

PROCEDURE FOR CONDONATION OF DELAY FOR REGISTRATION OF SATISFACTION OF CHARGES BY CENTRAL GOVERNMENT (REGIONAL DIRECTOR)

{Section 87 of the Act read with Rule 12 of the Companies (Registration of Charges) 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 87, 173 and 403
The Companies (Registration of Charges) Rules, 2014	Rules 4, 5 and 12
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	CHG-8 INC-28 GNL-2

Significant Relevant Approvals and Requirements

- ❖ Board resolution
- ❖ Order of Regional Director
- ❖ Reasons for delay in filing the particulars of satisfaction of charge
- ❖ Memorandum of Appearance/Vakalatnama

87.1 PROCEDURE WITH CHECK POINTS

S. No.	Particular
1.	Ensure that— <ul style="list-style-type: none"> • the payment has been made and satisfied in full against any charge registered with the Registrar of Companies and nothing is due towards that charge. • the particulars of satisfaction of charge have not been filed by the company or the charge holder within a period of 300 (three hundred) days from the date of payment or satisfaction.

S. No.	Particular
2.	File e-Form CHG-4 with the Registrar of Companies with fee as per the Companies (Registration Offices and Fees) Rules, 2014 and get the challan of respective form and note that the respective challan shall reflect the period of delay in filing the satisfaction of charge and a remark that condonation of delay shall be filed with the Central Government.
3.	<p>Complete formalities regarding calling of board meeting in the following manner:</p> <ul style="list-style-type: none"> • Prepare notice of board meeting along with draft resolution(s) to be passed in the board meeting. • Send notice of board meeting to all the directors <ul style="list-style-type: none"> - at least 7 days before the date of board meeting or - in such manner as prescribed under section 173(3) of the Companies Act, 2013 and clause 1 of the Secretarial Standard-1.
4.	<p>Convene board meeting and pass the resolutions for:</p> <ul style="list-style-type: none"> • taking note of condonation of delay in filing the particulars of satisfaction of charge • authorising any director of company/ company secretary to file an application in e-Form CHG-8 along with relevant documents with the jurisdictional Regional Director for condone of delay in filing intimation of satisfaction of charge within 300 days from date of payment or satisfaction. • authorising any director of company/ company secretary to file an advanced copy of application, to be filed with the Regional Director in e-Form CHG-8 along with relevant documents, with the Registrar of Companies in e-Form GNL-2 for condone of delay in filing intimation of satisfaction of charge within 300 days from date of payment or satisfaction. • appointing a Company Secretary/Chartered Accountant/Cost Accountant in practice or some other professional and authorising a director and/or secretary to sign application, affidavit, etc. and to appear before the office of Regional Director, if required.
5.	<p>Complete formalities regarding minutes of the board meeting as per Section 118 of the Companies Act, 2013 in the following manner:</p> <ul style="list-style-type: none"> • Prepare draft minutes of the board meeting and circulate, within a period of fifteen days from the date of conclusion of that meeting, to all directors, by hand/speed post/registered post/courier/e-mail or by any recognised electronic means, for their comment(s). • All directors shall communicate their comment(s), if any, on the draft circulated minutes within a period of seven days from the date of circulation of the draft minutes. • Add the suggested comment(s) given or suggested by any director and finalise the minutes. • Enter the minutes, in the minute book of the board meeting, within thirty days from the date of conclusion of the board meeting.

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-11) (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 jointly incorporated companies, 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 companies provisions a 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 companies.
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-1 (INC-11) 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 \(in 2 vols.\)](#)