

# Article

**New adoption by the MCA:  
Delegation as a tool of effective management-  
Revised Procedures u/s 17, 141 and 188 of the  
Companies Act, 1956**

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### Introduction

The Ministry of Corporate Affairs (MCA) has taken up the route of delegating some of its function to the Registrar of Companies (ROC) and the Regional Directors (RD) which has been specified by it in its notifications dated July 10, 2012 (give link in footnote). Delegation has always been an effective tool for the achievement of better efficiency in the course of conducting business activities. Segmentation and segregation of work has been the essence of effective work disposal and efficiency. Segmentation has enabled the corporate bodies to define specific work for specially skilled people in a particular field. This has reduced the overall burden of work and has enabled corporate bodies and the government departments to achieve much more efficiency and development.

### Implementation within the Ministry of Corporate Affairs

This idea of delegation has been implemented by the Ministry by assigning some of its powers to the ROCs and RDs which were vested in it under various sections of the *Companies Act, 1956*. The RDs have been inducted with responsibilities under various sections of the Companies Act, 1956. Due to this delegation process the Central Government also amended the *Companies (Central Government's) General Rules and Forms, 1956* and renamed it as *Companies (Central Government's) General Rules and Forms, 2012*<sup>1</sup> vide notification dated July 10, 2012. A new form 24AAA has been introduced to file petitions to the Regional Directors. Several insertions were made to the above mentioned rules in the following manner:

### Rule 4BBB regarding petition under section 17

Few consequential changes that have been made for filing a petition under section 17 are as follows:

- a. **E-Form 24AAA** is to be filed along with Form 1 for the petition,
- b. A general notice is to be published in an English daily newspaper in the principle language of the **state** in which the registered office of the company is situated rather than in an English daily of the **district** of the registered office.
- c. People whose interests are likely to be affected by the proposed alteration of the Memorandum of the company may intimate the

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<sup>1</sup> [http://www.mca.gov.in/Ministry/pdf/G.S.R\(E\)\\_011\\_10\\_07\\_2012.pdf](http://www.mca.gov.in/Ministry/pdf/G.S.R(E)_011_10_07_2012.pdf)



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**Regional Director** instead of **Bench Officer** within 21 days of the publication of the notice.

- d. The petition under section 17 shall contain the details of the creditors and the debenture holders and the total amount due to them up to the latest practicable date preceding the date of filing the petition which shall not precede the date of filing of the petition by more than one month as compared to two months earlier.

### **Rule 6C regarding petition under section 141**

Few consequential changes that have been made for filing a petition under section 141 are as follows:

- a. The petition should be filed in **Form 1 to the Regional Director along with Form 24AAA** and should be presented by the authorized representative of the petitioner.
- b. The Regional Director, if satisfied, may permit to file a petition jointly by several persons if he feels it necessary for the interest of the case unlike in earlier procedures prescribed under CLB Regulations.

The other requirements are the same as earlier norms.

### **Rule 6E regarding petition under section 188**

The points to be noted for filing a petition under section 188 are as follows:

- a. The petition should be filed in Form 1 along with Form 24AAA and should be presented by the petitioner in person or by his authorized representative to the office of the Regional Director **electronically**.
- b. The Regional Director, if satisfied, may permit to file a petition jointly by several persons if he feels it necessary for the interest of the case.

### **Rule 6E regarding contents of the petition**

This rule has been added which specifies the contents of the petition. The status of the company is to be mentioned along with the particulars of the company. The other contents are the same as previously required.



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### **Rule 6F regarding documents to accompany the petition**

The above rule specifies the documents that are required to be annexed along with the petition.

#### **Inference:**

The above applications now will be handled by the Regional Directors. This step has been taken to ease the Company Law Board (CLB) from the excessive work load it has which leads to delay in its disposal mechanism. In this manner the CLB will be able to work more efficiently and also will be able to concentrate on matters of more complex nature in the corporate law field. People will be able to access the RD office much more easily and the RDs will now be able to diversify their sphere and scope of work. Another revolutionary step that has been taken and provided to the people filing the petitions is that they will be able to file the petitions in e-forms **electronically**. Though this will still include paperwork as making of the petition and affidavits etc. is still there, but the documents are publicly available and the documents once submitted need not be resubmitted as at times there are chances of papers being misplaced and mishandled which is quite common. Therefore, this surely prevents mishandling of documents. Thus, this step is taken towards the betterment of the legal procedure that is involved in a few matters. But, the reaction of the RDs is yet to be measured as they are yet to cope up with the new bouncer that has been thrown towards them by the MCA. We await to see the efficiency of RD office in discharging this regular business both in terms of timeliness and legal grounds.