



**THE INSTITUTE OF
Company Secretaries of India**
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

**SUPPLEMENT
EXECUTIVE PROGRAMME
(NEW SYLLABUS)**

for

December, 2023 Examination

**SETTING UP OF BUSINESS,
INDUSTRIAL & LABOUR LAWS
GROUP 1, PAPER 3**

Disclaimer: This document has been prepared purely for academic purposes only and it does not necessarily reflect the views of ICSI. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.

Students appearing in Examination shall note the following:

Students appearing in December, 2023 Examination should also update themselves on all the relevant Notifications, Circulars, Clarifications, Orders etc. issued by MCA, SEBI, RBI & Central Government upto 31st May, 2023.

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

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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-3I, 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=Notifications&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>

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>
