

**CA Inter**

# **CORPORATE AND OTHER LAWS**


BY CA PREETI AGGARWAL

**FEATURES**

- Theory concepts supported with examples
- Simple and easy language
- More than 300 questions
- Includes previous years exam questions

**For Video Lectures & Free Downloads**

Visit : [www.theorymasterslearning.com](http://www.theorymasterslearning.com)




# **CA FOUNDATION BUSINESS LAWS**

BY CA PREETI AGGARWAL

**FEATURES**

- Theory concepts supported with examples
- Simple and easy language
- Includes previous years exam questions
- 300+ questions and samples

**For Video Lectures & Free Downloads**



Visit : [www.theorymasterslearning.com](http://www.theorymasterslearning.com)

**Worried about CA Inter Law Studies?**

Here is Everything you need, On a budget!

Buy Theorysters Learning's **CA Inter - Full Course** including Past Exams Questions.

*So, What are you waiting for?*

**Hurry, Order Now!**

[www.theorysterslearning.com](http://www.theorysterslearning.com)

**ARE YOU LOOKING FOR COMPLETE STUDY LECTURES FOR CA FOUNDATION BUSSINESS LAW?**

**BUY**

Theorysters Learning's **CA Foundation- Business Laws (Full Course)** including Past Exams Questions.

**At best Affordable Prices**

**Order Now!**

**Hurry Up! ₹4,999**

[www.theorysterslearning.com](http://www.theorysterslearning.com)

## 10 Company Law Amendments effective from 1<sup>st</sup> April, 2021

### Amendment 1: CHANGE IN DEFINITION OF SMALL COMPANY

The **Companies (Specification of Definitions Details) Amendment Rules, 2021** passed on 1st February 2021. Definition of Small Company has been changed by these amendments. This Rule came into effect from 1<sup>st</sup> April 2021

Old definition- Section 2(85)	New Definition- Section 2(85)
<p>"Small company" means a company, other than a public company,—</p> <p>(i) paid-up share capital of which does not exceed <b>fifty lakh</b> rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees; and</p> <p>(ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed <b>two crore</b> rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees</p> <p><b>Provided</b> that nothing in this clause shall apply to—</p> <p>(A) a holding company or a subsidiary company;</p> <p>(B) a company registered under section 8; or</p> <p>(C) a company or body corporate governed by any special Act;</p>	<p>"Small company" means a company, other than a public company,—</p> <p>(i) paid-up share capital of which does not exceed <b>two crore</b> rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees; and</p> <p>(ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed <b>twenty crore</b> rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees</p> <p><b>Provided</b> that nothing in this clause shall apply to—</p> <p>(A) a holding company or a subsidiary company;</p> <p>(B) a company registered under section 8; or</p> <p>(C) a company or body corporate governed by any special Act;</p>

**(85) Small company** means a company, other than a public company,—

- (i) paid-up share capital of which does not exceed ~~fifty lakh~~ <sup>₹ 2 CRORES</sup> rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees; and
- (ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed ~~two crore~~ <sup>₹ 20 CRORES</sup> rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees:

Provided that nothing in this clause shall apply to—

- (A) a holding company or a subsidiary company;
- (B) a company registered under section 8; or
- (C) a company or body corporate governed by any special Act.

**Example 11:** H Ltd. is the holding company of S Pvt. Ltd. As per the last profit and loss account for the year ending 31<sup>st</sup> March, 2019 of S Pvt. Ltd., its turnover was to the extent of ₹ 1.50 crores; and paid up share capital was ₹ 40 lacs. Since S Pvt. Ltd., as per the turnover and paid up share capital norms, qualifies for the status of a 'small company' it wants to be categorized as 'small company'. S Pvt. Ltd. cannot be categorized as a 'small company' because it is the subsidiary of another company (H Ltd.). [Proviso to section 2(85)].

**(86) Subscribed capital** means such part of the capital which is for the time being subscribed by the members of a company;

**Amendment 2: AMENDMENT IN CONCEPT OF ONE PERSON COMPANY**

The **Companies (Incorporation) Second Amendment Rules, 2021** passed on 1st February 2021, through these rules MCA has made amendments in many provisions of One Person Company

This Rules came into effect from 1st April 2021

The Central Government introduced the following rules to further amend Rule 3 of the **Companies (Incorporation) Rules, 2014**

Old Provision	Amended Sub-Rule
<p><b>Rule 3- One Person Company</b></p> <p>(1) Only a natural person who is an Indian citizen <b>and resident in India</b></p> <p>(a) shall be eligible to incorporate a One Person Company;</p> <p>(b) shall be a nominee for the sole member of a One Person Company.</p> <p>Explanation I - For the purposes of this rule, the term "resident in India" means a person who has stayed in India for a period of not less than <b>one hundred and eighty two days</b> during the immediately preceding financial year.</p>	<p>(1) Only a natural person who is an Indian citizen <b>whether resident in India or otherwise</b></p> <p>(a) shall be eligible to incorporate a One Person Company;</p> <p>(b) shall be a nominee for the sole member of a One Person Company.</p> <p>Explanation I - For the purposes of this rule, the term "resident in India" means a person who has stayed in India for a period of not less than <b>one hundred and twenty days</b> during the immediately preceding financial year.</p>
<p>(7) No such company can convert voluntarily into any kind of company unless two years is expired from the date of incorporation of One Person Company, except threshold limit (paid up share capital) is increased beyond fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees.</p>	<p>OMITTED</p>

**What does this imply?**

1. Now NRI can incorporate One Person Company in India.
2. It is not mandatory to convert One Person Company in other type of company upon crossing the threshold limit.
3. OPC can convert in other type of Company any time after incorporation without any transition period.
4. Process of OPC in other type of Company has been completed amended.

**INCORPORATION OF COMPANY & MATTERS INCIDENTAL THERETO**

2.11

- ◆ Where a natural person being member in OPC becomes member in another such company by virtue of his being a nominee in that OPC, such person shall meet eligibility criteria (as given in point above) within a period of 182 days.
- ◆ No minor shall become member or nominee of the OPC or can hold share with beneficial interest.
- ◆ Such Company cannot be incorporated or converted into a company under section 8 of the Act. Though it may be converted to private or public companies in certain cases. The procedure of conversion is given in the rules 6 & 7 of Chapter II.
- ◆ Such Company cannot carry out Non-Banking Financial Investment activities including investment in securities of anybody corporate.
- ◆ ~~OPC can not convert voluntarily into any kind of company unless two years have expired from the date of incorporation, except where the paid up share capital is increased beyond fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees.~~

**Example 1:** Rajesh has formed a 'One Person Company (OPC)' with his wife Roopali as nominee. For the last two years, his wife Roopali is suffering from terminal illness and due to this hard fact he wants to change her as nominee. He has a trusted and experienced friend Ramnivas who could be made nominee or his (Rajesh) son Rakshak who is of seventeen years of age. In the instant case, Rajesh can appoint his friend Ramnivas as nominee in his OPC

CA PREETI AGGARWAL

- ◆ The memorandum of OPC shall indicate the name of the other person (nominee), who shall, in the event of the subscriber's death or his incapacity to contract, become the member of the company.

*Page 2:10 of module*

- ◆ The other person (nominee) whose name is given in the memorandum shall give his prior written consent in prescribed form and the same shall be filed with Registrar of companies at the time of incorporation along with its Memorandum of Association and Articles of Association.



- ◆ Such other person (nominee) may be given the right to withdraw his consent.
- ◆ The member of OPC may at any time change the name of such other person (nominee) by giving notice to the company and the company shall intimate the same to the Registrar.
- ◆ Any such change in the name of the person shall not be deemed to be an alteration of the memorandum.

- ◆ Only a natural person who is an Indian citizen ~~and resident in India~~ *whether resident in India or otherwise*
  - (a) shall be eligible to incorporate One Person Company (OPC);
  - (b) shall be a nominee for the sole member of One Person Company (OPC).

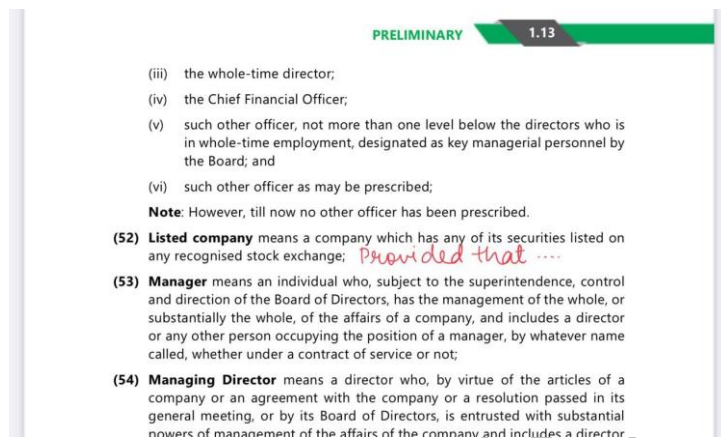
**Explanation I** - For the purposes of this rule, the term "resident in India" means a person who has stayed in India for a period of not less than ~~182 days~~ *120* during the immediately preceding financial year.

- ◆ A natural person shall not be a member of more than one OPC at any point of time and the said person shall not be a nominee of more than one OPC.

**Amendment 3: AMENDMENT IN THE DEFINITION OF A LISTED COMPANY**

The Companies (Specification of Definitions Details) Second Amendment, Rules 2021 passed on 19th February 2021 amended the definition of a listed company. This Rules came into effect from 1st April 2021.

Old definition	New Definition
<p>"listed company" means a company which has any of its securities listed on any recognised stock exchange;</p>	<p>"listed company" means a company which has any of its securities listed on any recognised stock exchange;</p> <p><b>[Provided that such class of companies, which have listed or intend to list such class of securities, as may be prescribed in consultation with the Securities and Exchange Board, shall not be considered as listed companies.]</b></p>



**Extra Reading:**

Following companies shall not be considered as Listed Company-

- 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 (u) 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 sub-section (3) of section 23 of the Act.”

**Amendment 4: APPLICABILITY OF NEW CARO**

Companies (Auditor's Report) Order, 2020 (CARO, 2020) places more onus on statutory auditors as regards fulfilling their professional responsibilities.

Ministry of Corporate Affairs has notified the Companies (Auditor's Report) Order, 2020 (CARO, 2020) which shall be applicable for the eligible companies for the financial year commencing on or after 1st April, 2021.

There are in total 21 clauses in CARO 2021 in comparison to 16 clauses in CARO 2016. 1 old clause is deleted, 1 clause is merged with other and 7 new clauses are inserted.

Therefore, while preparing the auditor report for the F.Y. 2021-22, Auditors shall now follow the new CARO.

**Amendment 5: FINANCIAL STATEMENT (SCHEDULE III) WITH NEW CLAUSES**

The Ministry of Corporate Affairs vide Notification dated 24 March 2021 has amended Schedule III to the Companies Act, 2013, which shall be effective from the 1st day of April 2021 for F.Y. 2021-22.

Ministry by this amendment has added many new disclosures in Notes to accounts of Balance Sheet and P&L like:

- i. Rounding off of figures
- ii. Shareholding of Promoters
- iii. Trade payable ageing Schedule
- iv. Trade receivables ageing schedule
- v. Title deeds of Immovable Property not held in name of the Company
- vi. Disclosure on revaluation of Assets
- vii. Disclosure on Loans/ Advance to Directors/ KMP/ Related parties
- viii. Details of Benami Property held
- ix. Details of Borrowing
- x. Wilful Defaulter
- xi. Relationship with Struck off Companies
- xii. Registration of charges or satisfaction with Registrar of Companies
- xiii. Compliance with number of layers of companies
- xiv. Disclosure of Ratios
- xv. Undisclosed Income (Reconciliation of Income Tax and Companies Act)
- xvi. CSR Disclosure

**Amendment 6: AMENDMENTS IN DISCLOSURES OF DIRECTOR'S REPORT**

The Ministry of Corporate Affairs vide Notification dated 24 March 2021 has amended Companies (Account) Amendment Rules, 2021, which shall be effective from the 1st day of April 2021 for F.Y. 2021-22.

**First Amendment in Rule 3 i.e. Manner of Books of Account to be Kept in Electronic Mode.**

Old Provision	Amended Provision
<p><b>Rule 3 Manner of Books of Account to be Kept in Electronic Mode</b></p> <p>(1) The books of account and other relevant books and papers maintained in electronic mode shall remain accessible in India so as to be usable for subsequent reference.</p>	<p><b>Rule 3 Manner of Books of Account to be Kept in Electronic Mode</b></p> <p>(1) The books of account and other relevant books and papers maintained in electronic mode shall remain accessible in India so as to be usable for subsequent reference.</p> <p style="background-color: yellow; color: red; padding: 5px;"><b>[Provided that for the financial year commencing on or after the 1st day of April, 2022 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 edit log 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.]</b></p>

**What is an Audit Trail?**

**Audit Trail** means, an audit trail is defined as a step-by-step sequential record which provides evidence of the documented history of financial transactions to its source. An auditor can trace every step of, the financial data of a particular transaction right from the general ledger to its source document with the help of the audit trail.

ACCOUNTS OF COMPANIES 9.5

India as the Board of directors may decide. Where such a decision is taken by the Board the company shall within seven days thereof file with the registrar a notice in writing in form AOC-5 giving full address of that other place.

**Maintenance of books of account in electronic form**

A company has an option of keeping books of account or other relevant papers in electronic mode as per Rule 3 of the *Companies (Accounts) Rules, 2014*. Rule 3 lays down the manner of books of account to be kept in electronic mode.

- (1) Such books of account or other relevant books or papers maintained in electronic mode shall remain accessible in India so as to be usable for subsequent reference. *\* Provided that ...*
- (2) The information contained in the records shall be retained completely in the format in which they were originally generated, sent or received, or in a format which shall present accurately the information generated, sent or received and the information contained in the electronic records shall remain complete and unaltered.
- (3) The information received from branch offices shall not be altered and shall be kept in a manner where it shall depict what was originally received from the branches.
- (4) The information in the electronic record of the document shall be capable of being displayed in a legible form.

**Second Amendment in Rule 8 i.e. Matters to be Included in Board’s Report.**

In rule 8, sub rule 5 after clause x, two new clauses added.

Old Provision	Amended Provision
	<p><b>New Clauses added:</b>  <b>(applicable w.e.f. 01.04.2021)</b></p> <p>(xi) the details of application made or any proceeding pending under the Insolvency and Bankruptcy Code, 2016 during the year along with their status as at the end of the financial year.</p> <p>(xii) the details of difference between the amount of the valuation done at the time of one time settlement and the valuation done while taking loan from the Banks or Financial Institutions along with the reasons thereof.</p> <p>Disclosure on above mentioned two clauses are required to give in Directors Report of Companies along with other disclosures.</p>

(ix) a disclosure, as to whether maintenance of cost records as specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013, is required by the Company and accordingly such accounts and records are made and maintained,

(x) a statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

*(xi) and (xii) to be added* →

**Non- applicability of Rule 8 of Companies (Accounts) Rules, 2014:** This rule shall not apply to One Person Company or Small Company.

(3) **Abridged Board's report [Section 134(3A)]:** The Central Government may prescribe an abridged Board's report, for the purpose of compliance with this section by One Person Company or small company.

(4) **Board's Report in case of OPC [Section 134(4)]:** In case of a One Person Company, the report of the Board of Directors to be attached to the financial statement under this section shall, mean a report containing explanations or comments by the Board on every qualification, reservation or adverse remark

**Amendment 7: AMENDMENT IN DISCLOSURES OF AUDITOR’S REPORT**

The Ministry of Corporate Affairs vide Notification dated 24 March 2021 has amended **Companies (Audit and Auditors) Amendment Rules,, 2021**, which shall be effective from the 1st day of April 2021 for FY 2021-22 except clause (g).

Amendment in Rule 11 i.e. Other Matters to be Included in Auditors Report. In Rule 11:

Old Provision	New Provision
<p>(d) whether the company had provided requisite disclosures in its financial statements as to holdings as well as dealings in Specified Bank Notes during the period from 8th November, 2016 to 30th December, 2016 and if so, whether these are in accordance with the books of accounts maintained by the company.</p>	<p><b>Clause (d) to be omitted</b></p>
	<p><b>Newly inserted</b></p> <p>(e) (i) Whether the management has represented that, to the best of it’s knowledge and belief, other than as disclosed in the notes to the accounts, no funds have been advanced or loaned or invested (either from borrowed funds or share premium or any other sources or kind of funds) by the company to or in any other person(s) or entity(ies), including foreign entities (“Intermediaries”), with the understanding, whether recorded in writing or otherwise, that the Intermediary shall, whether, directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company (“Ultimate Beneficiaries”) or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries;</p> <p>(ii) Whether the management has represented, that, to the best of it’s knowledge and belief, other than as disclosed in the notes to the accounts, no funds have been received by the company from any person(s) or entity(ies), including foreign entities (“Funding Parties”), with the understanding, whether recorded in writing or otherwise, that the company shall, whether, directly or indirectly, lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party (“Ultimate Beneficiaries”) or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries; and</p> <p>(iii) Based on such audit procedures that the auditor has considered reasonable and appropriate</p>

	<p>in the circumstances, nothing has come to their notice that has caused them to believe that the representations under sub-clause (i) and (ii) contain any material mis-statement. (applicable w.e.f. 01.04.2021)</p> <p>(f) Whether the dividend declared or paid during the year by the company is in compliance with section 123 of the Companies Act, 2013. (applicable w.e.f. 01.04.2021)</p> <p>(g) Whether the company has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility and the same has been operated throughout the year for all transactions recorded in the software and the audit trail feature has not been tampered with and the audit trail has been preserved by the company as per the statutory requirements for record retention.</p>
--	---

**Amendment 8: ANNUAL RETURN OF ONE PERSON COMPANY AND SMALL COMPANY**

The Companies (Management and Administration) Amendment Rules, 2021 passed on 05th March 2021. This Rules came into effect immediately on publication of same in official gazette and applicable for f.y. 2020-21.

Amendment in Rule 11 i.e. “Annual Return”

In rule 11 sub-rule 1 has been substituted

Old Provision	New Provision
(1) Every company shall prepare its annual return in Form No. MGT.7.	(1) Every company shall file its annual return in Form No.MGT-7 <b>except One Person Company (OPC) and Small Company. One Person Company and Small Company shall file annual return from the financial year 2020-2021 onwards in Form No.MGT-7A.</b>

**MANAGEMENT & ADMINISTRATION**

7.17

- It is important to note here that the private companies have been exempted from issuing public notice in newspapers, provided it issues 7 days' notice to its members before effecting closure of the registers. [Rule 10 (2), Companies (Management & Administration) Rules, 2014]

**3. ANNUAL RETURN [SECTION 92, 94]**

Provisions with regard to Annual Return are contained in section 92 and Rules 11 and 12 of the Companies (Management & Administration) Rules, 2014. Every company shall prepare an annual return in Form No. MGT. 7 as prescribed in Rules containing the following particulars:

1. Its registered office, principal business activities, particulars of its holding, subsidiary and associate companies.	2. Its shares, debentures and other securities and shareholding pattern	3. Its indebtedness
4. Its members and debenture-holders along with the changes therein since the close of the previous financial year	5. Its promoters, directors, key managerial personnel along with changes therein since the close of the previous financial year.	6. Meetings of members or a class thereof, Board and its various committees along with attendance details.
8. Penalty or punishment imposed		

**Amendment 9: INTRODUCTION OF E-FORM CSR-1**

Ministry of Corporate Affairs has launched CSR-1 form on their website w.e.f. 1st April 2021. E-form CSR-1 is required to be filed pursuant to Section 135 of the Companies Act, 2013 and Rule 4 (1) and (2) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 by followings:

- Registered Public Trust
- Registered Society
- Section 8 Company

**For Exam**

**CSR Implementation**

- The Board of the Company shall ensure that the CSR activities of the company are undertaken either by itself or through-
  - a section 8 company,
  - registered public trust
  - registered public society

And all of them must be registered under section 12A of the Income Tax Act as well as approved under section 80G of the Income Tax Act.

- Every entity, covered above (i.e Section 8 Company, a registered public trust and a registered public society), that intends to undertake any CSR activity, shall register itself with the Central Government by filing the form CSR-1 electronically with the Registrar with effect from 1<sup>st</sup> April, 2021. Provided that the provisions of this sub-rule shall not affect the CSR projects or programmes approved prior to 1<sup>st</sup> April, 2021.
- Form CSR-1 shall be signed and submitted electronically by the entity and shall be verified digitally by a Chartered Accountant in practice or a Company Secretary in practice or a Cost Accountant in practice.

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

**Amendment 10: NEW ANNEXURE OF CSR WITH DIRECTOR'S REPORT**

MCA has introduced “Companies (Corporate Social Responsibility Policy), Amendment Rules, 2021. These rules came into effect on 22 January 2021, as the same has been published in the official gazette on the same date. Therefore, these amended rules are applicable on the financial year 2020-21 (subject to specific date of some rules).

**Directors Report:**

**The Company shall annex with its Board Report an annual report on CSR in format of Annexure-I (for FY 2020-21) or in Annexure II (w.e.f. FY 2021-22).**



**CA INTER**  
LAW TEST SERIES  
**3 PAPERS**  
~~₹ 999~~ **₹ 599**  
GET MENTORING & COUNSELLING **FREE!**  
www.theorysterslearning.com



**CA FOUNDATION**  
LAW TEST SERIES  
**3 PAPERS**  
~~₹ 999~~ **₹ 599**  
GET MENTORING & COUNSELLING **FREE!**  
www.theorysterslearning.com