

# PROCEDURE TO OBTAIN DIRECTOR IDENTIFICATION NUMBER (DIN)

2

{Section 153 read with Rules 9 and 10 of the Companies (Appointment and Qualification of Directors) Rules, 2014}

## Synopsis

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## Relevant Sections, Rules and Forms at a Glance

Particulars	Section(s), Rule(s) and Name of e-Form(s)
The Companies Act, 2013	Sections 153, 154, 155, 158, 159 and 403
The Companies (Appointment and Qualification of Directors) Rules, 2014	Rules 9 and 10
The Companies (Registration Offices and Fees) Rules, 2014	Rules 7, 8, and 12
e-Forms to be filed	DIR-3

## Significant Relevant Approvals and Requirements

- ❖ DSC of the applicant and/or director of the intended company
- ❖ Board resolution

## 2.1 PROCEDURE WITH CHECK POINTS

S. No.	Particulars
1.	Obtain Digital Signature Certificate (DSC) before applying for Director Identification Number (DIN) and ensure that the applicant does not have any DIN allotted earlier as the Act prohibits to obtain and retain more than 1(one) DIN {Section 155 of the Act}.
2.	<p>(a) An application for obtaining Director Identification Number by every person, proposed/intended to be appointed as a new director in an existing company, shall be made in <b>e-Form DIR-3</b> to the Central Government through Ministry of Corporate Affairs (MCA) Portal along with documents and fees as per the Companies (Registration Offices and Fees) Rules, 2014 . {Section 153 of the Act read with rule 9(1) of the Companies (Appointment and Qualification of Directors) Rules, 2014}.</p> <p>(b) In case a person intends to be appointed a director in proposed new company, the DIN, up to maximum 3 (three) persons, can be obtained through company incorporation <b>e-Form SPICe+</b> (INC-32) {Section 153 of</p>

S. No.	Particulars
	<i>the Act read with proviso to rule 9(1) of the Companies (Appointment and Qualification of Directors) Rules, 2014</i> ).
3.	Ensure that the prefixes/suffixes like Mr./Ms./Kumari/Shri/Late or Ji etc. shall not be used with applicant's name or applicant's father's name in <b>e-Form DIR-3</b> . Further, the particulars of the applicant shall be filed as per Permanent Account Number (PAN) card, in case of Indian national and as per passport, in case of Foreign national. The spellings of applicant's name and applicant's father's name shall be exact in all cases.
4.	Prepare a declaration in Form DIR-3A, in case the applicant has no surname after his/her name and file it along with DIR-3A by mentioning his/her father's or grandfather's surname in DIR-3. However, in case of father's name of the applicant, if only single word name of father is written on the PAN of an Indian National, the single name can be accepted by MCA in DIR-3 in respect of father's name. Note that even married woman shall give her father's name in DIR 3. Further in case of foreign nationals, proof regarding father's name is not required. (Also ensure that the spellings of father's name are exactly same as mentioned in identity proof of the applicant {Rule 9(4) of the Companies (Appointment and Qualification of Directors) Rules, 2014}.
5.	Arrange a board resolution of the existing company in which the DIN applicant is proposed/intended to be appointed as a director {Rule 9(3)(a) of the Companies (Appointment and Qualification of Directors) Rules, 2014}.
6.	Arrange the following documents which are the mandatory attachments to be filed in all cases: 1. Identity proof of the applicant <ul style="list-style-type: none"> <li>• In case of Indian nationals, Income-Tax PAN is mandatorily required to be filed along with proof of identity.</li> <li>• In case of foreign nationals, passport is mandatorily required as proof of identity.</li> </ul> 2. Residence proof of the applicant <ul style="list-style-type: none"> <li>• Address proofs, like passport, election (voter identity) card, and ration card, driving license, electricity bill, telephone bill or Aadhaar card shall be attached and should be in the name of the applicant only.</li> <li>• In case of Indian applicant, utility bills should not be older than 2(two) months from the date of filing of the e-Form.</li> <li>• In case of foreign applicant address proof should not be older than 1(one) year from the date of filing of the e-Form.</li> </ul> {Rule 9(3)(a) of the Companies (Appointment and Qualification of Directors) Rules, 2014}.
7.	If supporting documents are in languages other than Hindi/English, all proofs should be translated in Hindi/English by a professional translator who must indicate his details (name, signature, and address) and seal on the documents. In case of foreign nationals, translation done by the notary of home country is also acceptable.

S. No.	Particulars
	<p>The subscribers, who are individuals in the Memorandum of Association (MOA) shall be deemed as first directors until the directors are duly appointed by the members in accordance with Section 152 of the Companies Act, 2013 and rules made thereunder (Section 152 of the Act).</p> <ul style="list-style-type: none"> <li>• Not the person intended/proposed to be appointed a director of a company has a valid Director Identification Number (DIN) under section 174 or any other number as may be prescribed under section 174 of the Companies Act, 2013, however, in case of first directors of a new company, the DIN up to 3 (three) persons can be obtained through incorporation with integrated form SPICe+ (INC-32) (Section 152 of the Act read with rule 152 of the Companies Incorporation Rules, 2014).</li> <li>• Not a total number of directors, at least one director has stayed in India for a total period of not less than 182 days during the financial year. Provided that in case of newly incorporated company, residential status shall be determined proportionately. However, it is not required in case the director is appointed by the Central Government or State Government (Section 152 of the Act).</li> <li>• A person, who is intended to be appointed, shall not be eligible for appointment, if he/she has any disqualification for appointment under section 164 of the Act (Section 164 of the Act read with company practice &amp; procedure company act regulations in 2014 (INC) dated 18.01.2014).</li> <li>• A person proposed to be appointed as a director in a company other than a company registered under Section 8 (non-profit company) of the Companies Act, 2013 (Section 152 of the Act)             <ul style="list-style-type: none"> <li>- shall not hold office as a director including any alternate directorship in more than 20 companies including directorship in dormant companies.</li> <li>- shall not hold office in more than 10 public companies including the private companies which are holding or subsidiary of public company.</li> </ul> </li> </ul>
2.	In case of one person company, an individual being sole member is deemed to be the first director of the company, if the articles of association has not mentioned the names of first directors (Section 152 of the Act).
3.	Forms created in writing, on or before appointment, from the appointed director to act as director in the company as Form 208-2 (Part 2 of the Companies Appointment and Qualification of Directors) Rule, 2014.
4.	Forms in electronic in writing, on or before appointment, from the appointed director as Form 208-2 regarding that he/she is not disqualified under Section 164 of Companies Act, 2013, to act as a Director (Section 164 of the Act read with rule 17 of the Companies Appointment and Qualification of <u>Directors</u> ) Rule, 2014.
5.	The particulars of first directors to be integrated with Form SPICe+ (INC-32) at the time of incorporation of company.

For the detailed procedure, please refer Company Law Procedures & Compliances by Dr. Sanjeev Gupta, 2nd edn, 2021. You can buy from your bookseller or online at [www.bharatlaws.com](http://www.bharatlaws.com)

[COMPANY LAW Procedures & Compliances \(in 2 vols.\)](#)