

PROCEDURE BEFORE NCLT AS PER NCLT RULES, 2016 EFFECTIVE FROM 21ST JULY, 2016

Ministry of Corporate Affairs has issued three notifications dated 01 June 2016 for setting up of National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) as well as notifying various sections of the Companies Act 2013 (which were not operational due to non constitution of NCLT) with effect from 01st June 2016. With this Company Law Board (CLB) to stand dissolved per section 466 of the Companies Act 2013.

Now, in continuation of Constitution of NCLT and NCLAT, MCA has again come up with notifications notifying NCLT Rules and NCLAT Rules on 21st July, 2016 providing inter alia procedure and manner for filing petition, application or appeal. Following are the requisite points for consideration for filing petition, appeal or application before NCLT as per NCLT Rules:

1. The document to be filed before NCLT shall be in English and if in any other language, it shall be accompanied with copy of Translation in English.
2. It shall be type written, printed in **double space**, on one side of legal paper, with **margins**: Top 4 c.m., Right-2.5 c.m. and left-5c.m.
3. It shall be duly paginated, indexed and stitched together in paper **book form**.
4. Every petition, application, appeal or document shall be filed in **Triplicate**.
5. All the documents filed shall be accompanied by an index in triplicate containing their details and the amount of fee paid thereon.
6. Copy of petition , application or appeal shall also be filed to the opposite party.
7. True Copy of **Resolution for authorisation** to sign, verify and institute on behalf of the company shall also be enclosed.
8. Every petition, application or appeal shall be filed in **Form No. NCLT.1** alongwith the attachment of Notice of admission in **Form NCLT-2**.
9. Title **Heading for Proceeding** shall be in **Form No. NCLT.4**.
10. Every petition or application shall be verified by an Affidavit in **Form No. NCLT.6**.
11. **Notice of Motion** shall be filed in **Form No. NCLT.3**.
12. Notice to the opposite Party shall be issued in **Form No. NCLT.5**
13. Where any petition or application is required to be advertised, it shall be advertised in **Form No. NCLT-3A** in vernacular language and in English Newspaper. Advertisement if published shall also be placed on the website of the company, if any.
14. Every Party may appear either in person or through authorised Representative, who shall make an appearance through filing **Vakalatnama** or Memorandum of Appearance in **Form No. NCLT.12** representing the respective parties.
15. No intern employed by Authorised Representative shall appear, access to the records or obtain copies of order, unless his name is entered in **Register of intern** maintained by bench. Authorised Representative shall make application in **Form NCLT.10** for registering his intern.
16. **Special Procedure** has also been specified from **Rule 66 to Rule 88** specifying the additional requirement for the applicant to be followed while filing application under various provisions of Companies Act, 2013. Additional requirements inter alia includes accompanying documents as mentioned in Annexure-B (which includes copy of Memorandum and Articles, copy of balance sheet, Resolution, Bank Draft for filing fees etc.), content of application, Advertisement of application etc.
17. An application for rectification of Final order shall be filed within Two years in **Form No. NCLT.9**.
18. The certified copy of the order of NCLT shall be filed with ROC in **Form NO. INC-28** alongwith the fees of Rs. 500/- within 30 days.

Following are the list of various provisions of Companies Act, 2013 under which an application shall be filed before NCLT alongwith their respective fees:

S.No.	Section of the Companies Act, 2013	Nature of application / petition	Fees
1	Sec. 2 (41)	Application for change in financial year	5,000/-
2	Sec. 7 (7)	Application to Tribunal where company has been incorporated by furnishing false or incorrect info or by any fraudulent action.	5,000/-
3	Sec. 14 (1)	Conversion of public company into a private company.	5,000/-
4	Sec. 55 (3)	Application for issue further redeemable preference shares.	5,000/-
5	Sec. 58 (3)	Appeal against refusal of registration of shares.	1,000/-
6	Sec. 59	Appeal for rectification of register of member.	1,000/-
7	Sec. 62 (4)	Appeal against order of Govt. fixing terms and conditions for conversion of debentures and shares.	5,000/-
8	Sec. 71 (9)	Petition by Debenture-trustees.	2,000/-
9	Sec. 71 (10)	Application in the event of failure of redeeming of debentures.	1,000/-
10	Sec. 73 (4)	Application by deposition for repayment of deposit or interest.	500/-
11	Sec. 74 (2)	Application to allow further time as considered reasonable to the company to repay deposits.	5,000/-
12	Sec. 97 (1)	Application for calling of Annual General meeting.	1,000/-
13	Sec. 98 (1)	Application for calling of general meeting of company other than annual general meeting	1,000/-
14	Sec. 119 (4)	Petition to pass an order directing immediate inspection of minute's books or directing a copy thereof be sent forthwith to person requiring it.	500/-
15	Sec. 130 (1)	Application for re-opening of books of account, if made by any person other than Central Government, Income Tax authorities, SEBI or any other statutory regulatory body or authority	5,000/-
16	Sec. 131 (1)	Application by company for voluntary revision of financial statement on Board's report.	5,000/-
17	Sec. 140 (4)	Application for not sending the copy of representation of auditor to the members.	1,000/-
18	Sec. 140 (5)	Application by any other person concerned for change of auditors.	2,000/-
19	Sec. 169 (4)	Application for not sending copies of representation	1,000/-
20	Sec. 213	Application to Tribunal for investigation into company affairs.	5,000/-
21	Sec. 218 (1)	Application for approval for action proposed against employee.	1,000/-
22	Sec. 222 (1)	Application for imposition of restrictions on securities.	2,500/-
23	Sec.241(1)	Application in case of Oppression and Mismanagement	10,000/-
24	Sec.242(4)	Application for regulating the conduct of the company	2,500/-
25	Sec.243(1)(b)	Application for appointment of Managing Director	5,000/-
26	Sec.244(1)	Application for waiver requirement specified in Sec.244(1)(a) or (b)	2,500/-
27	Sec.245	Class Action Suit	5,000/-
28	Sec.441	Application for compounding of certain offences	1,000/-
29	Sec.421	Appeals to NCLAT	5,000/-
30		Fees for obtaining certified true copy of Final order by other than concerned parties	Rs.5/-per page

Thanks
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