

**AMENDMENT IN COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY)
RULES, 2014**

Ministry of Corporate Affairs (MCA) has issued the amendment to Companies (Corporate Social Responsibility Policy) Rules, 2014 (“CSR Rules”) vide the notification dated September 20, 2022.

These rules shall come into force from the date of publication in the Official Gazette. Further, these rules published in Official Gazette on September 21, 2022.

Link to Companies (Corporate Social Responsibility Policy) Amendment Rules, 2022 is - <https://egazette.nic.in/WriteReadData/2022/238956.pdf>

Highlights and detailed comparative analysis of amended provisions of Corporate Social Responsibility (“CSR”) is below:

1. Companies which has transferred the amount to Unspent CSR Account u/s 135(6) of the Companies Act, 2013 (“Act”) has to constitute the CSR Committee even if the CSR spent obligation of the Company is less than Rs. 50 Lakhs as mentioned u/s 135(9) of the Act
2. In addition to the existing implementing agencies, the Company can also undertake the CSR activities through following implementing agencies:
 - a. Company established under section 8, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 and approved under section 80G of the Income Tax Act, 1961.
 - b. Registered public trust, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 and approved under section 80G of the Income Tax Act, 1961
 - c. Registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 and approved under section 80G of the Income Tax Act, 1961

3. Threshold of booking the expenditure of Impact Assessment towards CSR have been revised. Earlier, the expenditure could be booked up to 5% of total CSR expenditure for the financial year or Rs. 50 Lakhs, whichever is lower. Now, the expenditure can be booked up to 2% of total CSR expenditure for the financial year or Rs. 50 Lakhs, whichever is higher.
4. Format of CSR Annual Report has changed majorly to the extent of capturing the (a) details of impact assessment and (b) details of capital assets created / acquired by the Company through CSR.
5. Earlier, there was ambiguity in the law regarding the compliance of provisions of Section 135(2) to 135(6) of the Act, inter-alia, till 3 years even after the Company ceases to fall under Section 135(1) of the Act. Now, the said requirement has been done away and the CSR provisions has to be complied with in subsequent year only if the Company meets the criteria as defined under Section 135(1) of the Act as at end of particular financial year.

Comparative view of amendments in Companies (Corporate Social Responsibility Policy) Rules, 2014 (“CSR RULES”) carried vide Companies (Corporate Social Responsibility Policy) Amendment Rules, 2022 (“CSR AMENDMENT RULES 2022”)

<p align="center"><u>COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014</u> (as amended from time to time)</p>	<p align="center"><u>COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) AMENDMENT RULES, 2022</u></p>	<p align="center">AMENDMENT</p>	<p align="center">ACTIONABLES / ANALYSIS</p>
<p><u>Rule 3(1) of CSR Rules</u></p> <p>Every company including its holding or subsidiary, and a foreign company defined under clause (42) of section 2 of the Act having its branch office or project office in India, which fulfills the criteria specified in sub-section (1) of section 135 of the Act shall comply with the provisions of section 135 of the Act and these rules:</p> <p>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 clause (a) of sub-section (1) of section 381 and section 198 of the Act</p>	<p><u>Second Proviso after the existing proviso in Rule 3(1) of CSR Rules is inserted</u></p> <p>“Provided further that a company having any amount in its Unspent Corporate Social Responsibility Account as per sub-section (6) of section 135 shall constitute a CSR Committee and comply with the provisions contained in sub-sections (2) to (6) of the said section.”;</p>	<p>Second proviso inserted after existing first proviso in Rule 3(1) of CSR Rules.</p> <p>a. By inserting this proviso, the MCA has given an exception to the Section 135(9) of the Act which relaxes the requirement of constituting the CSR Committee, if the CSR spent in particular year does not exceed fifty lakh rupees</p> <p>b. To simplify, if the Company has transferred the unspent amount of ongoing projects in the separate bank account u/s 135(6) of Act, then irrespective of fact that the Company’s CSR obligation is less than Rupees 50 Lakhs, it shall be mandatory for the Company to constitute the CSR Committee.</p>	<p>Before the amendment, Companies which has CSR Spent of less than Rs. 50 lakhs were not mandatorily required to constitute the CSR Committee.</p> <p>After the amendment, every Company which has CSR spent of even less than Rs. 50 lakhs, however, has transferred the unspent amount of ongoing projects in the separate bank account u/s 135(6) of Act shall be required to constitute the CSR Committee.</p>

<p><u>COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014</u> (as amended from time to time)</p>	<p><u>COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) AMENDMENT RULES, 2022</u></p>	<p>AMENDMENT</p>	<p>ACTIONABLES / ANALYSIS</p>
<p><u>Rule 3(2) of CSR Rules</u></p> <p>(2) Every company which ceases to be a company covered under subsection (1) of section 135 of the Act for three consecutive financial years shall not be required to -</p> <p>(a) constitute a CSR Committee; and</p> <p>(b) comply with the provisions contained in sub-section (2) to (6) of the said section,</p> <p>till such time it meets the criteria specified in sub-section (1) of section 135.</p>	<p>Existing Rules 3(2) of CSR Rules is omitted</p>	<p>Previously, If the Company was meeting any criteria of Net worth or Net profit or Turnover as defined u/s 135(1) of the Act during any year and ceased to meet the said criteria in subsequent year, then it had to continue to comply with requirement of constituting the CSR Committee and comply with Section 135 (2) to (6) of the Act till 3 consecutive years after such ceasing.</p> <p>MCA, in its much awaited amendment, has accepted the recommendation of the Report of the High Level Committee on Corporate Social Responsibility 2018, submitted on August 7, 2019[^] and deleted the said requirement of constituting the CSR Committee and complying with Section 135(2) to (6) and</p>	<p>Earlier, there was ambiguity in the law regarding the compliance of provisions of Section 135(2) to 135(6) of the Act, inter-alia, till 3 years even after the Company ceases to fall under Section 135(1) of the Act.</p> <p>Now, the said requirement has been done away and the CSR provisions has only to be complied with in subsequent year, if the Company meets the criteria as defined under Section 135(1) of the Act as at end of particular financial year.</p>

[^]Report of the High-Level Committee on Corporate Social Responsibility, submitted on August 7, 2019, Pg. 85

Link to Report: https://www.mca.gov.in/Ministry/pdf/CSRHLC_13092019.pdf

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<p>Rule 4 of CSR Rules</p> <p>CSR Implementation.</p> <p>(1) The Board shall ensure that the CSR activities are undertaken by the company itself or through -</p> <p>(a) a company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80 G of the Income Tax Act, 1961 (43 of 1961), established by the company, either singly or along with any other company, or</p> <p>(b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or</p> <p>(c) any entity established under an Act of Parliament or a State legislature; or</p>	<p>Sub-rule (1) of Rule 4 of CSR Rules is substituted with following:</p> <p>(1) The Board shall ensure that the CSR activities are undertaken by the company itself or through, -</p> <p>(a) a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961 (43 of 1961), established by the company, either singly or along with any other company; or</p> <p>(b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or</p> <p>(c) any entity established under an Act of Parliament or a State legislature; or</p>	<p>Few categories of Implementing agencies have been added by amendment in Rule 4.</p>	<p>In addition to the existing implementing agencies, the Company can also undertake the CSR activities through following implementing agencies:</p> <p>a. Company established under section 8, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 and approved under section 80G of the Income Tax Act, 1961.</p> <p>b. Registered public trust, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 and approved under section 80G of the Income Tax Act, 1961</p> <p>c. Registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of</p>

(d) a company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.

(d) a company established under section 8 of the Act, or a registered public trust or a registered society, **exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10** or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, and having an established track record of at least three 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.'

section 10 and approved under section 80G of the Income Tax Act, 1961

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<p><u>Rule 8(3)(c) of CSR Rules</u></p> <p>A Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed <u>five percent</u> of the total CSR expenditure for that financial year or fifty lakh rupees, <u>whichever is less.</u></p>	<p><u>Amended Rule 8(3)(c) of CSR Rules</u></p> <p>A Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed <u>two percent</u> of the total CSR expenditure for that financial year or fifty lakh rupees, <u>whichever is higher.</u></p>	<p>Threshold of booking the expenditure of Impact Assessment towards CSR have been revised.</p>	<p>Earlier, the maximum cap was Rs. 50 lakhs.</p> <p>Now, after amendment the expenditure can be booked up to 2% of total CSR expenditure for the financial year or Rs. 50 Lakhs, whichever is higher.</p>

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<p><u>Annexure II of CSR Rules</u></p> <p>Format for the Annual Report on CSR Activities to be included in the Board Report for the financial year commencing on or after the 1st Day of April, 2020</p> <p>[Refer existing CSR Rule link for existing format]</p>	<p><u>Annexure II- CSR Annual Report</u></p> <p>Existing Format for the Annual Report on CSR Activities to be included in the Board Report for the financial year commencing on or after the 1st Day of April, 2020 have been substituted.</p> <p>[Refer amended CSR Rule link for substituted format]</p>	<p>Format of CSR Annual Report have been substituted.</p> <p>In CSR Annual Report, major amendments are:</p> <ol style="list-style-type: none"> a. Instead of providing the details of Impact Assessment and attaching the report on same, now, the Companies has to give executive summary in the CSR Annual Report and upload the details of Impact Assessment of CSR project and give web-link in CSR Annual Report b. Location of property or asset (i.e. Capital Assets) along with other details as appearing in 	<p>Those Companies on which CSR provisions were applicable during FY 2020-21 and 2021-22 and is required to prepare and adopt the CSR Annual Report for FY ended 2020-21 and 2021-22, as the case may be, and has not adopt the same till the date of amendment i.e. 21st September, 2022 has to prepare and adopt the CSR Annual Report in revised format.</p>

		revenue record flat no, house no, Municipal Office / Municipal Corporation / Gram panchayat and also the area of the immovable property as well as boundaries has to be given in CSR Annual Report.	
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Suggestions may be sent to rupesh@cacsindia.com

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