

**COMPANIES (INCORPORATION) SECOND AMENDMENT  
RULES, 2021**

Ministry of Corporate Affairs (MCA) has issued notification G.S.R. 91(E) dated 1<sup>st</sup> February, 2021 to further amend the Companies (Incorporation) Rules, 2014.

These amended rules may be called the Companies (Incorporation) Second Amendment Rules, 2021. They shall come into force on the 1<sup>st</sup> day of April, 2021.

Further, these rules published in Official Gazette on 1<sup>st</sup> February, 2021

For detailed notification, please refer the link: <http://egazette.nic.in/WriteReadData/2021/224872.pdf>

**AMENDMENTS IN COMPANIES (INCORPORATION) RULES, 2014**

1. Sub-rule (1) of Rule 3 for the words “*and resident in India*” the words “*whether resident in India or otherwise*” shall be substituted;

**Impact:** Now Indian citizen whether resident in India or otherwise is eligible to incorporate One Person Company (OPC) and to act as a nominee of sole member of OPC. Earlier only Indian Citizens resident in India were allowed to incorporate OPC.

2. in Explanation I, for the words “*one hundred and eighty two days*” the words “*one hundred and twenty days*” shall be substituted;

**Impact:** Now, for the purpose of Rule 3 of Companies (Incorporation) Rules, 2014, calculation of the period for “resident in India” has been changed from 180 days to 120 days during the immediately preceding financial year.

3. Sub-rule (7) shall be omitted.

**Impact:** Earlier, 2 years should have been expired from the date of incorporation of OPC for voluntarily converting the OPC into any kind of Company. Now, there is no such restriction on OPC and the OPC can voluntarily convert itself into other kind of company even before 2 years from its Incorporation.

4. for rule 6, the following rule has been substituted:

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

(2) *A One Person company 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 two or seven 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 into Private or Public Company, other than under 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.

**Impact:** Earlier there was a provision of compulsory conversion of OPC in to private or public company, if share capital of OPC exceeds Rs. 50 Lakhs or its average annual turnover during the relevant period exceeds Rs. 2 crore. Now, there is no such provision of compulsory conversion. Now, after the said amendment, OPC may continue to act as OPC even if share capital have exceeded Rs. 50 Lakhs or its average annual turnover during the relevant period have exceeded Rs. 2 crore.

5. In Sub Rule (1) of Rule 7 the words ***“having paid up share capital of fifty lakhs rupees or less and average annual turnover during the relevant period is two crore rupees or less”*** shall be omitted.

**Impact:** Now, a private company other than section 8 companies may get itself converted into OPC by passing a special resolution in the general meeting.

6. In Clause (i) of Sub Rule (4) of Rule 7, the words ***“the paid up share capital company is fifty lakhs rupees or less or average annual turnover is less than two crores rupees, as the case may be”*** shall be omitted.

**Impact:** In clause (i) of sub-rule (4), the words ***“the paid up share capital company is fifty lakhs rupees or less or average annual turnover is less than two crores rupees”*** as the case may be” has been deleted and now there is no limit on conversion of private company into OPC.

7. In the Annexure,  
(a) the e-Form No.INC-5 shall be omitted.  
(b) for the e-Form No.INC-6, shall be substituted with new e-Form No.INC-6

**Impact:** Form INC-5 “One Person Company- Intimation of exceeding threshold” is now omitted and Form INC-6 is substituted with new e-form INC-6 “One Person company and Private Company – Application for Conversion”.

\*\*\*\*\*

**Suggestions may be sent to**  
**[rupesh@cacsindia.com](mailto:rupesh@cacsindia.com)**

**Dr. S. Chandrasekaran | Senior Partner | Chandrasekaran Associates | Company Secretaries**  
**11-F, Pocket Four | Mayur Vihar Phase One | Delhi - 110 091 | Tel. +91-11-2271 0514**  
**[sankara@cacsindia.com](mailto:sankara@cacsindia.com) | [info@cacsindia.com](mailto:info@cacsindia.com) | [www.cacsindia.com](http://www.cacsindia.com)**

---

#### **DISCLAIMER**

CACS Bulletin is not intended as a source of advertising or solicitation and the contents of the same should not be construed as professional / legal advice. Readers should take specific advice from a qualified professional when dealing with specific situations and should not consider this as an invitation for a professional-client relationship. Without the prior permission of Chandrasekaran Associates, Company Secretaries, the CACS Bulletin or content thereof or reference to it should not be made in any documentation or correspondences. We make no warranty of any kind with respect to the subject matter included herein or the completeness or accuracy of this issue of CACS Bulletin. While CACS has taken every care in the preparation of this Bulletin to ensure its accuracy, however, the Companies are requested to check the latest position with the original sources before acting. The firm and the partners are not responsible for any actions (or lack thereof) taken as a result of relying on or in any way using information contained in this issue of CACS Bulletin and in no event shall be liable for any damage or loss resulting from reliance on or use of this information. Without limiting the above the firm and the partners shall each have no responsibility for any act, error or omission, whether such acts, errors or omissions result from negligence, accident or any other cause.