

PROCEDURE FOR APPOINTMENT OF COST AUDITOR

*{Section 148 of the Act read with
Rule 6 of the Companies (Cost Records and Audits) 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 148, 173, 177 and 403
The Companies (Cost Records and Audit) Rules, 2014	Rules 3, 4, 5 and 6
The Companies (Audit and Auditors) Rules, 2014	Rules 3 and 14
The Companies (Registration offices and Fees) Rules, 2014	Rules 7, 8 and 12
Secretarial Standard-1 of ICSI	Clauses 3, 4, 5, 6, 7 and 8
e-Forms to be filed	CRA-2 CRA-4

Significant Relevant Approvals and Requirements

- ❖ Audit Committee recommendation
- ❖ Board resolution
- ❖ Written consent before appointment of the appointee auditor for appointment
- ❖ Certificate from the appointee auditor

80.1 PROCEDURE WITH CHECK POINTS

S. No.	Particulars
1.	The provisions of section 148 of the Act and rules of the Companies (Cost Records and Audit) Rules, 2014 are not applicable to the following class of a company which is covered under rule 3 of the said rules: <ul style="list-style-type: none"> (a) company whose revenue from exports, in foreign exchange, exceeds 75% of its total revenue; or

S. No.	Particulars
	<p>(b) company which is operating from a special economic zone; or</p> <p>(c) company which is engaged in generation of electricity for captive consumption through captive generating plant as defined under Rule 3 of the Electricity Rules, 2005.</p> <p>(d) company which is a foreign company and listed at Serial No. 33 of rule 3(B) of the Companies (Cost Records and Audit) Rules, 2014 and having only liaison office in India.</p> <p>(e) company which is classified as a micro enterprise or a small enterprise as per the turnover criteria under section 7(9) of the Micro, Small and Medium Enterprises Development Act, 2006.</p> <p><i>{Rule 4(3) read with proviso to Rule 3 of the Companies (Cost Records and Audit) Rules, 2014}.</i></p>
2.	<p>Ensure that—</p> <ul style="list-style-type: none"> • a company specified in Regulated Sector as per Item A of Table under Rule 3 of the Companies (Cost Records and Audit) Rules, 2014 shall get its cost records audited- <ul style="list-style-type: none"> - if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is ₹ 50 crores or more, and - aggregate turnover of the individual product(s) or service(s) for which cost records are required to be maintained under rule 3 is ₹ 25 crores or more. <i>{Rule 4(1) of the Companies (Cost Records and Audit) Rules, 2014}.</i> • a company specified in Non-Regulated Sector as per Item B of Table under Rule 3 of the Companies (Cost Records and Audit) Rules, 2014 shall get its cost records audited- <ul style="list-style-type: none"> - if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is ₹100 crores or more, and - if the aggregate turnover of individual product(s) or service(s) for which cost records is required to be maintained is ₹ 35 crores or more. <i>{Rule 4(2) of the Companies (Cost Records and Audit) Rules, 2014}.</i> • the cost audit shall be conducted by a Cost Accountant¹ who shall be appointed by the board on such remuneration as may be determined by the members and cost auditor means a Cost Accountant in Practice² <i>{Section 148(3) of the Act read with Rule 2(c) of the Companies (Cost Records and Audit) Rules, 2014}.</i>

¹ Cost Accountant means a cost accountant who is member of the Institute of Cost Accountants of India. *{Section 2(1)(b) of the Cost and Works Accountants Act, 1959}*

² Cost Accountant in practice” means a cost accountant as defined section 2(1)(b) of the Cost and Works Accountants Act, 1959, who holds a valid certificate of practice under section 6(1) of that Act and who is deemed to be in practice under sub-section (2) of section 2 thereof, and includes a firm or limited liability partnership of cost accountants.

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"> • 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-1 (INC-32) (Section 152 of the Act read with rule 152 of the Companies Incorporation Rules, 2014). • 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). • 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 provisions of government company and regulations in COA 2012 about COA 2012). • 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"> - shall not hold office as a director including any alternate directorship in more than 20 companies including directorship in dormant companies. - shall not hold office in more than 10 public companies including the private companies which are holding or subsidiary of public company.
1.	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).
2.	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 Incorporation and Qualification of Directors Rules, 2014).
3.	Form created in writing, on or before appointment, from the appointed director as Form 208-3 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 Incorporation and Qualification of Directors Rules, 2014).
4.	The particulars of first directors to be integrated with Form SPICe-1 (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

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