

AMENDMENT IN COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014 VIDE NOTIFICATION DATE 22ND JANUARY, 2021.



THE RULE 2 HAS BEEN SUBSTITUTED TO INTRODUCE NEW DEFINITIONS AND ALSO TO WIDEN THE SCOPE OF EXISTING DEFINITIONS, WHICH AS UNDER:



Definition of **"Administrative overheads"** has introduced which means expenses incurred by the Company for General Management and Administration of CSR functions in the Company but does not include the expenses directly incurred for the designing, implementation, monitoring, and evaluation of a particular Corporate Social Responsibility project or programme.

Definition of **"CSR"** has been changed which is as under:
CSR means activity undertaken by the Company under Section 135 of the Act (i.e. Areas and Subject prescribed under Schedule VII of the Act) in accordance with the CSR Rules.



Following activities shall not be considered as the CSR activities:

1. Activities undertaken in pursuance of normal course of business of the company:

However any Company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22, 2022-23 subject to the conditions that:

(a) Such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act;

(b) details of such activity shall be disclosed separately in the Annual report on CSR included in the Board's Report;



2. Any activity undertaken by the Company outside India except for training of Indian sports personnel representing any State or Union territory at national level or India at international level.
3. Contribution of any amount directly or indirectly to any political party under section 182 of the Act.
4. Activities benefitting employees of the Company as defined in clause (k) of section 2 of the Code on Wages, 2019.
5. Activities supported by the Companies on sponsorship basis for deriving marketing benefits for its products or services.
6. Activities carried out for fulfilment of any other statutory obligations under any law in force in India.



Definition of CSR Policy has been changed which is:

"CSR Policy" means a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan.

Definition of "International Organisation" has been introduced which is:

"International Organisation" means an organisation notified by the Central Government as an international organisation under section 3 of the United Nations (Privileges and Immunities) Act, 1947, to which the provisions of the Schedule to the said Act apply.



Definition of “Ongoing Project” has been introduced which is:

“Ongoing Project” means a multi-year project undertaken by a Company in fulfilment of its CSR obligation having timelines not exceeding three years excluding the financial year in which it was commenced, and shall include such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the board based on reasonable justification.

Definition of “Public Authority” has been introduced which is:

“Public Authority” means ‘Public Authority’ as defined in clause (h) of section 2 of the Right to Information Act, 2005.

In definition of “Net Profit” provision relating to computation net profit under Companies Act, 1956 has been removed. Remaining provisions are same .



In Rule 3 under Sub-Rule (2) exemption from compliance of Sub-Section (6) of Section 135 of the Act has also been given to Companies who ceased to be Company covered under Section 135 of the Act.

Accordingly, transfer of unspent amount of CSR to Unspent Corporate Social Responsibility Account is not required to the Company which ceased to be covered under Section 135 of the Act.

The Rule 4 (CSR Implementation) has been substituted which provides

1. The implementation Agency (i.e. Section 8 Company, Registered Society and Registered Trust established for carrying out CSR activities) required to get itself registered under Section 12A and 80G of the Income Tax Act.



2. The Implementation Agency also required to get registered itself with the Central Government through filing Form CSR-1 with effect from 01st April, 2021. on filing of said Form the portal will generate a unique CSR Registration Number.
3. 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.
4. 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 CSR Rules.



Corporate Social Responsibility

5. The Board of a Company shall satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it and the Chief Financial Officer or the person responsible for financial management shall certify to the effect.
6. In case of ongoing project, the Board of a Company shall monitor the implementation of the project with reference to the approved timelines and year-wise allocation and shall be competent to make modifications, if any, for smooth implementation of the project within the overall permissible time period.

Rule 5 Sub-Rule (2) has been substituted with following new

The CSR Committee shall formulate and recommend to the Board, an annual action plan in pursuance of its CSR policy, which shall include the following, namely:



1. The list of CSR projects or programmes that are approved to be undertaken in areas or subjects specified in Schedule VII of the Act;
2. The manner of execution of such projects or programmes as specified in Sub-Rule (1) of Rule 4;
3. The modalities of utilisation of funds and implementation schedules for the projects or programmes;
4. Monitoring and reporting mechanism for the projects or programmes; and
5. Details of need and impact assessment, if any, for the projects undertaken by the Company:

However, Board may alter such plan at any time during the financial year, as per the recommendation of its CSR Committee, based on the reasonable justification to that effect.



Rule 6 has been omitted. The Rule 6 was dealing the CSR Policy which is now covered under the Sub-Rule (2) of Rule 5, therefore, Rule 6 has been omitted.

Rule 7 (CSR Expenditure) has been substituted with the following new provisions:

1. The Board shall ensure that the administrative overheads shall not exceed five percent of total CSR expenditure of the Company for the financial year.
2. Any surplus arising out of the CSR activities shall not form part of the business profit of a Company and shall be ploughed back into the same project or shall be transferred to the Unspent CSR Account and spent in pursuance of CSR policy and annual action plan of the company or transfer such surplus amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.



3. Where a Company spends an amount in excess of requirement provided under Sub-Section (5) of Section 135, such excess amount may be set off against the requirement to spend under Sub-Section (5) of Section 135 up to immediate succeeding three financial years subject to the conditions that:

- (i) The excess amount available for set off shall not include the surplus arising out of the CSR activities, if any, in pursuance of Sub-Rule (2) of this Rule 7.
- (ii) The Board of the Company shall pass a resolution to that effect.

4. The CSR amount may be spent by a company for creation or acquisition of a capital asset, which shall be held by:

- (a) A Company established under Section 8 of the Act, or a Registered Public Trust or Registered Society, having charitable objects and CSR Registration Number under sub-rule (2) of rule 4; or



(b) Beneficiaries of the said CSR project, in the form of self-help groups, collectives, entities; or

(c) A public authority:

However, any capital asset created by a Company prior to the commencement of the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, shall within a period of one hundred and eighty days from such commencement comply with the requirement of this Rule, which may be extended by a further period of not more than ninety days with the approval of the Board based on reasonable justification.



Rule 8 (CSR Reporting) has been substituted with following new provisions:

1. The Board's Report of a Company (in case of Foreign Company Balance Sheet) shall annex annual report on CSR.
2. Every Company having average CSR obligation of ten crore rupees or more in the three immediately preceding financial years, shall undertake impact assessment, through an independent agency, of their CSR projects having outlays of one crore rupees or more, and which have been completed not less than one year before undertaking the impact study.
3. The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR.
4. A Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed five percent of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is less.



Rule 9 (Display of CSR activities on its website) has been substituted with following new provision:

The Board of Directors of the Company shall mandatorily disclose the composition of the CSR Committee, and CSR Policy and Projects approved by the Board on their website, if any, for public access.

New Rule i.e. Rule No. 10 (Transfer of unspent CSR amount) has been inserted which provides that:

Until a fund is specified in Schedule VII for the purposes of Sub-Section (5) and (6) of Section 135 of the Act, the unspent CSR amount, if any, shall be transferred by the Company to any fund included in schedule VII of the Act.



Annual Report on CSR:

All Companies including Foreign Companies shall prepare the Annual Report on CSR for the Financial Year ended on or before 31st March, 2020 in the existing Form (which is numbered as Annexure I) and for Financial Year commencing on and after 01st April, 2020 in the new Form (which is numbered as Annexure II in the Rules).

Content of Annexure II:

1. Brief outline on CSR Policy of the Company;
2. Composition of CSR Committee which includes Name of Director, Designation/ Nature of Directorship, Number of meetings of CSR Committee held during the year and Number of meetings of CSR Committee attended during the year;



3. Provide the web-link where Composition of CSR committee, CSR Policy and CSR projects approved by the board are disclosed on the website of the company;
4. Provide the details of Impact assessment of CSR projects carried out in pursuance of Sub-Rule (3) of Rule 8 of the CSR Rules, if applicable (attach the report);
5. Details of the amount available for set off in pursuance of Sub-Rule (3) of Rule 7 of the CSR Rules and amount required for set off for the financial year, if any, which includes Financial Year, Amount available for set-off from preceding financial years (in Rs) and Amount required to be setoff for the financial year, if any (in Rs);
6. Average net profit of the Company as per Section 135(5);
7. Two percent of average net profit of the Company as per Section 135(5);



8. Surplus arising out of the CSR projects or programmes or activities of the previous financial years;
9. Amount required to be set off for the financial year, if any;
10. Total CSR obligation for the financial year;
11. CSR amount spent or unspent for the financial year which includes:
 - a. Total Amount Spent for the Financial Year (in Rs.);
 - b. Total Amount transferred to Unspent CSR Account as per Section 135(6) i.e. Amount and Date of transfer; and
 - c. Amount transferred to any fund specified under Schedule VII as per second proviso to Section 135(5) i.e. Name of the Fund, Amount and Date of transfer.



12. Details of CSR amount spent against ongoing projects for the financial year;
13. Details of CSR amount spent against other than ongoing projects for the financial year;
14. Amount spent in Administrative Overheads;
15. Amount spent on Impact Assessment, if applicable;
16. Total amount spent for the Financial Year;
17. Excess amount for set off, if any;
18. Details of Unspent CSR amount for the preceding three financial years;
19. Details of CSR amount spent in the financial year for ongoing projects of the preceding financial year(s);



20. In case of creation or acquisition of capital asset, furnish the details relating to the asset so created or acquired through CSR spent in the financial year (asset-wise details):

- (a) Date of creation or acquisition of the capital asset(s);
- (b) Amount of CSR spent for creation or acquisition of capital asset;
- (c) Details of the entity or public authority or beneficiary under whose name such capital asset is registered, their address etc.; and
- (d) Provide details of the capital asset(s) created or acquired (including complete address and location of the capital asset).

21. Specify the reason(s), if the company has failed to spend two per cent of the average net profit as per section 135(5).