

RELAXATION IN FILING FORMS RELATED TO CREATION OR MODIFICATION OF CHARGES

The Ministry of Corporate Affairs on 30th March 2020 through General Circular No. 12/2020 had laid out Companies Fresh Start Scheme, allowing the Companies to make good any filing related defaults, irrespective of duration of default, and make a fresh start as a fully compliant entity. However, in this Scheme benefit of waiver of additional fees was not extended to the Charge related documents.

Further, the Ministry through General Circular No. 23/2020 dated 17th June, 2020 has introduced "**Scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013**" for the purpose of condoning the delay in filing certain forms related to creation/modification of charges.

The Scheme is effective from the date of issue of this Circular that is from 17th June, 2020.

APPLICABILITY OF THE SCHEME:

Filing of Form CHG-1 and Form CHG-9 by a Company or a Charge holder, **where the date of creation/modification of charge:**

- a. Is before 01/03/2020, but the timeline for filing such Form had not expired under Section 77 of the Act as on 01/03/2020
- OR**
- b. Falls on any date between 01/03/2020 to 30/09/2020 (both dates inclusive)

RELAXATION OF TIME AND APPLICABLE FEES:

1. In case a Form is filed in respect of a situation covered in sub-para (a) above; the period beginning from 01/03/2020 and ending on 30/09/2020 **shall not be counted** for the purpose of counting the number of days under Section 77 or Section 78 of the Act. In such case, for the purpose of counting number of days within which form needs to be filed, **first day after 29/02/2020 shall be considered as 01/10/2020.**

FEES- In such case, if the Form is filed on or before 30/09/2020, the fees payable on 29/02/2020 under the Fees Rules shall be charged. If the form is filed thereafter, the applicable fees shall be charged under the fees rules after adding the number of days

beginning from 01/10/2020 till date of filing plus the time period lapsed from the date of creation of charge till 29/02/2020.

2. In case a Form is filed in respect of a situation covered in sub-para (b) above; the period beginning from the date of creation/ modification of Charge to 30/09/2020 shall not be counted the purpose of counting the number of days under Section 77 or Section 78 of the Act. In such case, for the purpose of counting number of days within which form needs to be filed, the first day after the date of creation/modification shall be considered as 01/10/2020.

FEES- In such case, if the Form is filed before 30/09/2020, normal fees shall be payable under the Fees Rules. If the Form is filed thereafter, the first day after the creation/modification shall be counted as 01/10/2020 and the number of days till the date of filing of form shall be counted accordingly for the purpose of payment of fees under Fees Rules.

NON- APPLICABILITY OF THE SCHEME:

This Scheme is not applicable in below mentioned cases:

- a. Form CHG-1/Form CHG-9 had already been filed before the date of issue of Circular.
- b. The timeline for filing of Form has already expired under Section 77 or Section 78 of the Act prior to 01/03/2020.
- c. The timeline for filing the Form expires at a future date, despite exclusion of the time provided (Relaxation time mentioned above)
- d. Filing of Form CHG-4 for satisfaction of Charges.

Source:

http://www.mca.gov.in/Ministry/pdf/Circular23_17062020.pdf

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