



# CA Test Series.org (Since 2015)

CA Final | CA Inter | CA IPCC | CA Foundation Online Test Series

Answer Paper	
Corporate & Economic Laws	Duration: 75
Details: Test – 2	Marks: 40

**Instructions:**

- All the questions are compulsory
- Properly mention test number and page number on your answer sheet, Try to upload sheets in arranged manner.
- In case of multiple choice questions, mention option number only Working notes are compulsory wherever required in support of your solution
- Do not copy any solution from any material. Attempt as much as you know to fairly judge your performance.

**Legal:** Material provided by [catestseries.org](http://catestseries.org) is subject to copyright. No part of this publication may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For permission requests, write to the publisher, addressed “Attention: Permissions Coordinator,” at [exam@catestseries.org](mailto:exam@catestseries.org). If any person caught of copyright infringement, strong legal action will be taken. For more details check legal terms on the website: [catestseries.org](http://catestseries.org)

## **ANS-1**

### **(i) Foreign Company (Section 2(42)):**

"Foreign Company" means any company or body corporate incorporated outside India which-

(a) Has a place of business in India whether by itself or through an agent, physically or through electronic mode; and

(b) Conducts any business activity in India in any other manner.

### **Requirement of holding of paid up share capital [Section 379 (2) of the Companies Act, 2013]:**

Where not less than 50% of the paid-up share capital, whether equity or preference or partly equity and partly preference, of a foreign company is held by:

(i) One or more citizens of India; or

(ii) By one or more companies or bodies corporate incorporated in India; or

(iii) By one or more citizens of India and one or more companies or bodies corporate incorporated in India,

whether singly or in the aggregate, such company shall comply with the provisions of Chapter XXII and such other provisions of this Act as may be prescribed with regard to the business carried on by it in India as if it were a company incorporated in India. [Section 379(2)]

In the instant case, Puresoft Solutions Private Limited is a Foreign Company and has to comply with the provisions of Chapter XXII i.e. legal provisions for companies incorporated outside India.

**(ii)** According to Section 390 of the Companies Act, 2013, and according to the Companies (Registration of Foreign Companies) Rules, 2014, Indian Depository Receipts (IDR) means any instrument in the form of a depository receipt created by a Domestic Depository in India and

authorized by a Company incorporated outside India making an issue of such depository receipts.

According to Section 390, notwithstanding anything contained in any other law for the time being in force, the Central Government may make rules applicable for-

- (i) The offer of Indian Depository Receipts (IDR);
- (ii) the requirement of disclosures in prospectus or letter of offer issued in connection with IDR;
- (iii) the manner in which the IDR shall be dealt with in a depository mode and by custodian and underwriters; and
- (iv) The manner of sale, transfer or transmission of IDR,

By a Company incorporated or to be incorporated outside India, whether the company has or has not established, or will or will not establish, any place of business in India.

According to the Companies (Registration of Foreign Companies) Rules, 2014, no Company incorporated or to be incorporated outside India, whether the company has or has not established, or may or may not establish, any place of business in India shall make an issue of Indian Depository Receipts (IDRs) unless it complies with the conditions mentioned under this Rule, in addition to the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 and any directions issued by the Reserve Bank of India.

**(6 marks)**

### **ANS-2**

A dormant Company shall have such minimum number of directors, file such documents and pay such annual fee as may be prescribed to the Registrar to retain its dormant status in the Register and may become an active company on an application made in this behalf accompanied by such documents and fee as may be prescribed.

According to Rule 6 of the Companies (Miscellaneous) Rules, 2014, a dormant company shall have a minimum number of 3 directors in case of a public company, 2 directors in case of a private company and 1 director in case of a One Person Company.

According to the Rule 7 of the Companies (Miscellaneous) Rules, 2014, a dormant company shall also continue to file the return / returns and change in directors in the manner and within the time specified in the Act, or whenever the company allots any security to any person or whenever there is any change in the directors of the company.

Under the provisions, a dormant public company should have minimum 3 directors. The reduction of number of directors to 2 is not appropriate.

Hence, by taking into account the above provisions, reduction in the number of directors to 2 and not filing a statement with Registrar regarding change of Directors by Jackpot Limited is not appropriate.

(5 marks)

### **ANS-3**

(i) Embezzlement of the cash and absconding is a cognizable offence which means a police officer can arrest such person without the warrant of the magistrate.

#### **(ii) Cognizable Offence:**

"Cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant.

#### **Non-Cognizable Offence:**

"Non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant.

Cognizable offences are heinous crimes, whereas non-cognizable offences are not so serious. Cognizable offences encompass murder, rape, theft, kidnapping, counterfeiting, etc. whereas the, non-cognizable offences include offences like forgery, cheating, assault, defamation and so forth.

By having an overview of the definitions of cognizable and non-cognizable offences as stated above, it is clear that in the matter of cognizable offences, a police officer have authority to arrest any person without warrant, but in case of non-cognizable offences, policy office do not have such authority. Therefore non-cognizable offences are less serious than that of the cognizable offences.

**(iii)** Section 435 (1) provides that the Central Government may, for the purpose of providing speedy trial of offences under this Act, except under section 452, by notification, establish or designate as many Special Courts as may be necessary.

Section 452 Companies Act, 2013 provides that-

If any officer or employee of a company--

- (a) Wrongfully obtains possession of any property, including cash of the company; or
- (b) Having any such property including cash in his possession, wrongfully withholds it or knowingly applies it for the purposes other than those expressed or directed in the articles and authorised by this act.

He shall, on the complaint of the company or of any member or creditor or contributory thereof, be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Hence, as per the provisions of the Companies Act, 2013, the Special Court cannot deal with the matters on which section 452 applies. In the given case, since the branch manager, after collecting the money from the borrowers, absconded [as defined as per section 452(1) (a) & (b)], which comes under the purview of section 452, hence this matter shall not be dealt with by the Special Court.

**(6 marks)**

**ANS-4**

According to Section 423 of the Companies Act, 2013, any person aggrieved by an order of the Appellate Tribunal may prefer an appeal to the Supreme Court.

Every appeal shall be filed within a period of 60 days from the date on which a copy of the order of the Appellate Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed.

Supreme Court may entertain an appeal even after the expiry of the said period of 60 days from the date aforesaid, but within a further period not exceeding 60 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within period.

In above case, since Mr. Rama even aggrieved by an order of Appellate Tribunal desires to fill an application before Supreme Court on 30th October 2020. But as Supreme Court can entertain appeal only upto 60 days + 60 Days (Extension if sufficient cause). Since this appeal was to be filled beyond 120 days by Mr. Rama, so, appeal to be filed before the Supreme Court will not be admissible.

**(4 marks)**

**ANS-5**

Board Resolution for appointment of Additional Director:

"Resolved that pursuant to the Articles of Association of the company and section 161(1) of the Companies Act, 2013, Mr. N is appointed as an Additional Director of the MNR Company Limited with effect from 1st October, 2017 to hold office up to the date of the next annual general meeting or the last date on which the annual general meeting should have been held, whichever is earlier.

Resolved further that Mr.N will enjoy the same powers and rights as other directors.

Resolved further that Mr. .... Secretary of MNR Company Limited be and is hereby authorised to electronically file necessary returns with the Registrar of Companies and to do all other necessary things required under the Act."

**(4 marks)**

**ANS-6**

**According to Section 382 of the Companies Act, 2013,**

- Every foreign company shall conspicuously exhibit on the outside of every office or place where it carries on business in India, the name of the company and the country in which it is incorporated, in letters easily legible in English characters, and also in the characters of the language or one of the languages in general use in the locality in which the office or place is situate;
- If the liability of the members of the company is limited, cause notice of that fact-



(i) to be stated in every such prospectus issued and in all business letters, billheads, letter paper, notices, advertisements and other official publications of the company, in legible English characters; and

(ii) to be conspicuously exhibited on the outside of every office or place where it carries on business in India, in legible English characters and also in legible characters of the language or one of the languages in general use in the locality in which the office or place is situated.

After taking into account the provisions of Section 382 of the Companies Act, 2013, the following are the lapses by the company:

(i) The company has exhibited the name of the company in English but it has not displayed the name of the Country where it was incorporated. Further, it has not displayed both the facts in the local language or one of the languages in general use in the locality in which the office or place is situated i.e. Baroda.

(ii) Further the company is one where the liability of members is limited. The fact that the members liability is limited has not been conspicuously exhibited on the outside of every office or place i.e. in Baroda, in legible English characters and also in legible characters of the language or one of the languages in general use in the locality i.e. Baroda

The above lapses would have given rise to the notice from the Registrar.

**(5 marks)**

#### **ANS-7**

1.(d) Aster Ltd. punishable with fine levied Rs. 1,00,000 to Rs. 3,00,000 + additional fine upto Rs. 50,000 in case of continuing offence.

2.(c) Valuer is liable to be convicted for the incorrect statement given in the report made with an intent to defraud the company or its members.



3. (c) Employee is not a competent person to file a complaint against the company for an offence relating to issue and transfer of securities.

**(2×3= 6 Marks)**

4. (d) No, appeal cannot be admissible as earlier order was passed with the consent of parties

5. (c) September 30, 2021

6.a) PQR Ltd. has not made any application for obtaining the status of dormant company

7. (a) Only Statement (1) is correct

**(1×4 = 4 Marks)**

