



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

Corporate Laws & Corporate Governance Committee The Institute of Chartered Accountants of India

5th July, 2021

FREQUENTLY ASKED QUESTIONS

Sub: Frequently Asked Questions on Circular regarding Relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013 issued by the Ministry of Corporate Affairs on 03.05.2021-Revised

The Ministry of Corporate Affairs vide its General Circular no 07/2021 dated 03rd May, 2021, has provided relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013.

Under section 77 & 78 of the Companies Act, 2013, the companies or the charge holders are required to file forms related to creation or modification of charges within the timelines as provided, i.e. a total of 120 days of the creation or modification of charge. In case, the company fails to register the charge within the period of thirty days referred to in sub-section (1) of section 77, the charge holder may file the form related to creation or modification of charges under section 78 of the Act, within the overall timelines for filing of such form under section 77.

In view of the difficulties being faced by the stakeholders due to resurgence of COVID-19 pandemic, the Ministry of Corporate Affairs has allowed relaxation in respect of filing of forms relating to creation or modification of charges under the Companies Act, 2013.

The aforesaid circular no 07/2021 has been revised by the Ministry of Corporate Affairs vide circular no 12/2021 dated 30.06.2021 for providing further extension in the timelines for filing forms related to creation or modification of charges under the Companies Act, 2013.

Accordingly, the FAQs have been revised based on the circular no 12/2021. Amendments have been made in blue for the better understanding of readers.

Q 1. What is the relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013?

A 1. Relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013 is a scheme introduced by the Ministry of Corporate Affairs for the purpose of condoning the delay in filing certain forms related to creation/ modification of charges particularly due to the difficulties being faced by COVID-19 pandemic.

Q 2. What is the objective of Circular no 07/2021 and 12/2021 issued by MCA on 3rd May 2021?

A 2. The objective of the said circular is to provide relaxation of time to Companies or Charge holder for condoning the delay in filing certain forms related to creation/ modification of charges under section 77 of the Companies Act, 2013 (Act).

Q 3. Whether this scheme is permanent?

A 3. No, this scheme is not permanent. It is a one-time waiver that has been allowed to Companies to file their forms related to creation or modification of charges.

Q 4. For which Forms, the aforesaid Circular is applicable?

A 4. The Circular shall be applicable in respect of filing of Form No. CHG-1 and Form No. CHG-9 (both referred as 'form' or 'forms') by a company or a charge holder, as per the date of creation / modification of charge. (Refer Q 4.)

Thus, the Scheme is not applicable to the following forms relating to charges:

CHG-4	Particulars for satisfaction of charge thereof
CHG-6	Notice of appointment or cessation of receiver or Manager

Q 5. What is the time period for applicability of the relaxation w.r.t. filing of charge form(s)?

A 5. The relaxation is applicable in respect of filing of Form No. CHG-1 and Form No. CHG-9 by a company or a charge holder, where the date of creation / modification of charge:

- a) is before 01.04.2021, but the timeline for filing such form has not expired u/s 77 of the Act as on 01.04.2021, or
- a) falls on any date between 01.04.2021 to 31.07.2021 (both dates inclusive)

Q 6. What relaxation is provided in case, where the date of creation/modification of charge is before 01.04.2021 but time limit of 120 days has not expired?

A 6. In such a case, the period beginning from 01.04.2021 and ending on 31.07.2021 shall not be taken into consideration for the purpose of counting the number of days under section 77 or section 78 of the Act.

Further, in case, the form is not filed within such period, the first day after 31.03.2021 shall be reckoned as 01.08.2021 for the purpose of counting the number of days within which the form is required to be filed under section 77 or section 78 of the Act.

Q 7. What relaxation is provided in case, where the date of creation/modification of charge is between 01.04.2021 to 31.07.2021 (both dates inclusive)?

A 7. In such a case, the period beginning from the date of creation/ modification of charge to 31.07.2021 shall not be taken into consideration for the purpose of counting of days under section 77 or section 78 of the Act.

Further, in case the form is not filed within such period, the first day after the date of creation / modification of charge shall be reckoned as 01.08.2021 for the purpose of counting the number of days within which the form is required to be filed under section 77 or section 78 of the Act.

Q 8. What fee shall be charged where the date of creation / modification of charge is before 01.04.2021 and the timeline for filing such form had not been expired under section 77 of the Act as on 01.04.2021?

A 8. Under such circumstances, there are two criteria's for Fee:

- a) If the form is filed on or before 31.07.2021, the fees payable as on 31.03.2021 under the Fees Rules for the said form shall be charged.
- b) Further, if the form is filed thereafter, fees shall be paid after adding the number of days beginning from 01.08.2021 till the date of filing plus the time period lapsed from the date of the creation of charge till 31.03.2021.

Q 9. What fee shall be charged where the date of creation / modification of charge falls on any date between 01.04.2021 to 31.07.2021 (both dates inclusive).

A 9. Under such circumstances, there are two criteria's for Fee:

- a) If the form is filed on or before 31.07.2021, normal fees under the Fees Rules for the said form shall be charged.
- b) Further, if the form is filed thereafter, the first day after the date of creation/modification of charge shall be reckoned as 01.08.2021 and the number of days till the date of filing of the form shall be counted accordingly for the purposes of payment of fees under the Fees Rules.

Q 10. For which cases the Scheme is not applicable?

A 10. The Scheme is not applicable under the mentioned circumstances:-

- a) The forms i.e.CHG-1 and CHG-9 had already been filed before the date of issue of this Circular.
- b) The timeline for filing the form has already expired under section 77 or section 78 of the Act prior to 01.04.2021.
- c) The timeline for filing the form expires at a future date, despite exclusion of the time provided above.
- d) Filing of Form CHG-4 for satisfaction of charges
- e) Filing of Form CHG-6 for Notice of appointment or cessation of receiver or Manager

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