

# CA Test Series

CA Final | Inter | Foundation Test Series

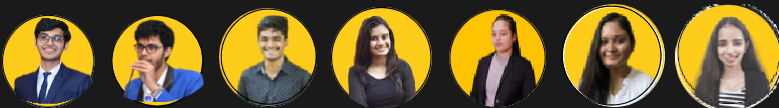


## NOTE'S

**CA INTER  
CORPORATE AND OTHER LAWS  
AMENDMENTS NOTES**



Consistently Top AIRs from CA Test Series



## **Inter law**

### **Amendments notes**

#### **Chapter-1 incorporation & OPC**

##### **Small Company**

**[Section 2(85)]**

**"Small Company"** means a company, other than a public company-

(i) **Paid-Up Share Capital** of which does not exceed Rs.4 crores or such higher amount as may be prescribed which shall not be more than 10 crores

**AND**

(ii) **Turnover** of which as per profit and loss account for the immediately preceding financial year does not exceed 40 crores or such higher amount as may be prescribed which shall not be more than Rs.100 crores.

#### **Chapter-3 memorandum & articles**

##### **Section 16 rectification of name of the company**

If through inadvertence or otherwise, a company on its first registration or on its registration by a new name, is registered by a name which-

(a) in the OPINION of the central Government, is IDENTICAL with the name by which a company in existence had been previously registered, it may direct the company to change its name and the company shall change its name within 3 months from the issue of such direction, after adopting an Ordinary Resolution for the purpose;

(b) On an APPLICATION by a registered proprietor of a trade mark that the name is IDENTICAL with a registered trade mark of such proprietor under the trade marks Act, 1999, made to the central Government within 3 years of incorporation of the company, in the opinion of the Central Government, is identical with an existing trade mark, it may direct the company to change its name and the company shall change its name within a period of 3

months from the issue of such direction, after adopting an Ordinary Resolution for the purpose.

**Teacher's Note:**

CG has delegated its powers under this section to Regional Director.

**New Action by CG on defaulting company [CAA- 2020]**

If a company is in default in complying with any direction given by CG:-

- (a) The CG shall allot a new name to the company in such manner as may be prescribed and
- (b) The register shall enter the new name in the register of companies in place of the old name and
- (c) The register shall issue a fresh certificate of incorporation with the new name, which the company shall use thereafter.

Provided that nothing in this sub-section shall prevent a company from subsequently changing its name in accordance with the provisions of section 13.

**Chapter-7 Allotment of securities**

**Prohibition on offer to BC/N of neighbouring countries.**

No offer or invitation of any securities under Rule 14 shall be made to:-

- ◆ A body corporate incorporated, or
- ◆ A national of,

A COUNTRY which shares a land BORDER with India, unless such body corporate or the national, as the case may be, have obtained Government approval under the Foreign exchange management (non-debt instruments) rules, 2019 and attached the same with the private placement offer cum application letter.

**Chapter-11 Deposits**

## **Return of deposits to be filed with the register [Rule 16]**

Every company (other than Government Company) shall on or before the 30<sup>th</sup> day of June, every year, file with the register, a return in Form DPT-3 and furnish the information contained therein as on the 31<sup>st</sup> day of March of that year duly audited by the auditor of the company, and declaration to that effect shall be submitted by the auditor in Form DPT-.

## **Chapter-12 Charges**

### **Registration charge with ROC [sec 77+ rule 3]**

#### **Exception**

Nothing contained in this rule shall apply to any charge required to be created or modified by a Banking Company under section 77 in favour of the RBI when any loan or advance has been made to it under section 17(4) (d) of the Reserve Bank of India Act, 1934.

#### **Rule 13 (New)**

In case of companies which are under resolution or liquidation, the charge e-forms CHG-1, CHG-4, CHG-8, and CHG-9 shall be signed by:

- ☐ insolvency resolution professional or
- ☐ Resolution profession or
- ☐ liquidator,

As the case made be and filed with the registrar.

## **Chapter-13 Registers & Returns**

### **Not available for inspection (sec 94)**

Provided that SUCH PARTICULARS of the register or index or return as may be prescribed shall NOT be available for inspection or for taking extracts or copies.

**The following particulars shall NOT be available for inspection or for taking extracts or copies.**

(i) Address or registered address (in case of a body corporate);

(ii) E-mail ID

(iii) Unique identification Number

(iv) PAN Number

## **Chapter-18 Dividend**

### **Amounts credited to the fund [sec 125(2)]**

Investor Education and protection fund authority (Accounting, audit, transfer and refund) rules, 2016

#### **Rule 3(2) (fa)**

There shall be credited to the fund-

(fa) all shares held by the authority in accordance with proviso of sub-section (9) of section 90 of the Act and all the resultant benefits arising out of such shares, without any restrictions.

**Teacher's note:** This amendment is irrelevant. Sec 125 (2) itself prescribes a long list of amounts credited to the IEPF. We don't have to prepare the rule 3 therefor.

## **Chapter-19 Accounts & CSR**

**Clarification on spending of CSR funds for COVID-19 [General circular No.10/2020 dated 23 March 2020]** Funds may be spent for various activates related to COVID-19 under items (i) and (xii) of schedule VII relating to promotion of health care, including preventive health care and sanitation, and disaster management. Further as per General circular No.21/2014 dated June 18, 2014, the items enlisted in the Schedule VII of the Act, are **broad-based and may be interpreted liberally for this purpose.**

**General Circular No.09/2021, date: 05<sup>th</sup> may 2021**

It is further clarified that spending of CSR funds for:-

- ☑creating health infrastructure for COVID care,
- ☑establishment of medical oxygen generation and storage plants,
- ☑Manufacturing and supply of Oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVID-19

Or similar such activities are eligible CSR activities under item nos. (i) And (xii) of Schedule VII of the Companies Act, 2013 relating to promotion of health care, including preventive health care, and, disaster management respectively

Reference is also drawn to item no. (ix) of Schedule VII of the Companies Act, 2013 which permits contribution to specified research and development projects as well as contribution to public funded universities and certain Organisations engaged in conducting research in science, technology, engineering, and medicine as eligible CSR activities.

The companies including Government companies may undertake the activities or projects or programmes using CSR funds, directly by themselves or in collaboration as shared responsibility with other companies, subject to fulfilment of Companies (CSR Policy) Rules, 2014 and the guidelines issued by this Ministry from time to time.

General Circular 13/2021 dated 30th July, 2021

The Ministry of Corporate Affairs vide General Circular 10/2020 dated 23.03.2020 clarified that spending of CSR funds for COVID-19 is an eligible CSR activity. In continuation to the said circular, it is further clarified that spending of CSR funds of COVID-19 vaccination for persons other than the employees and their families, is an eligible CSR activity under item no. (i) Of Schedule VII of the Companies Act, 2013 relating to promotion of health care including preventive health care and item no. (xii) Relating to disaster management.

General Circular 08/2022 dated 26th July, 2022

Subject: Clarification on spending of CSR funds for 'HarGharTiranga' campaign.



'HarGharTiranga', a campaign under AzadiKaAmritMahotsav, is aimed to invoke the feeling of patriotism in the hearts of the people and to promote awareness about the Indian National Flag. In this regard, it is clarified that spending of CSR funds for the activities related to this campaign, such as mass scale production and supply of the National Flag, outreach and amplification efforts and other related activities, are eligible CSR activities under item no. (ii) of Schedule VII of the Companies Act, 2013 pertaining to promotion of education relating to culture.

### **Filing CSR-2 with Financial Statements in AOC-4**

#### **[Se 137 + Rule 12]**

(A) Every company covered under the provisions of section 135(1) shall furnish a report on CSR in Form CSR-2 to the Registrar for the F.Y. 2020-21 and onwards as an addendum to Form AOC-4.

(B) provided that for the F.Y. 2020-21, Form CSR-2 shall be filed separately on or before 30th June, 2022, after filing Form AOC-4.

(C) Provided further that for the F.Y. 2021-22, Form CSR-2 shall be filed separately on or before 31st March, 2023 after filing Form AOC-4.

### **Manner of Books of Account to be kept in Electronic Mode**

#### **Section 128 + Rule 3**

(1) The books shall remain accessible in India, at all times.

Provided that for the financial year commencing on or after the 1st day of April, 2023, every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an editlog of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled.

(2) The books shall be retained completely in the format in which they were originally generated.

(3) The information received from branch offices shall not be altered.

(4) The information in the electronic record shall be displayed in a legible form.

(5) There shall be a proper system for storage, retrieval, display or printout of the electronic records.

**Provided that the back-up shall be kept in servers physically located in India, on a DAILY basis.**

(6) The company shall intimate to the Registrar on an annual basis at the time of filing of financial statement-

(a) The name of the service provider;

(b) The internet protocol address of service provider;

(c) The location of the service provider (wherever applicable);

(d) Where the books are maintained on cloud, such address as provided by the service provider.

(e) Where the service provider is located outside India, the name and address of the person in control of the books of accounts and papers in India.

**Companies (CSR Policy) Rules, 2014 with  
Companies (CSR Policy) Amendment Rules, 2021.**

**Rule 3**

**Corporate Social Responsibility**

(1) EVERY company including its HOLDING or SUBSIDIARY, and a FOREIGN company defined under section 2(42) of the Act having its branch office or project office in India, which fulfils the criteria specified in Section 135(1) of the Act shall comply with the provisions of section 135 of the Act and these rules:

**Indian Profits only**

Provided that net worth, turnover or net profit of a foreign company of the Act shall be computed in accordance with balance sheet and Profit and loss account of such company prepared in accordance with the provisions of section 381(1)(a) and section 198 of the Act.



(2) Provided further that a company having any amount in its Unspent Corporate Social Responsibility Account as per Section 135(6) shall constitute a CSR Committee and comply with the provisions contained in Section 135(2) to (6).

#### **Rule 4**

##### **CSR Implementation**

(1) The Board shall ensure that the CSR activities are undertaken by the company itself or through -

(a) A Section 8 company, or a registered public trust or a registered society, exempted u/s 10(23C) (IV), (v), (VI) or (via) or registered u/s 12A and approved u/s 80 G of the Income Tax Act, 1961, ESTABLISHED by the COMPANY, either singly or along with any other company, or

(b) A Section 8 company or a registered trust or a registered society, ESTABLISHED by the CG or SG; or

(c) Any Statutory Entity ESTABLISHED under an Act of Parliament or a State legislature; or

(d) a Section 8 company, or a registered public trust or a registered society, exempted u/s 10(23C) (iv) (v), (vi) or (via) or registered u/s 12A and approved u/s 80 G of the Income Tax Act, 1961, and having an established track record of at least 3 years in undertaking similar activities.

**Explanation-** For the purpose of clause (c), the term "entity" shall mean a statutory body constituted under an Act of Parliament or State legislature to undertake activities covered in Schedule VII of the Act.

(2).

(a) Every entity, covered under sub-rule (1), who intends to undertake any CSR activity, shall register itself with the CG by filing the Form CSR-1 electronically with the Registrar, with effect from the 1st day of

#### **April 2021:**

Provided that the provisions of this sub-rule shall not affect the CSR projects or programmes approved prior to the 1st day of April 2021.

(b) Form CSR - 1 shall be signed and submitted electronically by the entity and shall be verified digitally by a CA/CS/CMA in practice.

(c) On the submission of the Form CSR-1 on the portal, a unique CSR Registration Number shall be generated by the system automatically.

(3) A company may engage international organisations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.

(4) A company may also collaborate with other companies for undertaking projects or programmes or CSR activities in such a manner that the CSR committees of respective companies are in a position to report separately on such projects or programmes in accordance with these rules.

(5) The Board of a company shall satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it and the CFO (Chief Financial Officer) or the person responsible for financial management shall certify to the effect.

(6) In case of ONGOING project, the Board of a Company shall monitor the implementation of the project with reference to the approved timelines and year-wise allocation and shall be competent to make modifications, if any, for smooth implementation of the project within the overall permissible time period.

## **Rule8**

### **CSR Reporting**

(1) The Board's Report of a company covered under these rules pertaining to any financial year shall include an Annual Report on CSR containing particulars specified in Annexure I or Annexure II of these Rules.

(2) In case of a FOREIGN company, the Balance Sheet filed u/s 381 (1)(b) of the Act, shall contain an annual report on CSR containing particulars specified in Annexure I or Annexure II of these Rules.

### **(3) Impact Assessment**

(a) Every company having average CSR obligation of  $\geq 10$  crores in pursuance of section 135(5) of the Act, in the 3 immediately preceding financial years, shall undertake IMPACT assessment, through an INDEPENDENT agency, of their CSR projects having outlays of  $\geq 1$  crore, and which have been completed not less than 1 year before undertaking the impact study.

(b) The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR.

(c) A Company undertaking impact assessment may book the impact assessment expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed HIGHER of:-

- (i) 2% of the total CSR expenditure for that financial year or
- (ii) 50 lakhs.

