

Companies (Name Availability) Rules, 2011

In exercise of the power conferred by clause (a) of sub-section (1) of section 642 read with sections 20 and 21 of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following rules:

1(i) These Rules may be called “Companies (Name Availability) Rules, 2011”;

(ii) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. As per provisions contained in Section 20 of the Companies Act, 1956, no company is to be registered with undesirable name. A proposed name is considered to be undesirable if it is identical with or too nearly resembling with:

(i) Name of a company in existence; or

(ii) A registered trade-mark or a trade mark which is subject of an application for registration, of any other person under the Trade Marks Act, 1999.

3. After notification of these Rules, while applying for a name in the prescribed e-form-1A, using Digital Signature Certificate (DSC), the applicant shall be required to furnish a declaration to the effect that:

(i) he has used the search facilities available on the portal of the Ministry of Corporate Affairs (MCA) i.e., www.mca.gov.in/MCA21 for checking the resemblance of the proposed name(s) with the companies and Limited Liability Partnerships (LLPs) already registered or the names already approved.

(ii) the proposed name(s) is/are not infringing the registered trademarks or a trademark which is subject of an application for registration, of any other person under the Trade Marks Act, 1999;

(iii)the proposed name(s) is/are not in violation of the provisions of Emblems and Names (Prevention of Improper Use) Act, 1950 as amended from time to time;

(iv)The proposed name is not offensive to any section of people, e.g., proposed name does not contain profanity or words or phrases that are generally considered a slur against an ethnic group, religion, gender or heredity;

(v)he has gone through all the prescribed guidelines, given in these Rules, understood the meaning thereof and the proposed name(s) is/are in conformity thereof;

(vi)he undertakes to be fully responsible for the consequences, in case the name is subsequently found to be in contravention of the prescribed guidelines.

4.Where, the proposed name is containing more than one word, there will be an option in the e-form 1A for certification by the practicing Chartered Accountants, Company Secretaries and Cost Accountants, who will certify that he has used the search facilities available on the portal of the Ministry of Corporate Affairs (MCA) i.e., www.mca.gov.in/MCA21 for checking the resemblance of the proposed name(s) with the companies and Limited Liability Partnerships (LLPs) already registered or the names already approved and the search report is attached with the application form. The professional will also certify that the proposed name is not an undesirable name under the provisions of section 20 of the Companies Act, 1956 and also is in conformity with Companies (Name Availability) Rules, 2011 and Guidelines made therein.

5(i).Where e-form 1A has been certified by the professional in the manner stated at '4' above, the name will be made available by the system online to the applicant without backend processing by the Registrar of Companies (ROC). This facility is not available for applications for change of name of existing companies.

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(ii)Where a name has been made available online on the basis of certification of practicing professional in the manner stated above, if

it is found later on that the name ought not to have been allowed under provisions of section 20 of the Companies Act read with these Rules, the professional shall also be liable for penal action under provisions of the Companies Act, 1956 in addition to the penal action under Regulations of respective professional Institutes.

(iii) Where e-form 1A has not been certified by the professional, the proposed name will be processed at the back end office of ROC and availability or non availability of name will be communicated to the applicant.

6. The name if made available, is liable to be withdrawn anytime before registration of the company, if it is found later on that the name ought not to have been allowed. However, ROC will pass an specific order giving reasons for withdrawal of name, with an opportunity to the applicant of being heard, before withdrawal of such name.

7. The name if made available to the applicant, shall be reserved for sixty days from the date of approval and further extension of thirty days with revalidation application and fees. If, the proposed company has not been incorporated within such period, the name shall be lapsed and will be available for other applicants.

8. Even after incorporation of the company, the Central Government has the power to direct the company to change the name under section 22 of the Companies Act, 1956, if it comes to his notice or is brought to his notice through an application that the name too nearly resembles that of another existing company or a registered trademark.

9. In determining whether a proposed name is identical with another, the following shall be disregarded:

(i) The words Private, Pvt, Pvt., (P), Limited, Ltd, Ltd., LLP, Limited Liability Partnership;

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(ii) The words appearing at the end of the names – company, and company, co., co, corporation, corp, corpn, corp.;

(iii)The plural version of any of the words appearing in the name;

(iv)The type and case of letters, spacing between letters and punctuation marks;

(v)Joining words together or separating the words does not make a name distinguishable from a name that uses the similar, separated or joined words;

(vi)The use of a different tense or number of the same word does not distinguish one name from another;

(vii)Using different phonetic spellings or spelling variations does not distinguish one name from another. For example, J.K. Industries limited is existing then J and K Industries or Jay Kay Industries or J n K Industries or J & K Industries will not be allowed. Similarly if a name contains numeric character like 3, resemblance shall be checked with 'Three' also;

(viii)Misspelled words, whether intentionally misspelled or not, do not conflict with the similar, properly spelled words;

(ix)The addition of an internet related designation, such as .COM, .NET, .EDU, .GOV, .ORG, .IN does not make a name distinguishable from another, even where (.) is written as 'dot';

(x)The addition of words like New, Modern, Nav, Shri, Sri, Shree, Sree, Om, Jai, Sai, The, etc. does not make a name distinguishable from an existing name such as New Bata Shoe Company, Nav Bharat Electronic etc. Similarly, if it is different from the name of the existing company only to the extent of adding the name of the place, the same shall not be allowed. For example, 'Unique Marbles Delhi Limited' can not be allowed if 'Unique Marbles Limited' is already existing;

Such names may be allowed only if no objection from the existing company by way of Board resolution is produced/ submitted;

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(xi) Different combination of the same words does not make a name distinguishable from an existing name, e.g., if there is a company in existence by the name of "Builders and Contractors Limited", the name "Contractors and Builders Limited" should not be allowed;

(xii) If the proposed name is an exact Hindi translation of the name of an existing company in English especially an existing company with a reputation, e.g., Hindustan Steel Industries Ltd. will not be allowed if there exists a company with name 'Hindustan Ispat Udyog Limited';

10.Guidelines for availability of name

In supercession of all the previous circulars and instructions regarding name availability, the applicants and Registrar of Companies are also advised to adhere following guidelines while applying or approving the proposed name:

(i) It is not necessary that the proposed name should be indicative of the main object. However, in case the proposed name is indicative of any activity, the same will be appropriately reflected in the main object clause of the Memorandum of Association;

(ii) If the Company's main business is finance, housing finance, chit fund, leasing, investments, securities or combination thereof, such name shall not be allowed unless the name is indicative of such related financial activities, viz., Chit Fund/ Investment/ Loan, etc.;

(iii) If it includes the words indicative of a separate type of business constitution or legal person or any connotation thereof, the same

shall not be allowed. For eg: co-operative, sehkari, trust, LLP, partnership, society, proprietor, HUF, firm, Inc., PLC, GmbH, SA, PTE, Sdn, AG etc.;

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(iv) Abbreviated name such as 'ABC limited' or '23K limited' cannot be given to a new company. However the companies well known in their respective field by abbreviated names are allowed to change their names to abbreviation of their existing name (for Delhi Cloth Mills limited to DCM Limited, Hindustan Machine Tools limited to HMT limited) after following the requirement of Section 21 of the Companies Act, 1956;

(v) If the proposed name is identical to the name of a company dissolved as a result of liquidation proceeding should not be allowed for a period of 2 years from the date of such dissolution since the dissolution of the company could be declared void within the period aforesaid by an order of the Court under section 559 of the Act. Moreover, if the proposed name is identical with the name of a company which is struck off in pursuance of action under section 560 of the Act, then the same shall not be allowed before the expiry of 20 years from the publication in the Official Gazette being so struck off since the company can be restored anytime within such period by the competent authority;

(vi) If the proposed names include words such as 'Insurance', 'Bank', 'Stock Exchange', 'Venture Capital', 'Asset Management', 'Nidhi', 'Mutual fund' etc., the name may be allowed with a declaration by the applicant that the requirements mandated by the respective regulator, such as IRDA, RBI, SEBI, MCA etc. have been complied with by the applicant;

(vii) If the proposed name includes the word "State", the same shall be allowed only in case the company is a government company. Also, if the proposed name is containing only the name of a continent,

country, state, city such as Asia limited, Germany Limited, Haryana Limited, Mysore Limited, the same shall not be allowed;

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(viii) If a foreign company is incorporating its subsidiary company, then the original name of the holding company as it is may be allowed with the addition of word India or name of any Indian state or city, if otherwise available;

(ix) Change of name shall not be allowed to a company which is defaulting in filing its due Annual Returns or Balance Sheets or which has defaulted in repayment of matured deposits and debentures and/or interest thereon;

(x) With a view to maintain uniformity, the following guidelines may be followed in the use of keywords, as part of name, while making available the proposed names under section 20 and 21 of the Companies Act, 1956:

S.No	Key Words	Required authorized capital (in Rs.)
1	Corporation, corp, corpn, corp.	25 crore
2	international, Globe, Global, World, Overseas, Universe, Universal, Continent, Continental, InterContinental, Asiatic, Asia, Asian being the first word of the name	5 crore
3	If any of the words at (2) above is used within the name (with or without brackets)	2 crore
4	Hindustan, India, Indo, Indian, Bharat, Bharatvarsh, Bhartiya or any other country's name being first word of the name	2 crore

5	If any of the words at (4) above is used within the name (with or without brackets)	25 lakh
6	Industries/ Udyog	5 crore
7	Enterprises, Products, Business, Manufacturing, Venture.	50 lakh