

Contents

MCA UPDATES FOR THE MONTH OF FEBRUARY 2021	2
RULES	2
Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2021	2
1 st February, 2021	2
Companies (Specification of Definitions Details) Amendment Rules, 2021	2
1 st February, 2021	2
(Effective from 1 st April, 2021).....	2
Companies (Incorporation) Second Amendment Rules, 2021	3
1 st February, 2021	3
(Effective from 1 st April, 2021).....	3
Producer Companies Rules, 2021.....	4
11 th February, 2021	4
Companies (Share Capital and Debentures) Amendment Rules, 2021	5
11 th February, 2021	5
(Effective from 1 st April, 2021).....	5
Companies (Specification of Definitions Details) Second Amendment Rules, 2021	5
19 th February, 2021	5
(Effective from 1 st April, 2021).....	5

MCA UPDATES FOR THE MONTH OF FEBRUARY 2021

RULES

Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2021

1st February, 2021

MCA has amended rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as the said rules):

New Rule 1A shall be inserted after rule 25(1) of the said rules:

Rule 25(1A)-

A scheme of merger or amalgamation under section 233 of the Companies Act, 2013 may be entered into between any of the following class of companies, namely:-

- (i) Two or more [start-up companies*](#); or
- (ii) One or more start-up company with one or more small company.

*Start-up company means a private company incorporated under the Companies Act, 2013 or Companies Act, 1956 and recognised as such in accordance with the notification number G.S.R. 127 (E) dated 19th February, 2019 issued by the Department for Promotion of Industry and Internal Trade.

For more information visit [AmalgamationsAmndtRules_02022021.pdf \(mca.gov.in\)](#)

Companies (Specification of Definitions Details) Amendment Rules, 2021

1st February, 2021

(Effective from 1st April, 2021)

MCA has amended rule 2(1) of the Companies (Specification of Definitions Details) Rules, 2014:

clause (t) shall be inserted after clause (s):

Rule 2(1)(t)-

For the purpose of section 2(85)(i) and 2(85)(ii) of the companies Act, 2013 (the Act), paid up capital and turnover of the small company shall not exceed rupees 2 crores and rupees 20 crores respectively.

For more information visit [SpecificationAmndtRules_02022021.pdf \(mca.gov.in\)](#)

Companies (Incorporation) Second Amendment Rules, 2021

1st February, 2021

(Effective from 1st April, 2021)

MCA has amended the Companies (Incorporation) Rules, 2014 (hereinafter referred to as the said rules):

1. As per amendment in rule 3(1), for incorporating One Person Company (OPC) or to be a nominee of OPC, a natural person who is an Indian Citizen may be either Resident in India or otherwise (earlier it was compulsory to be Indian Citizen and resident in India)

Explanation I- the term *resident in India* means a person who has stayed in India for a period of not less than One Hundred and Twenty Days (earlier One Hundred and Eighty Two days) during the immediately preceding Financial Year.

2. Rule 3(7) shall be omitted.

3. Rule 6 shall be substituted as follows:

Rule 6-

(1) The OPC shall alter its memorandum and articles by passing a resolution in accordance with section 122(3) of the Act to give effect to the conversion and to make necessary changes incidental thereto.

(2) OPC may be converted into a Private or Public company, other than a company registered under section 8 of the Act, after increasing the minimum number of members and Directors to 2 or 7 members and two or three Directors, as the case may be, and maintaining the minimum paid-up capital as per the requirements of the Act for such class of company and by making due compliance of section 18 of the Act for conversion.

(3) The company shall file an application in e-form no, **INC-6** for its conversion Private or Public company, other than section 8 of the Act, along with fees as provided in the Companies (Registration offices and fees) Rules, 2014 by attaching documents namely:_

(a) Altered MOA and AOA;

(b) Copy of resolution

(c) The list of proposed members and its Directors along with consent;

(d) List of Creditors; and

(e) The latest audited Balance Sheet and Profit and Loss Account.

(4) On being satisfied that the requirements stated herein have been complied with, the registrar shall approve the form and issue the Certificate.

4. As per the amendment in Rule 7(1), a private company (Earlier having paid-up share capital of Rs. 50,00,000 or less and average annual turnover during the relevant period is Rs. 2,00,00,000 or less) other than a company registered under section 8 of the Act may convert itself into OPC by passing a special resolution in the general meeting.

5. As per the amendment in Rule 7(4)(i):

For the purpose of conversion into OPC, the Directors of the company shall give a **declaration** by way of affidavit duly sworn in confirming that all members and creditors of the company have given their consent for conversion (Earlier declaration

shall include that the paid-up share capital of the company is Rs. 50,00,000 or less and average annual turnover during the relevant period is Rs. 2,00,00,000 or less).

6. In the Annexure, e-form **INC-5** shall be omitted.
7. New e-form INC-6 shall substitute the erstwhile e-form INC-6.

For more information visit [CompaniesSecondAmndtRules_16022021.pdf \(mca.gov.in\)](https://www.mca.gov.in/announcements/CompaniesSecondAmndtRules_16022021.pdf)

Producer Companies Rules, 2021

11th February, 2021

Applicability- These rules shall apply to a Producer Company as referred in clause 1 of section 378A of the Act.

“Producer Company- means a body corporate having objects or activities specified in section 378B and registered as producer company under this Act or under the Companies Act, 1956.”

Rule 3

Definitions:

- (1) In these rules, unless the context otherwise requires-
 - (a) “Act” means the Companies Act, 2013;
 - (b) “section” means the section of the Act;
 - (c) “co-operative society” means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;
- (2) Words and expressions used in these rules but not defined but defined in the Act or in the Companies (Specification of definitions Details) Rules, 2014, shall have the same meanings respectively assigned to them in the Act or in the said rules.

Rule 4

Change of Place of Registered office from one State to another:

The rules 27, 30 and 31 of the Companies (Incorporation) Rules, 2014, including the forms stated therein shall be applied for the purpose of change of place of registered office from one state to another.

Rule 5

Investment of General Reserves:

A producer company shall make investments from and out of its General Reserves in any one or in combination of the following, namely-

- (a) In approved securities, fixed deposits, units and bonds issued by the Central Government or State Governments or co-operative societies or scheduled bank; or
- (b) In a co-operative bank, State co-operative bank, co-operative land development bank or central co-operative bank; or
- (c) With any other scheduled bank;
- (d) In any of the securities specified in section 20 of the Indian Trusts Act, 1882; or
- (e) In the shares or securities of any other inter-State co-operative society or any co-

- operative society; or
- (f) In the shares, securities or assets of public financial institutions specified in the section 2(72) of the Act.

For more information visit [ProducerCompaniesRules_16022021.pdf \(mca.gov.in\)](http://ProducerCompaniesRules_16022021.pdf(mca.gov.in))

Companies (Share Capital and Debentures) Amendment Rules, 2021

11th February, 2021

(Effective from 1st April, 2021)

MCA has amended Companies (Share Capital and Debentures) Rules, 2014 (hereinafter referred to as the said rules):

New **Rule 12A** shall be inserted after rule 12 of the said rules.

There is change in conditions with respect to Letter of offer to existing shareholders for the purpose of further issue of shares to increase the subscribed capital.

As per the said amendment, the period [for the purpose of notice under section 62(1)(a)(i)] within which the offer shall be made for acceptance shall be not less than 7 days from the date of offer.

For more information visit [CompaniesShareCapitalDebenturesRules_16022021.pdf \(mca.gov.in\)](http://CompaniesShareCapitalDebenturesRules_16022021.pdf(mca.gov.in))

Companies (Specification of Definitions Details) Second Amendment Rules, 2021

19th February, 2021

(Effective from 1st April, 2021)

MCA has inserted new Rule 2A after Rule 2 of Companies (Specification of Definitions Details) Rules, 2014.

Rule 2A-

Companies not to be considered as Listed Companies:

For the purposes of the section 2(52) of the Act, the following classes of companies shall not be considered as listed companies, namely:-

- (a) Public companies which have not listed their equity shares on a recognized stock exchange but have listed their-
- (i) Non-convertible debt securities issued on private placement basis in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008; or
 - (ii) Non-convertible redeemable preference shares issued on private placement basis in terms of SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013; or
 - (iii) Both categories of (i) and (ii) above.

- (b) Private companies which have listed their non-convertible debt securities on private placement basis on a recognized stock exchange in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008;
- (c) Public companies which have not listed their equity shares on a recognized stock exchange but whose equity shares are listed on a stock exchange in a jurisdiction as specified in section 23(3) of the Act.

For more information visit [CompaniesSpecification2ndAmndtRules 19022021.pdf \(mca.gov.in\)](#)

Hope the information will assist you in your Professional endeavours. In case of any query / information, please do not hesitate to write back to us at E: pcschinki@gmail.com and M: +91 9050320565.

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Best Regards



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