2018 and S.O. 5622(E), dated the 2nd November, 2018, published in the Gazette of India the Central Government hereby issues the following instructions, namely:-

- All companies registered under the Companies Act, 2013 (18 of 2013) with a turnover of more than Rs. 250 crore (two hundred and fifty crore rupees) and all Central Public Sector Enterprises shall be required to get themselves onboarded on the Trade Receivables Discounting System platforms, set up as per the notification of the Reserve Bank of India.
- The onboarding process on the Trade Receivables Discounting System platforms shall be completed by 31st March, 2025.

For details:

[https://egazette.gov.in/\(S\[mk55jx0m0fymqk2m4ea0uw13\]\)/SearchMinistry.aspx?id=243466](https://egazette.gov.in/(S[mk55jx0m0fymqk2m4ea0uw13])/SearchMinistry.aspx?id=243466)

Brief Analysis

This is a step taken by the government in order to provide ease of doing business by enhancing the financial environment for MSMEs.

8. Case Law

In the case of *M/S. Pro Knits {Appellant(s)} Versus The Board of Directors of Canara Bank & Ors {Respondent(S)}* Hon'ble Supreme Court inter alia observed that it is absolutely clear that the Instructions for the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises as notified by the Central Government vide the Notification dated 29th May, 2015 in exercise of the powers conferred under Section 9 of the MSMED Act, as revised by the RBI Notification dated 17th March, 2016, and the Master Directions i.e. the Reserve Bank of India (Lending to Micro, Small and Medium Enterprises Sector) Directions, 2016, issued by the Reserve Bank of India in exercise of the powers conferred by Section 21 and 35(A) of the Banking Regulation Act, having statutory force, are binding to all Scheduled Commercial Banks, licensed to operate in India by the Reserve Bank of India, as stated in the said Directions. It cannot be gainsaid that the Banking Regulation Act 1949 basically seeks to regulate banking business and mandates a statutory comprehensive and formal structure of banking regulation and supervision in India. Section 21 and Section 35A of the said Act empower the Reserve Bank of India to frame the policy and give directions to the banking companies in relation to the advances to be followed by the banking companies. Such directions have got to be read as supplement to the provisions of the Banking Regulation Act and accordingly are required to be construed as having statutory force and mandatory.

Further the Apex Court held that..... the Instructions/Directions issued by the Central Government under Section 9 of the MSMED Act and by the RBI under Section 21 and Section 35A have statutory force and are binding to all the Banking companies.

For details:

https://api.sci.gov.in/supremecourt/2024/14067/14067_2024_14_1501_54466_Judge%20ment_01-Aug-2024.pdf

Lesson 6- Conversion Of Business Entities

1. The Companies (Incorporation) Amendment Rules 2023 (MCA Notification No. G.S.R. 42(E) dated January 19, 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. Vide this notification, the following amendments have been made:

1. 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.

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.

2. 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. altered e-MOA and e-AOA, Copy of NOC of every creditor with the application of conversion and affidavit of directors confirming that all the members of the company have given their consent for conversion.

Further rule 7(5) is modified stating, on being satisfied that the requirements stated herein have been complied with, the Registrar after examining the latest audited financial statement shall approve the form and issue certificate.

3. 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 eArticle 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>

Miscellaneous

1. Companies (Adjudication of Penalties) Rules, 2014 (MCA Notification No. G.S.R. 476(E) dated on August 05, 2024)

In exercise of the powers conferred by section 454 read with section 469 of the Companies Act, 2013, the Central Government notified Companies (Adjudication of Penalties) Amendment Rules, 2024 which shall come into force from the 16th day of September, 2024.

A new section 3A after Rule 3 is being inserted in Companies (Adjudication of Penalties) Rules, 2014 in order to enable e e-adjudication platform developed by the Central Government.

Section 3A shall be read as : Adjudication Platform.-

(1) On the commencement of the Companies (Adjudication of Penalties) Amendment Rules, 2024, all proceedings (including issue of notices, filing replies or documents, evidences, holding of hearing, attendance of witnesses, passing of orders and payment of penalty) of adjudicating officer and Regional Director under these rules shall take place in electronic mode only through the e-adjudication platform developed by the Central Government for this purpose.

(2) In case the e-mail address of any person to whom a notice or summons is required to be issued under these rules is not available, the adjudicating officer shall send the notice by post at the last intimated address or address available in the records and the officer shall preserve a copy of such notice in the electronic record in the e-adjudication platform referred to in sub-rule (1):

Provided that in case no address of the person concerned is available, the notice shall be placed on the e-adjudication platform."

2. For the Annexure to the said rules, the Annexure shall be substituted by Form No. ADJ (Memorandum of Appeal)

Brief analysis

As per new rule 3A, all proceedings of the adjudicating officer and Regional Director under the rules would be conducted electronically through the e-adjudication platform developed by the Central Government.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=ksyWu6kmYbS46oyUYmt6cw%253D%253D&type=open>
