

Gurukripa's Guideline Answers to Nov 2016 Exam Questions CA Inter (IPC) Law, Ethics & Communication

Question No.1 is compulsory (4 X 5 = 20 Marks).

Answer **any five** questions from the **remaining six** questions (16 X 5 = 80 Marks). [Answer any 4 out of 5 in Q.7]

Note: Page References are from "Padhuka's LAW, ETHICS AND COMMUNICATION – A REFERENCER"

Q	Questions	Reference	M
1 (a)	'N', an Industrialist, has been fighting a long drawn litigation with 'S', another Industrialist. To support his legal campaign, 'N' enlists the services of 'R,' a Legal Expert, stating that an amount of ₹ 5 Lakhs would be paid, if 'R' does not take up the brief of 'S'. 'R' agrees, but at the end of the litigation, 'N' refuses to pay. Decide whether 'R' can recover the amount promised by 'N' under the provisions of the Indian Contract Act, 1872.	Refer Q.No.2, Page 1.70 [RTP] Refer Principles in Page 1.39, Para 1B.1.5 Hint: Agreement between N and S falls in the category of an exception to an agreement in restraint of trade, as it is a Service Agreement, and hence shall be valid. Thus, R can recover the amount from N.	5
1 (b)	'V', the Transferee, acquired 300 Equity Shares of ABC Limited from 'S', the Transferor. But the signature of 'S', the Transferor, on the Transfer Deed was forged. 'V', after getting the Shares registered by the Company in his name and subsequently sold 250 Shares to 'X' on the basis of the Share Certificate issued by ABC Ltd. 'V' and 'X' were not aware of the forgery. Explain the rights of 'S', 'V' and 'X' against the Company with reference to the aforesaid Equity Shares under the provisions of the Companies Act, 2013.	Refer Q.No.10,11, Page 12.21. [RTP, N 02, M 07] Refer Principles in Page 12.8, Para 12.2.7 S: Forged Transfer is a nullity. So, the True Owner (S) can – (a) have his name restored on the Register of Members, and (b) Claim Dividend, if any, not paid to him, during the intervening period. V & X: The Company, having issued a Share Certificate, is estopped from denying the liability under its own act. It has to compensate V & X for the loss suffered by them.	5
1 (c)	What is meant by "Environment Ethics"? How does its non-adoption lead to 3P's, viz. Polluter Pays Principle? Explain.	Refer Q.No.68 & 71, Page 16.36, 16.37 [RTP, N 07] Refer Principles in Page 16.21, Para 16.6.8, Point 1 & Page 16.22, Para 16.6.9, Point 6.	5
1 (d)	What do you mean by "Consensus-Building" in a group? Briefly explain the efforts taken by Mediators and Facilitators in the Consensus Building process.	Refer Q.No.14 & 15, Page 17.36 Refer Principles in Page 17.31, Para 17C.2.9	5
2 (a) (i)	On 1 st January 2015, Arihant Industries Ltd agreed with the employees for payment of an annual bonus linked with production or productivity, instead of bonus based on profits subject to the limits of 30% of their Salary Wages during the relevant accounting year. It was also agreed by the Employees that they will not claim Minimum Bonus stated u/s 10 of the Payment of Bonus Act, 1965. As per the aforesaid agreement, the Employees claimed bonus, but the Company refused to honour the agreement. On refusal of the Company, the employees moved to the Court for relief. Decide as per the provisions of the Payment of Bonus Act, 1965 whether the Employees will get the relief. Also decide whether inspite of the aforesaid agreement whether the Employees are still entitled to receive Minimum Bonus.	Refer Q.No.25, Page 3.24 [RTP, N04, N08] Refer Principles in Page 3.18, Para 3.3.11 Hint: 1. Company's decision to grant bonus of 30% based on production: Agreement providing for bonus exceeding 20% of the Salary / Wages earned by the Employee is null and void . Employees cannot get any relief from Court for recovering Bonus exceeding 20%. 2. Agreement with the Employees not to claim Minimum Bonus u/s 10: Agreement providing / restricting the Employee to receive less than Minimum Bonus of 8.33% of Salary / Wage is null and void . Employee can get relief from the Court for receiving the Minimum Bonus of 8.33%.	4
2 (a) (ii)	'K' is an Employee of Bannari Ltd, which works five days in a week. 'K' was not in continuous service during the financial year 2015-2016. However, he worked only for 150 days and due to an accident arising in the course of his employment,	Refer Q.No.4, Page 5.13 [RTP, N10, M13] Refer Principles in Page 5.4, Para 5.2.2	4

Q	Questions	Reference	M
	<p>he was on leave with full pay for 45 days. Referring to the provisions of the Payment of Gratuity Act, 1972 decide:</p> <ol style="list-style-type: none"> Whether 'K' is entitled to Gratuity payable under the Act? Would your answer remain the same in case Bannari Ltd works 6 days in a week? 	<p>Hint: Total Working Days (including Accident Leave) = 150 + 45 = 195 days. If Bannari Ltd works 5 days a week, K is eligible for Gratuity as he has worked for > 190 days. If Bannari Ltd works 6 days a week, K is not eligible for Gratuity as he has worked for < 240 days.</p>	
2 (b)	<p>Mr. Ram is a CEO of a Pharmaceutical Company. His R & D Department, while experimenting with a chemical molecule, sees the possibility that the molecule may be developed into drug for a rare, painful, life-threatening genetic disease that afflicts one child only in ten million. But to develop the drug, his Company, may have to invest huge sum of the Shareholder's money, despite the drug not having wide salability. Is Mr. Ram confronted by an Ethical Dilemma? If yes, how should he resolve the issue?</p>	<p>Refer Q.No.1, Page 16.38 [RTP] Refer Principles in Page 16.4, Para 16.1.7 Hint: Mr. Ram has to choose between – (a) development of a Drug for a painful and life threatening disease which affects 1 in 10 Million, and (b) spending huge sum of Shareholders money for such development. Both are positive and ethically conflicting choices. As a socially responsible person, Ram has to think in terms of eliminating a serious illness, but at the same time he must be careful in dealing with Shareholders money. Such an Ethical Dilemma must be resolved by answering questions listed in Page 16.4.</p>	4
2 (c)	<p>Explain the "Socio-psychological Barriers" to effective communication.</p>	<p>Refer Q.No.15, Page 17.16 [RTP, M12, N14] See Principles in Pg 17.5, Para 17A.1.6, Pt 6</p>	4
3 (a) (i)	<p>State with reasons whether the following agreements are valid or void under the provisions of the Indian Contract Act, 1872:</p> <ol style="list-style-type: none"> Vijay agrees with Saini to sell his black horse for ₹3,00,000. Unknown to both the parties, the horse was dead at the time of the agreement. Sarvesh sells the Goodwill of his shop to Vikas for ₹10,00,000 and promises not to carry on such business forever and anywhere in India. 	<p>Refer Q.No.6 (b) & (c), Page 1.32 [RTP, M08, N09, M10] Refer Principles in Page 1.4, Para 1A.1.6 Hint: Void in both the cases</p> <ol style="list-style-type: none"> Sec. 20 – Mutual Mistake of fact Sec. 27 – Restraint of Trade 	4
3a (ii)	<p>Explain the meaning of "Suit for Injunction" as per the provisions of the Indian Contract Act, 1872.</p>	<p>Refer Q.No.46, Page 1.69 Refer Principles in Page 1.61, Para 10.C</p>	4
3 (b)	<p>"To maintain social contract between society and business, the trusteeship relations are essential." Discuss the role of Business Ethics in this reference.</p>	<p>Refer Q.No.11, Page 16.35 Answer: Page 16.5, Para 16.2.2, Point 3</p>	4
3 (c)	<p>What is meant by "Emotional Intelligence" and "Emotional Quotient"? State any six Social Competencies associated with Emotional Intelligence.</p>	<p>Refer Q.No.14, 15, Page 17.25 [RTP, M07, M 15] Answer: Page 17.20, Para 17B.2.6, 17B.2.7</p>	4
4 (a) (i)	<p>XYZ Company Ltd, at a General Meeting of members of the Company passes an Ordinary resolution to buy-back 30% of its Equity Share Capital. The Articles of the Company empower the Company for buy-back of Equity Shares. The Company further decides that the payment for buy-back be made out of the proceeds of the Company's earlier issue of Equity Shares. Explaining the provisions of the Companies Act, 2013, and stating the sources through which the buy-back of Companies own Shares be executed. Examine:</p> <ol style="list-style-type: none"> Whether Company's proposal is in order? Would your answer be still the same in case the Company instead of 30% decide to buy-back only 20% of its Equity Share Capital? 	<p>Refer Q.No.4, Page 11.15, Refer Principles in Page 11.9, Para 11.3.4 Hint: Refer Sec.67: Company can Buy-Back to a maximum of 25% of Total Paid-Up Capital and Free Reserves of the Company in a financial year, by passing Special Resolution.</p> <p>Case 1: Buy Back of 30% is invalid, as it exceeds the specified limit.</p> <p>Case 2: Buy Back of 20% is within the limit of 25%, but should be approved by a Special Resolution, and not by Ordinary Resolution.</p>	4
4 (a) (ii)	<p>When is a Company required to issue a 'Shelf Prospectus' under the Provisions of the Companies Act, 2013? Explain the law relating to issuing and filing of such Prospectus.</p>	<p>Refer Q.No.10, Page 9.19, [RTP, M02, M03, N08, N13] Refer Principles in Page 9.11, Para 9.3.2</p>	4

Q	Questions	Reference	M
4 (b)	'S', an Hotelier, was purchasing butter regularly from EDF Ltd, for the purpose of use in his hotel. There were defects in the goods in one of the purchase lot and as a result 'S' suffered loss of his share in competition in Hotel Industry. The Hotelier 'S' sued the said Company for this reason. The Company contended that the goods were purchased for the commercial purpose therefore, not bound. Is it a valid contention? Explain the provisions of the Competition Act, 2002 in this regard.	Refer Q.No.2, Page 16.38 [RTP, N08] Refer Principles in Page 16.25, Para 16.7.8 Hint: Under Competition Act 2002, "Consumer" includes a person who purchases goods for re-sale or for any commercial purpose or for personal use. So, EDF Ltd is liable for defects in the goods.	4
4(c)	Explain clearly the different type of Grapevine Chains in an Informal Communication.	Refer Q.No.11, Page 17.16 [RTP, N12] Answer: Page 17.3, Para 17A.1.4, Point 6	4
5 (a) (i)	Discuss with reasons, in the following given conditions, whether 'M' can be called as a "holder" under the Negotiable Instruments Act, 1881: (1) 'M', the Payee of the cheque, who is prohibited by a Court Order from receiving the amount of the cheque. (2) 'M', the Agent of 'Q', is entrusted with an instrument without endorsement by 'Q', who is the Payee.	Refer Q.No.2 (b) & (d), Page 2.44 [RTP, N08] Refer Principles in Page 2.17, Para 2.3.10 Hint: (1) No. M is not entitled for any payment. (2) No. M is entitled to possess and receive the amount, only as Agent of Q and not in his own name.	4
5 (a) (ii)	'F', by inducing 'G,' obtains a Bill of Exchange from him fraudulently in his (F) favour. Later, he enters into a commercial deal with 'H', and endorses the Bill to him (H) towards consideration for the deal. 'H' takes the bill as a Holder-in-due-course. 'H' subsequently endorses the bill to 'F' for value as consideration to 'F' for some other deal. On maturity, the bill is dishonoured. 'F' sues 'G' for the recovery of the money. With reference to the provisions of the Negotiable Instruments Act, 1881, explain whether 'F' will succeed in this case.	Refer Q.No.44, Page 2.47 [M01, N14] Refer Principles in Page 2.29, 2.17, Para 2.5.3, 2.3.10. Hint: Refer to Sec.53 1. Sec.53: Any defect in the title of the Transferor will not affect the rights of the Holder in due course even if he had knowledge of the prior defect, provided he himself is not a party to the fraud. Once a N/I passes through the hands of Holder in due course, it gets cleansed of its defects. 2. Analysis & Conclusion: F who originally induced G in obtaining the Bill of Exchange in question fraudulently, cannot succeed in this case, as F himself is party to the fraud.	4
5 (b)	What are the provisions of the Companies Act, 2013, relating to the appointment of 'Debenture Trustee' by a Company?	Refer Q.No.9, Page 14.24 [N03] Refer Principles in Page 14.6, Para 14.2.1	4
5 (c)	Write a short note on "Social Accountability 8000".	Refer Q.No.34, Page 16.36 [N11] Answer: Page 16.11, Para 16.4.6, Point 3	4
6 (a)	SV Technologies Limited is proposing to convene a General Meeting of its Members. Explain briefly the provisions of the Companies Act, 2013 relating to the procedure to be followed for transacting business of the General Meeting through "Postal Ballot".	Refer Q.No.32,33, Page 13.27 [RTP, N03, M 05] Refer Principles in Page 13.20, Para 13.4.7	8
6 (b)	What is an Affidavit? Draft an Affidavit certifying that SF Ltd does not have any Tax Dues to the Central Government.	Refer Q.No.19, Page 18.45 [RTP] Refer Principles in Page 18.10, Para 18.14	4
6 ©	State whether the following statements are Correct/ Incorrect:		4
	(i) The Shareholders of the Company in General Meeting cannot decrease the rate of dividend recommended by the Board of Directors.	Refer Provisions of Sec.123 of COA, 2013 Incorrect: The Shareholders cannot declare Dividend at a rate higher than the one recommended by the Board. However, they may declare Dividend at a rate lower than the one recommended by the Board.	
	(ii) Debentures with Voting Rights can be issued only if permitted by Articles of Association.	Refer Q.No.1, Page 14.25 [RTP] Refer Principles in Page 14.1, Para 14.1.2	

Q	Questions	Reference	M
		Hint: Sec.77. A Company cannot issue any Debentures carrying voting rights at any Meeting of the Company, whether generally or in respect of any particular class of business. So, the given statement is incorrect .	
	(iii) A Collateral Agreement to the Void Agreement is also Void.	Refer Q.No.3, Page 1.29 [N07] Refer Principles in Page 1.5, Para 1A.1.7 Hint: Incorrect. Collateral Agreement is not affected	
	(iv) If one party fails to perform his obligation within the stipulated time, where time is not the essence of the contract, the other party can always rescind the contract on this ground.	Refer Principles in Page 1.53, Para 1B.2.8 Hint: Incorrect. Promisee is entitled for Compensation, not Rescission.	
7	Answer any four of the following:		
7 (a)	Pioneer Mills Ltd has been regularly depositing the Provident Fund Contributions to the Government. Owing to adverse market conditions, the Company suffered losses for the past two years. The Company's Management is considering the reduction of Salary of the Employees to reduce the Company's Contribution to Provident Fund and instead, to pay Compensatory Allowance, so that the Employees pay package remains the same. Explain in terms of the Employees' Provident Fund and Miscellaneous Provision Act, 1952, whether the Company can effect such reduction.	Refer Q.No.2, Page 4.23 [RTP, N08, M09, N09, M10] Refer Principles in Page 4.6, Para 4.1.8 Hint: The Company cannot effect such a reduction. [Sec. 12]	4
7 (b)	The Articles of Association of XYZ Ltd provides the Board of Directors has Authority to issue Bonds provided such issue is authorized by the Shareholders by a necessary resolution in the General Meeting of the Company. The Company was in dire need of funds and therefore, it issued the Bonds to Mr. X without passing any such resolution in General Meeting. Can Mr. X recover the money from the Company? Decide referring the relevant provisions of the Companies Act, 2013.	Refer Q.No.15, Page 8.23, Refer Principles in Page 8.16, Para 8.4.1 Hint: Company is not liable. The act of borrowing is void ab-initio in this case.	4
7 (c)	MNC Limited realized on 2 nd May 2016, that particulars of charge created on 12 th March 2016 in favour of a Bank were not filed with Registrar of Companies for registration. What procedure should the Company follow to get the charge registered with the Registrar of Companies? Would be procedure be different if the charge was created on 12 th February 2016, instead of 12 th March 2016? Explain with reference to the relevant provisions of the Companies Act, 2013.	Refer Q.No.3, Page 14.25 [RTP, N94, M01, M08] Refer Principles in Page 14.20, Para 14.4.7 Hint: (a) If the Charge is not registered within 30 days, it can be registered by payment of additional fees within next 300 days. (b) However, if the delay is beyond 300 days, Application can be made to the Central Government for condonation of delay.	4
7 (d)	State the elements which create Discrimination in Employment in Business Organizations.	Refer Q.No.52, Page 16.36 [M14] Answer: Page 16.16, Para 16.5.7, Point 2	4
7 (e)	What is meant by Active Listening? State the importance of Active Listening in the Business Communication Skill.	Refer Q.No.9, Page 17.24 [M12, M14] Answer: Page 17.9, Para 17B.2.1, 17B.2.2	4

Companies Act, 2013 – Latest Updates – For CA Inter

	Notfn / Circular	Description	Page Ref.
1.	SO 1795(E) dated 18.05.2016	Sec.2(29) portion relating to Special Courts is now notified. [Already given in Italics in Page 6.24, Sec.2(29), Point (d), now notified.]	Page 6.24
2.	SO 1934(E) dated 01.06.2016	Sec.7(7) Notified: NCLT's (i.e. Tribunal's) Powers if the Company has been incorporated by furnishing false information, etc. [Already given in Page 7.9, Para 7.2.4, Note 2] <i>However, Points (c) and (d) given are not yet notified.</i>	Page 7.9 Para 7.2.4
3.	SO 1934(E) dated 01.06.2016	Sec.14(1) 2nd Proviso Notified: Conversion of Public Company to Private Company shall take effect only with the approval of NCLT, which may make such order as it deems fit. [Already given in Page 8.10, Para 8.2.5A]	Page 8.10 Para 8.2.5A
4.	SO 1934(E) dated 01.06.2016	Sec.14(2) Notified: Filing with ROC – Every alteration of AOA, along with NCLT Order, if any, approving the alteration, shall be filed with ROC, within 15 days of receipt of NCLT Order. Filing shall be in Form INC-27. [Already given in Page 8.10, Para 8.2.5A]	Page 8.10 Para 8.2.5A
5.	SO 1934(E) dated 01.06.2016	Sec.55(3) Notified: Effect of failure to redeem PSC or pay Dividend thereon [Already given in Page 10.6, Para 10.1.11, 8 th Point in Italics, now notified.]	Page 10.6 Para 10.1.11
6.	SO 1934(E) dated 01.06.2016	Sec.61(1)(b) Proviso Notified: Any Consolidation or Division of Shares which results in changes in the voting percentage of Shareholders shall take effect only if it is approved by NCLT.	Page 8.8 Para 8.1.9
7.	SO 1934(E) dated 01.06.2016	Sec.62(4) to (6) Notified: Government Direction for Conversion of Debentures and Loans into Shares, and effect thereof [Already given in Page 10.14, Para 10.2.6 in Italics, now notified.]	Page 10.14 Para 10.2.6
8.	SO 1934(E) dated 01.06.2016	Sec.71(9) to (11) Notified: Effect of default in Redemption of Debentures [Already given in Page 14.5, Para 14.1.7A in Italics, now notified.]	Page 14.5 Para 14.1.7A
9.	SO 1934(E) dated 01.06.2016	Sec.75 Notified: Failure to repay Deposits – Damages for Fraud – Effect [Already given in Page 14.18, Para 14.3.15B in Italics, now notified.]	Page 14.18 Para 14.3.15B
10.	SO 1934(E) dated 01.06.2016	Sec.97, 98, 99 Notified: NCLT's Power to call AGM, EGM, Penalty for not convening AGM, etc. [Already given in Page 13.5, Para 13.2.1, Point 6 in Italics, and in Page 13.7, Para 13.2.2, Para D, in Italics, now notified.]	Page 13.5, Page 13.7
11.	SO 1934(E) dated 01.06.2016	Sec.119(4) Notified: NCLT's Power to give direction for inspection of Minutes [Already given in Page 13.25, Para 13.5.1, Point 13(e), now notified.]	Page 13.25 Para 13.5.1
12.	F.No.1/8/2013 CL-V dt 29.06.2016	Sec.73 & 76: Amendments in Companies (Acceptance of Deposits) Rules – Refer Chapter 14.	Refer LA.1 below
13.	F.No.01/23/2013 CL-V (Part-II) dated 19.07.2016	Amendments in Companies (Share Capital and Debentures) Rules, 2014	Refer LA.2 below
14.	Dt 27/07 & 01/10	Amendments in Companies (Incorporation) Rules, 2014 , introduced by F.No.01/13/2013 CL-V (Part-II) dt 27.07.2016 and GSR 936(E) dt 01.10.2016.	Refer LA.3 below
15.	GSR 908(E) dated 23.09.2016	Amendments in Companies (Management and Administration) Rules 1. Page 12.12 – Para 12.3.1 – Point 3: 1 st Bullet Point in Note is modified as – "For Existing Companies, the particulars as available in the Register of Members under COA 1956 shall be transferred to the New Register in Form No.MGT.1. Additional Information required under COA 2013 and Rules, may be added in the Register, as and when provided by the Members". 2. Page 12.15 – Para 12.3.3 – Point 1: MGT.4 and MGT.5 need not be submitted in duplicate. The words "in duplicate" is now deleted . 3. Page 12.17 – Para 12.3.5: The Contents should be read as – "Changes in the Shareholding position of the – (a) Promoters, and (b) Top Ten Shareholders of the Company, in each case, representing either increase or decrease of 2% or more of the Paid Up Share Capital. 4. Page 13.7 – Para 13.3.2 – Point C(5): Day of EGM by Requisitionists shall be " any day except National Holiday ". [Note: Earlier provision was "any working day".] 5. Page 13.18 – Para 13.4.6 – Point A: "Applicability" is as under – Rule: (a) Every Listed Company, and (b) Every Company having not less than 1000 Members.	Chapter 12, 13

Nov 2016.5

Notfn / Circular	Description	Page Ref.
	<p>Exceptions: A Nidhi, or an Enterprise or Institutional Investor referred to in Chapter XB or Chapter XC of the SEBI (ICDR) Regulations, 2009 is not required to provide the facility to vote by electronic means.</p> <p>Meaning: "Nidhi" means a Company which has been incorporated as a Nidhi with the object of cultivating the habit of thrift and savings amongst its Members, receiving Deposits from and lending to, its Members only, for their mutual benefit, and which complies with COA 2013 Nidhi Rules.</p> <p>6. Page 13.22 – Para 13.4.7 – Point 8(a): Point 8(a) is deleted.</p> <p>7. Page 13.24 – Para 13.5.1 – Point 4(a): Minutes Book shall be maintained at the Company's Registered Office only. [Note: "or other place approved by the Board", is now deleted.]</p>	

LA.1 Amendments in Companies (Acceptance of Deposits) Rules

Para	Amendment
14.3.2 – Exclusions from Deposits	<ol style="list-style-type: none"> Page 14.9 7th Item–Bonds or Debentures–Point (b): 10 years (instead of 5 years given earlier). Page 14.9 7th Item–Bonds or Debentures–Point (c) added new: Any amount raised by issue of Non-Convertible Debentures, not constituting a charge on the Company's Assets and listed on a Recognised Stock Exchange as per SEBI Regulations. Page 14.9 9th Item–Trust: Any Non-Interest Bearing Amount received and held in trust. [Note: Earlier word was "or", now changed to "and"] Page 14.9 Last Item / Page 14.10 First Item – After Point (d), the following new points are added – <ol style="list-style-type: none"> as an Advance towards providing consideration for providing future services in the form of a Warranty/ Maintenance Contract as per written agreement/ arrangement, if the period for providing such services does not exceed the period as prevalent in common business practice, or 5 years from the date of acceptance of service, whichever is less. Advance received and as allowed by any Sectoral Regulator, or in accordance with directions of Central /State Government. Advance received for Subscription towards Publication, whether in print or in electronic, to be adjusted against receipt of such Publications. Also, in the Note relating to Deemed Deposit, in the first bullet point, the words "under Items (a),(b) and (d) above" shall be omitted. Page 14.10–3rd Item–Nidhi: Items in the Note "shall be treated as a Deposit, <i>unless specifically excluded under this Clause</i>" [Italics portion added now.] Page 14.10–After 3rd Item–Nidhi, the following additional Points shall be added after Nidhi – <ol style="list-style-type: none"> Chit: Any amount received by way of subscription in respect of a Chit under the Chit Funds Act, 1982. CIS: Any amount received under any Collective Investment Scheme as per SEBI Regulations. Start Up: ₹ 25 Lakhs or more received by a Start-Up Company, by way of Convertible Note (Convertible into Equity Shares or repayable within 5 years from the date of issue) in a single tranche, from a person. AIF/VCF/MF: Any amount received by a Company from Alternate Investment Funds, Domestic Venture Capital Funds and Mutual Funds registered as per SEBI Regulations. <p>Note: Meaning of Terms: Start Up Company = Private Company incorporated under COA 2013/1956, and recognised as such as per Notification issued by Dept of Industrial Policy and Promotion, Ministry of Commerce & Industry. Convertible Note = Instrument evidencing receipt of money initially as a Debt, which is repayable at the Holder's Option, or which is convertible into such number of Equity Shares of the Start Up Company upon occurrence of specified events and per the other terms and conditions agreed to and indicated in the instrument.</p>
14.3.6 – Conditions as to Deposits	<p>Page 14.12, Para 14.3.6 – Point 2, Maximum Amount of Deposits</p> <ol style="list-style-type: none"> For Sec.73(2) Company, Maximum Amount of Deposit that can be accepted = 35% of the Aggregate of Paid Up Share Capital and Free Reserves. [Note: Earlier Limit was 25%] For a Private Company, Maximum Amount of Deposit that can be accepted = 100% of the Aggregate of Paid Up Share Capital, Free Reserves and Securities Premium Account. Such Company shall file the details of such Deposits with ROC. [New Proviso Added now.]

Para	Amendment						
	<p>Page 14.12, Para 14.3.6 – New Point 5 introduced now, as under –</p> <p>5. Disclosure in Financial Statement: The following disclosures are required in the Financial Statements, by way of Notes –</p> <table border="1"> <thead> <tr> <th>Company</th> <th>Matters to be disclosed</th> </tr> </thead> <tbody> <tr> <td>Private Company</td> <td>Money received from Directors or Relatives of Directors.</td> </tr> <tr> <td>All Other Companies</td> <td>Money received from Directors.</td> </tr> </tbody> </table>	Company	Matters to be disclosed	Private Company	Money received from Directors or Relatives of Directors.	All Other Companies	Money received from Directors.
Company	Matters to be disclosed						
Private Company	Money received from Directors or Relatives of Directors.						
All Other Companies	Money received from Directors.						
14.3.7 – Circulars	Page 14.12, Para 14.3.7, Point 3: Publication of Circular: An Eligible Company u/s 76, should also place the Circular on its Website, if any. [in addition to Newspaper Advt.]						
14.3.8 – Dep.Ins.	Page 14.13, Para 14.3.8, Point 2: Date for acceptance of Deposit without Deposit Insurance Contract, extended to 31 st March 2017 [Note: Earlier date was 31 st March 2016.]						

LA.2 Amendments in Companies (Share Capital and Debentures) Rules

Para	Amendment
10.2.10 – Differential Rights	Page 10.16 – Para 10.2.10 – Point 1(b) – Ineligible Companies: For defaults relating to Preference Shares / Debentures / Term Loans / Employee Payments / Investor Protection Fund, (i.e. last 5 bullet points of Point 1(b), the Company may issue Equity Shares with Differential Rights, upon expiry of 5 years from the end of the Financial Year in which the default was made good.
10.2.4 – Sweat Equity Shares	Page 10.8 – Para 10.2.4 – Point 4 – 3rd Item – Ceiling Limit for Sweat Equity Shares – Additional Point: A Start Up Company as per Notification issued by Dept of Industrial Policy and Promotion, Ministry of Commerce & Industry, may issue Sweat Equity Shares not exceeding 50% of its Paid Up Capital, upto 5 years from the date of its Incorporation or Registration.
10.2.5 – ESOP	Page 10.11 – Para 10.2.5 – B (ESOP) – Point 1: Exclusions from the word "Employee" are given in the Rules (Refer Page 10.11). Those 2 points do not apply to a Start Up Company.
10.2.5 – Preferential Issue	<p>Page 10.12 – Para 10.2.5 – C (Preferential Issue):</p> <ol style="list-style-type: none"> Point 2(c) condition as to Shares fully paid up, is now omitted and not applicable. Point 3(b): Valuer's Report for Point 3(b) purposes, can be obtained – <ol style="list-style-type: none"> At the stage of the offer, i.e. upfront determination at the time of issue of Convertible Securities, or Within 60 days of the date when the Holder of Convertible Securities becomes entitled to apply for Shares. [Note: Price determination to be made within 30 days of such entitlement.] <p>Note: Decision on the above should be taken by the Company at the time of issue of Convertible Securities, and appropriately disclosed in the Explanatory Statement.</p>
8.1.9 – Alteration	Page 8.8 – Para 8.1.9 – Point 4: Notice of Alteration of Share Capital in Form SH.7 is also required to be filed in case a Company not having Share Capital increases the number of its Members.
14.1.6 – Secured Debentures	<ol style="list-style-type: none"> Page 14.4 – Para 14.1.6 – Point 2: Security for Debentures may be created on the Properties or Assets of the Issuing Company, or its Subsidiaries, or its Holding Company, or its Associate Companies also. [Note: Earlier condition was on Properties/Assets of the Issuing Company only.] Page 14.4 – Para 14.1.6 – Point 4(a) modified as under: "any specific Movable Property of the Company or its Holding Company, or Subsidiaries, or Associate Companies, or otherwise."
14.1.8 – DRR	Page 14.5 – Point 14.1.8 – Point 4: <ol style="list-style-type: none"> Value of Debentures is modified as "Value of Outstanding Debentures". If a Company intends to redeem its Debentures prematurely, it may provide for transfer of such amount in DRR as is necessary for redemption of such Debentures even if it exceeds the above limits.
14.1 General	<p>Rule 18 shall not apply to –</p> <ol style="list-style-type: none"> Amount received by a Company against Issue of Commercial Paper, etc. issued as per RBI Regulations. Rupee Denominated Bonds issued exclusively to Overseas Investors under RBI Circ.No.17 dt 29-09-15. Offer of Foreign Currency Convertible Bonds or Foreign Currency Bonds issued as per FCCBs and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 or RBI Regulations/ Directions (unless otherwise provided in such Scheme or Regulations or Directions).

LA.3 Amendments in Companies (Incorporation) Rules

Para	Amendment
7.3.3 – OPC	Page 7.10 – Para 7.3.3 – Point 1(a) – Unique OPC: The first sentence is as under – “A natural person shall not be 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.” [Note: Earlier word used was “person”, now clarified as “natural person”.]
7.1.3 – Undesirable Names	Page 7.2 – Para 7.1.3 – Point 2: Amended Provision is: It includes the name of a Trademark registered or a Trademark which is subject of an application for registration <i>under the Trade Marks Act, 1999 and Rules thereunder</i> , unless the consent of the Owner or Applicant for registration, of the Trademark, has been obtained and produced by the Promoters. [Note: Italics portion added now.]
8.3.1 – Signing of MOA/AOA	Page 8.12 – Para 8.3.1 – Signature: For Items 1, 2 & 3 (i.e. Signature, Illiterate Subscriber, etc.), the typewritten or printed particulars of the Subscribers and Witnesses shall be allowed, as if it is written by the Subscriber and Witness respectively, so long as the Subscriber and the Witness appends his or her Signature or Thumb Impression, as the case may be. [Note: This is an enabling provision for practical purposes, when the Names, Addresses are typewritten, and signature is obtained above that.]
7.2.2 – Incorp'n of Company	<ol style="list-style-type: none"> Page 7.6 – Para 7.2.2 – Step 2 – Point 2 – Explanation to Point (q) (r): If the Subscriber is already holding a valid DIN, and the particulars therein have been updated as on the date of application, and the declaration to this effect is given in the application, the Proof of Identity and Residence need not be attached. Page 7.6 – Para 7.2.2 – Step 2 – Point 3(B): Reference to “Partnership Firm” / “Firm” in Point 3B(g) and the Note thereto, is omitted / deleted.
7.1.7 – Publication of Name	Page 7.5 – Para 7.1.7 – Publication of Company Name: Additional Point introduced now – <ol style="list-style-type: none"> Website: Every Company which has a Website for conducting online business or otherwise, shall disclose/publish its Name, Address of its Registered Office, Corporate Identity Number (CIN), Telephone Number, Fax Number if any, email and the Name of the Person who may be contacted in case of any queries or grievances on the Landing/Home Page of the said Website. Other Documents: As and when required, the Central Government may notify the other documents on which the name of the Company shall be printed.
8.1.7 – Change in Regd Office	Page 8.4 – Para 8.1.7 – Change in Registered Office: <ol style="list-style-type: none"> Page 8.5, Point C(4): New Point (c) introduced now: On completion of the inquiry, inspection or investigation as a consequence of which no prosecution is envisaged or no prosecution is pending, shifting of Registered Office shall be allowed. Page 8.6, Point D(4): In 2nd Item (Documents enclosed with Application), additional requirement now introduced is – “Copy of the No Objection Certificate from RBI, where the Applicant is a Registered Non–Banking Financial Company”. Page 8.6, Point D(5): In 3rd Item / Point (c), the words “SEBI, in case of Listed Companies” is omitted / deleted now. Page 8.7, Point D(7): In 7th Point (Order by Central Govt), under Point (d), additional Note added as under – “On completion of the inquiry, inspection or investigation as a consequence of which no prosecution is envisaged or no prosecution is pending, shifting of Registered Office shall be allowed.”
8.1.5 – Change of Name	Page 8.3 – Para 8.1.5 – Point A – 3rd Item: Restrictions <ol style="list-style-type: none"> The words “any document” is now omitted. [Note: Earlier, change of name is not permitted if Annual Return / Financial Statement / any Document, is not filed with ROC. Now the words “any document” is omitted / deleted.] Additional Note: Change of Name shall be allowed upon filing necessary documents or payment or repayment of Matured Deposits or Debentures or interest thereon as the case may be.
8.1.10 – Alteration	<ol style="list-style-type: none"> Rule 39 has been introduced, providing the procedure for Conversion of Company limited by Guarantee into a Company Limited by Shares. [Refer Note A below] Rule 37 has been introduced, providing the procedure for Conversion of Unlimited Liability Company into a Limited Liability Company by Shares or Guarantee. [Refer Note B below]
7.2.5 – Simplified Integrated Process – SPICE	Simplified Proforma for Incorporating Company Electronically (SPICE): Rule 38 has been introduced as under – <p style="text-align: right;">Note: Form INC.10 is now deleted and not applicable.</p> <ol style="list-style-type: none"> The simplified integrated process for incorporation of a Company in Form No.INC–32 along with e–MOA in Form No.INC–33 and e–AOA in Form No.INC–34. Rule 36(2) to 36(13) shall apply mutatis mutandis for incorporation under Rule 38. Reference to Form INC–29, INC–30 and INC–31 in Rule 36 shall now be considered as References to Form INC–32, Form INC–33 and Form INC–34 respectively.

Note A: Conversion of a Company limited by Guarantee into a Company limited by Shares

Aspect	Description
Type of Conversion	From: Company limited by Guarantee. Into: Company limited by Shares.
Eligible Company	A Company other than a Company registered u/s 25 of COA 1956 or u/s 8 of COA 2013, may convert itself into a Company limited by Shares.
Share Capital	The Company seeking conversion shall have a Share Capital equivalent to the Guarantee Amount.
Steps	<ol style="list-style-type: none"> Special Resolution: A Special Resolution should be passed by its Members authorising such a conversion omitting the Guarantee Clause in its MOA, and altering the AOA to provide for the AOA as applicable for a Company limited by Shares. Filing to ROC: Copy of the Special Resolution shall be filed with ROC in Form MGT.14 within 30 days from the date of passing it, along with Fee. Application: Application in Form INC.27 shall be filed with ROC within 30 days from the date of the passing the Special Resolution enclosing – <ol style="list-style-type: none"> the altered MOA and AOA, and a list of Members with the number of Shares held aggregating to a Minimum Paid Up Capital which is equivalent to the amount of Guarantee hitherto provided by its Members.
ROC's Powers / Certificate	<ol style="list-style-type: none"> ROC shall take a decision on the application within 30 days from the date of receipt of application complete in all respects. Upon approval, the Company shall be issued with a Certificate of Incorporation in Form INC.11B.

Note B: Conversion of Unlimited Liability Company into a Limited Liability Company by Shares or Guarantee

Aspect	Description
Type of Conversion	From: Unlimited Liability Company with or without Share Capital. Into: Limited Liability Company by Shares or Guarantee.
Steps	<p>Step 1: Pass a Special Resolution in a General Meeting.</p> <p>Step 2: Publish a Notice in Newspapers & Website, and also despatch to Creditors/Debentureholders. [Note 1]</p> <p>Step 3: File an Application to ROC in Form No. INC-27. [Note 2]</p>
ROC's Powers	<p>ROC shall, after considering the application and objections if any, received by him, and after ensuring that the Company has satisfactorily addressed the objections received by the Company, suitably decide whether the approval for conversion should or should not be granted.</p> <p>Note: ROC shall take a decision on the application within 30 days from the date of receipt of application complete in all respects.</p>
Certificate of Incorporation	The Certificate of Incorporation consequent to conversion of Unlimited Liability Company to into a Company limited by Shares or Guarantee be in Form INC.11A , issued to the Company upon grant of approval for conversion.
Conditions on conversion	<p>Subsequent to conversion, the Company shall not –</p> <ol style="list-style-type: none"> change its name for a period of 1 year from the date of such conversion, declare or distribute any Dividend without satisfying past Debts, Liabilities, Obligations or Contracts incurred or entered into before conversion. <p>Note: For this purpose, past Debts, Liabilities, Obligations or Contracts does not include Secured Debts due to Banks and Financial Institutions.</p>
Ineligible Situations	<p>An Unlimited Liability Company shall not be eligible for conversion into a Company limited by Shares or Guarantee in the following cases –</p> <ol style="list-style-type: none"> its Net Worth is negative, or an application is pending under COA 1956 or COA 2013 for striking off its name, or the Company is in default of any of its Annual Returns or Fin.Statements under COA 1956/2013, or a petition for winding up is pending against the Company, or the Company has not received amount due on Calls in Arrears, from its Directors, for a period of not less than 6 months from the due date, or an inquiry, inspection or investigation is pending against the Company.

Note 1: Notice seeking Objections

1. Notice of the proposed conversion shall be in **Form INC–27A**.
2. Notice shall be published in **two Newspapers** (one in English and one in vernacular language) in the district in which the Company's Registered Office is situate.
3. Notice shall also be placed on the Company's **Website**, if any.
4. Copy of the above Notice shall be despatched to the **Creditors and Debentureholders** made as on the date of Notice of the General Meeting, by Registered Post / Speed Post / Courier, with proof of despatch.
5. Publication in Newspapers / Website and Despatch of Notice, as above, should be made **within 7 days** of passing the Special Resolution.
6. Notice should –
 - (a) indicate clearly the proposal of conversion of the Company into a Company limited by Shares or Guarantee, and
 - (b) seek objections if any, from the persons interested in its affairs to such conversion.
 - (c) state that the objections, if any, may be intimated to the ROC and to the Company within 21 days of the date of publication of the notice, duly indicating nature of interest and grounds of opposition.

Note 2: Application to ROC – Form No.INC–27: Within 45 days of passing of the Special Resolution, the Company shall file an application alongwith the Fees and attaching the following documents –

- (a) **Notice** of the General Meeting along with Explanatory Statement,
- (b) Copy of the **Resolution** passed in the General Meeting,
- (c) Copy of the **Newspaper Publication**,
- (d) Copy of **altered MOA and AOA**, certified by any one Authorised Director or Company Secretary of the Company, if any.
- (e) Declaration signed by atleast 2 Directors, including MD, if any, that such conversion shall **not affect** any Debts, Liabilities, Obligations or Contracts incurred or entered into by or on behalf of the Company before conversion (except to the extent that the Liability of the Members shall become limited),
- (f) **Complete List** of Creditors and Debentureholders, to whom individual notices have been sent, along with –
 - Names and Address of every Creditor and Debentureholder of the Company,
 - Nature and respective Amounts due to them in respect of Debts, Claims or Liabilities.
 - Declaration by a Director that Notice as per Rules has been despatched to all the Creditors and Debentureholders, with proof of despatch.
- (g) Declaration signed by atleast 2 Directors, including MD, if any, that they have made a full enquiry into the affairs of the Company and, having done so, have formed an opinion that the **List of Creditors is correct**, and that the Estimated Value as given in the list of the Debts or Claims payable on a contingency are proper estimates of the values of such Debts and Claims and that there are no other Debts or Claims against the Company to their knowledge.
- (h) Declaration of **Solvency** signed by atleast 2 Directors, including MD, if any, that the Company's BOD have made a full inquiry into the affairs of the Company, as a result of which they have formed an opinion that it is capable of meeting its Liabilities and will not be rendered insolvent within 1 year from the date of declaration, through a Resolution, passed in a duly convened meeting or by circulation.
- (i) **Certificate from the Auditors** that the Company is solvent and that it is a going concern as on the date of passing of resolution by the Board certifying solvency as per Clause (h) above.
- (j) No Objection Certificate from **Sectoral Regulator**, if applicable.
- (k) No Objection Certificate from all **Secured Creditors**, if any.
- (l) Declaration signed by atleast 2 Directors, including MD, if any, that **no complaints** are pending against the Company from the Members or Investors and **no inquiry**, inspection or investigation is pending against the Company or its Directors or Officers.

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