

ANNUAL AND OTHER OBLIGATIONS UNDER COMPANIES ACT, 1956

OBLIGATIONS UNDER THE COMPANIES ACT, 1956 WITH RESPECT TO E-FILING OF FORMS, RETURNS AND DOCUMENTS WITH REGISTRAR OF COMPANIES

The Companies Act, 1956 ("the Act") provides for and casts an obligation on Companies incorporated under the Act to file various forms, returns and documents under various sections with the Registrar of Companies (ROC) in an electronic mode within the prescribed time along with the prescribed fees or with payment of additional fees in the event of delayed filing.

The Ministry of Corporate Affairs has introduced a new e-governance Project MCA-21 which is designed to fully automate all processes related to pro-active enforcement and compliance of legal requirements under the Companies Act, 1956. The major component of this project are front office and back office. The front office is administered through the portal www.mca.gov.in. since September 30, 2006. Physical filing of forms under Companies Act has been discontinued and the physical form discarded.. All filing after September 30, 2006 is through e-filing using specially designed e-forms.

The various documents, returns etc. that are required to be filed with the ROC could be categorized as those which are required to be filed once in a year (Annual Filing Obligations) and those which are required to be filed from time to time with ROC/Central Government as provided under the Act (Other Filing Obligations).

ANNUAL OBLIGATIONS WITH RESPECT TO FILING OF RETURNS/DOCUMENTS UNDER THE ACT WITH ROC

(A) ANNUAL RETURN UNDER SECTIONS 159, 160

(i) The annual return has to be filed with the ROC in an electronic mode within 60 days of the holding of the annual general meeting;

(ii) Where annual general meeting has not been held, the return is required to be filed within 60 days from the date on which the annual general meeting should have been held;

(iii) The return is to be duly signed digitally and the requisite certificates to be attached as per section 161;

(iv) In case of a company whose shares are listed on a recognized stock exchange; the return is to be also signed digitally by a secretary in whole-time practice.

Note: In case of an adjourned annual general meeting, the annual return incorporates the date of the original meeting.

Description	e-Form
Particulars of annual return for the company not having share capital	<u>Form 21A</u>
Form for filing annual return by a company having a share capital with the Registrar	<u>Form 20B</u>
Form of annual return of a foreign company having a share capital	Prescribed <u>Form 20B</u>

(B) BALANCE SHEET, ETC., UNDER SECTION 220

- (i) the balance sheet, etc., to be adopted at the annual general meeting;
- (ii) copy of Annual report including Balance Sheet etc. to be e-filed with the ROC within 30 days of the date of the annual general meeting;
- (iii) where an annual general meeting (AGM) is not held, copy of balance sheet etc. to be e-filed within 30 days from the latest day on or before which the meeting should have been held and a statement of the fact and of the reasons thereof to be filed along with the balance sheet.
- (iv) where balance sheet etc., is laid before but not adopted at the AGM or the AGM was adjourned without adopting the balance sheet, a statement of the fact and reasons thereof was filed along with balance sheet, etc. to be filed within 30 days of the AGM.

Description	e-Form
Form for filing balance sheet and other documents with the Registrar	<u>Form 23AC</u>
Form for filing Profit and Loss account and other documents with the Registrar	<u>Form 23ACA</u>

(C) COMPLIANCE CERTIFICATE UNDER SECTION 383A

- (i) The company to which proviso to sub-section (1) of section 383A is applicable, has to digitally file with the ROC a Certificate from a Company Secretary in whole time Practice in Form appended to the Companies (Compliance Certificate) Rules, 2001 within 30 days from the date of annual general meeting, along with the Annual Report.

(ii) In case the annual general meeting of the company is not held for the year, the aforesaid Compliance Certificate to be digitally filed with the ROC within 30 days from the latest day on or before which that meeting should have been held.

Description	e-Form
Form for submission of compliance certificate with the Registrar	<u>Form 66</u>

OTHER OBLIGATIONS

APPROVAL SERVICES (HEAD QUARTERS)

Description	e-Form
Application to Central Government for modification in the matters to be stated in the company's balance sheet or profit and loss account	<u>Form 23AAA</u>
Form for filing application or documents with Central Government	<u>Form 65</u>
Form for filing application for declaration as Nidhi Company	<u>Form 63</u>
Form of application to the Central Government for obtaining prior consent for holding of any office or place of profit in the company by certain persons	<u>Form 24B</u>
Form for filing application for giving loan, providing security or guarantee in connection with a loan	<u>Form 24AB</u>
Form of application to the Central Government for appointment of cost auditor	<u>Form 23C</u>
Application to Central Government for not providing depreciation	<u>Form 23AAC</u>
Application for exemption from attaching the annual accounts of the subsidiary companies	<u>Form 23AAB</u>
Form of application for approval for declaration of dividend out of reserves	<u>Form as prescribed</u>

Form of application for removal of disqualification of directors	<u>Form DD-C</u>
Form of application for approval of the Central Government for the appointment of sole selling agents by the company	<u>Form I</u>
Form of application for approval of the Central Government for the appointment of sole buying agent by a company	<u>Form II</u>

APPROVAL SERVICES (REGIONAL DIRECTOR)

Description	e-Form
Application for confirmation by Regional Director for change of registered office of the company within the State from the jurisdiction of one Registrar to the jurisdiction of another Registrar	<u>Form 1AD</u>
Form for filing application for opening branch(s) by a nidhi company	<u>Form 64</u>
Form for filing application to Regional Director	<u>Form 24A</u>

APPROVAL SERVICES (REGISTRAR OF COMPANIES)

Description	e-Form
Application for approval of the Central Government for change of name or conversion of a public company into a private company	<u>Form 1B</u>
Form for filing an application with Registrar of Companies	<u>Form 61</u>

CHANGE SERVICES

Description	e-Form
Application form for availability or change of a name	<u>Form 1A</u>
Notice of (A) alteration in names and addresses of persons resident in India authorized to accept service on behalf of a	<u>Form 52</u>

foreign company (B) alteration in the address of principal place of business in India of a foreign company (C) list of places of business established by a foreign company (D) cessation to have a place of business in India	
Return of alteration in the charter, statute or memorandum and articles of association, address of the registered or principal office and directors and secretary of a foreign company	Form 49
Particulars of appointment of managing director, directors, manager and secretary and the changes among them or consent of candidate to act as a managing director or director or manager or secretary of a company and/or undertaking to take and pay for qualification shares	Form 32
Notice of situation or change of situation of registered office	Form 18
Notice of consolidation, division, etc. or increase in share capital or increase in number of members	Form 5
Application for approval of the Central Government for change of name or conversion of a public company into a private company	Form 1B

CHARGE MANAGEMENT

Description	e-Form
Appointment or cessation of receiver or manager	Form 15
Particulars for creation or modification of charges (other than those related to debentures)	Form 8
Receiver's or manager's abstract of receipts and payments	Form 36
Particulars for satisfaction of charges	Form 17
Particulars for registration of charges for Debenture	Form 10

COMPANY REGISTRATION

Description	e-Form
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Application or declaration for incorporation of a company	<u>Form 1</u>
Notice of situation or change of situation of registered office	<u>Form 18</u>
Application form for availability or change of a name	<u>Form 1A</u>
Declaration of compliance with the provisions of section 149(2)(b) of the Companies Act,1956	<u>Form 20</u>
Declaration of the compliance with the provisions of sections 149(2A) and (2B)	<u>Form 20A</u>
Declaration of compliance with the provisions of sections 149(i)(a), (b) and (c) of the Companies Act, 1956	<u>Form 19</u>
Documents delivered for registration by a foreign company	<u>Form 44</u>
Registration of an existing company as a limited company	<u>Form 39</u>
Application by an existing joint stock company or by an existing company (not being a joint stock company) for registration as a public limited or private limited or an unlimited company	<u>Form 37</u>
Particulars of appointment of managing director, directors, manager and secretary and the changes among them or consent of candidate to act as a managing director or director or manager or secretary of a company and/or undertaking to take and pay for qualification shares	<u>Form 32</u>

COMPLIANCE RELATED FILING

<i>Description</i>	<i>e-Form</i>
Return of allotment	<u>Form 2</u>
Particulars of contract relating to shares allotted as fully or partly paid-up otherwise than in cash	<u>Form 3</u>

Statement of amount or rate per cent of the commission payable in respect of shares or debentures and the number of shares or debentures for which persons have agreed for a commission to subscribe for absolutely or conditionally	Form 4
Return in respect of buy Back of Shares	Form 4C
Statutory Report	Form 22
Registration of resolution(s) and agreement(s)	Form 23
Information by Auditor to Registrar	Form 23B
Return of appointment of managing director or whole time director or manager	Form 25C
Form for submission of documents with Registrar of Companies	Form 62
Statement of amounts credited to investor education and protection fund	Form 1
Report by a public company	Form DD-B
Form of annual return of a foreign company having a share capital	Form as prescribed
Form for filling cost audit report and other Documents with the Central Government	Form as prescribed

INFORMATIONAL SERVICES

Description	e-Form
Particulars of person(s) or director(s) or changed or specified for the purpose of clause (f) or (g) of section 5	Form 1AA
Information to be furnished in relation to any offer of a scheme or contract involving the transfer of shares or any class of shares in the transferor company to the transferee company	Form 35A

Registration of resolution(s) and agreement(s)	Form 23
Notice of address at which books of account are maintained	Form 23AA
Form of return to be filed with the Registrar	Form 22B
Notice of the court or the Company Law Board order	Form 21

INVESTOR SERVICES

Description	e-Form
Form for filing complaint(s) against the company	Investor Complaint Form

PROVISIONS RELATED TO MANAGERIAL PERSONNEL

Description	e-Form
Form of application to the Central Government for increase in the number of directors of the company	Form 24
Form of application to the Central Government for approval of appointment or reappointment and remuneration or increase in remuneration or waiver for excess or over payment to managing or whole-time director(s) or manager and commission or remuneration or expression of opinion to directors	Form 25A
Form of application to the Central Government for approval to amendment of provisions relating to managing, whole time or non rotational director	Form 25B
Form of application for removal of disqualification of directors	Form DD-C

FORM 67 (ADDENDUM)

Description	e-Form
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Form for filing addendum for rectification of defects or incompleteness	<u>Form 67 (Add.)</u>
Particulars of appointment of managing director, directors, manager and secretary and the changes among them or consent of candidate to act as a managing director or director or manager or secretary of a company and/or undertaking to take and pay for qualification shares	<u>Form 32 Addendum</u>

LIMITED LIABILITY PARTNERSHIP (LLP) FORMS

Description	e-Form
Form for intimating to Registrar of Companies of conversion of the company into limited liability partnership (LLP).	<u>Form 14</u>

DIRECTOR IDENTIFICATION NUMBER (DIN)

Description	e-Form
Approved DIN is mandatory after July, 2007 (unless extended by notification). Provisional DIN will not be acceptable after July 1, 2007 and only approved DIN would be necessary. Any individual desiring become a director or be re-appointed is required to obtain DIN. (Sections 266A & 266B) How to obtain an Approved DIN - The applicant is required to click and open the application form (Form DIN-1) on the portal www.mca.gov.in and fill-up various particulars on-line. Please ensure that you do not use any abbreviations or initials in the case of name; - Click on the 'Submit' function and the system would automatically generate a provisional DIN in the space provided for in this form; fees of Rs. 100/- is required to be paid for submitting DIN App w.e.f. 1-7-2007 - Thereafter, the applicant is required to take a print-out of the two-page form, affix his photograph in the space provided, manually sign the undertaking at the end, enclose copies of the proof of identity and	DIN 1

the proof of residence with the application form and get the requisite certifications from any of the authorities specified therein; iv. On completion of Step (iii) above, the applicant is required to send these papers by post to the Central DIN Processing Cell at NOIDA. Address is given on the DIN form.	
Every existing director shall, within one month of the receipt of DIN from Central Government intimate his DIN to the company or all companies wherein he is a director. (Section 266D)	DIN 2
Every company shall, within one week of the receipt of intimation of DIN by director, furnish the DIN of all its directors to the ROC (Section 266E) Company incorporated after July 1, 2007 need not file DIN 3	DIN 3
Every director can inform changes (if any) in the personal particulars.	DIN 4

REGISTRATION OF DIGITAL SIGNATURE

Effective from July 1, 2007 the verification of credentials of authorised signatories and Professionals is proposed to be carried out during e-filing. MCA-21 system has sophisticated electronic 'pre-scrutiny' facilities that can verify the credentials of the signatory prior to acceptance of electronic documents. Therefore, documents that are digitally signed by the authorised signatories will be accepted by the system.

STEP BY STEP PROCESS FOR DIRECTOR/SECRETARY/PROFESSIONAL

Step 1: Log on to MCA portal

Step 2: Select Director/Secretary/Professional link and register the Certificate.