

Draft Rules under Companies Act, 2013

CHAPTER VI REGISTRATION OF CHARGES

Registration of creation or modification of charge.

6.1. (1) For registration of charge as provided in sub-section (1) of section 77 read with sections 78 and 79, the particulars of the charge together with a copy of the instrument, if any, creating or modifying the charge shall be filed in Form No. 6.1 with the Registrar, duly signed by the company and the charge holder along with the fee as specified in Annexure 'B.'

Provided that if the company fails to register a charge within the period of thirty days of its creation, the particulars of the charge together with a copy of the instrument, if any, creating or modifying the charge may be filed by the charge-holder, in Form No. 6.1 duly signed by him along with additional fee as specified in Annexure 'B'.

(2) For the purposes of the first proviso to sub-section (1) of section 77, a company shall pay such additional fees as specified in Annexure B.

- (3) The charges requiring registration under this rule are:
- (a) a charge created for the purpose of securing any issue of debentures or deposits;
 - (b) a charge on uncalled share capital of the company;
 - (c) a charge on any immovable property, wherever situate, or any interest therein;
 - (d) a charge on any book debt of the company;
 - (e) a charge, not being a pledge, on any movable property of the company;
 - (f) a floating charge on the undertaking or any property of the company including stock-in-trade;
 - (g) a charge on calls made but not paid;
 - (h) a charge on a ship or any share in a ship;
 - (i) a charge on intangible assets, including goodwill, patent, a licence under a patent, trade mark, copyright or a licence under a copyright.

(4) No charge by way of hypothecation of a motor vehicle shall require registration unless the financier, so requires. Provided the disclosures shall be given in the Balance Sheet regarding all such charges created by way of hypothecation of motor vehicles and the fact that charge has not been registered and the financiers have not required so.

- (5) A copy of every instrument evidencing any creation or modification of charge and required to be filed with the Registrar in pursuance of section 77, 78 or 79 shall be verified as follows:
- (a) where the instrument or deed relates solely to the property situate outside India, the copy shall be verified by a certificate issued either under the seal

of the company, or under the hand of any director or company secretary of the company or an authorised officer of the charge holder or under the hand of some person other than the company who is interested in the mortgage or charge, stating that it is a true copy;

- (b) where the instrument or deed relates, whether wholly or partly, to the property situate in India, the copy shall be verified by a certificate issued under the hand of any director or company secretary of the company or an authorised officer of the charge holder stating that it is a true copy.

Condonation of delay by Registrar.

6.2. For the purposes of first proviso to sub-section (1) of section 77 read with section 78, the Registrar may, on being satisfied that the company had sufficient cause for not filing the particulars and instrument of charge, if any, within a period of thirty days of the creation of the charge, allow the registration of the same after thirty days but within a period of three hundred days of such creation of charge on payment of additional fee as provided in Annexure 'B'. The application for condonation shall be supported by a declaration from the company by its secretary or director that such belated delay shall not adversely affect rights of any other creditors of the company.

6.3. The provisions of rule 6.2 shall apply *mutatis mutandis* to the registration of charge on any property acquired subject to such charge, modification of charge under section 79 and to the satisfaction of charge under section 82 of the Act.

Certificate of registration.

6.4. For the purposes of sub-section (2) of section 77:

- (1) Where a charge is registered with the Registrar under sub-section (1) of section 77 or section 78, he shall issue a certificate of registration of such charge in Form No. 6.2.
- (2) Where the particulars of modification of charge is registered under section 79, the Registrar shall issue a certificate of modification of charge in Form No. 6.3.
- (3) The certificate issued by the Registrar under sub-rule (1) and sub-rule (2) above shall be conclusive evidence that the requirements of Chapter VI of the Act and the rules made thereunder as to registration of creation or modification of charge, as the case may be, have been complied with.

Register of charges to be kept by the Registrar.

6.5. (1) The particulars of charges maintained on the MCA portal shall be deemed to be the register of charges for the purposes of section 81.

- (2) The register shall be open to inspection by any person on payment of fee as specified in Annexure 'B'.

Satisfaction of charge.

6.6. (1) For the purposes of sub-section (1) of section 82, a company shall within thirty days from the date of the

payment or satisfaction in full of any charge registered under Chapter VI, give intimation of the same to the Registrar in Form No. 6.4 along with the fee as specified in Annexure 'B'. in case of delay upto 300 days beyond 30 days the same procedure of condonation of delay by Registrar is to be followed like in case of Creation of Charge

- (2) Where the Registrar enters a memorandum of satisfaction of charge in full in pursuance of section 82 or 83, he shall issue a certificate of registration of satisfaction of charge in Form No. 6.5.

Intimation of appointment of Receiver or Manager.

6.7. For the purposes of sub-section (1) of section 84, notice of appointment or cessation of a receiver of, or of a person to manage, the property, subject to charge, of a company shall be filed with the Registrar in Form No. 6.6 along with fee as specified in Annexure 'B'.

Company's register of charges.

6.8. (1) For the purposes of sub-section (1) of section 85, every company shall keep at its registered office a register of charges in Form No. 6.7 and enter therein particulars of all the charges registered with the Registrar (including floating charges) on any of the property, assets or undertaking of the company and the particulars of any property acquired subject to a charge as well as particulars of any modification of a charge and satisfaction of charge.

- (2) The entries in the register of charges maintained by the company shall be made forthwith after the creation, modification or satisfaction of charge, as the case may be.
- (3) Entries in the register shall be authenticated by the secretary of the company or any other person authorised by the Board for the purpose.
- (4) The register of charges shall be preserved permanently and the instrument creating a charge shall be preserved for a period of eight years from the date of satisfaction of charge by the company.

6.9. For the purposes of clause (b) of sub-section (2) of section 85, the register of charges, instrument of charges, etc. kept by the company shall be open for inspection to any person (other than the member or creditor of the company) on payment of fee as specified in Annexure 'B'.

Condonation of delay by Central Government.

6.10. (1) For the purposes of section 87, where the instrument creating, modifying or satisfying a charge is not filed within three hundred days from the date of its creation (including acquisition of a property subject to a charge), modification or satisfaction, the Registrar shall not register the same unless the delay is condoned by the Central Government.

(2) The application for condonation of delay shall be filed with the Central Government in Form No. 6.8 along with the fee as specified in Annexure 'C'.