

Impact analysis on section 403 pursuant to Companies Amendment Act, 2017

In Continuation.....Series- II- filing of Forms.

Impact of amendment in Section 403 on the filing of forms in other sections of the Companies Act, 2013

1. Filing under Section 92 and 137 of the Companies Act, 2017 i.e. Form MGT-7 and AOC-4 respectively can be done beyond the time lines prescribed in the respective Sections with additional fee as may be prescribed which shall not be less than Rs. 100 per day.
2. Any Form other than MGT-7 and AOC-4 can be filed beyond the time lines specified in the relevant section, with the additional fee as may be prescribed*. Provided that the relevant section must contains the provisions filing of Form with additional fee.
3. However, where the relevant section does not contains the provision with respect to filing of the respective Form with additional fee then, in those cases, once the time line prescribed in the respective section is expired, it will amount to violation, which is liable to condone under section 460 of the Companies Act, 2013 and shall also attract the penalty mentioned under respective Section.
4. In case where there is default in filing of form of the Company on two or more occasions then, the same can be submitted on payment of higher additional fee as prescribed*, which shall not be less than twice the additional fee as may prescribed under section 403 Proviso I and Proviso II.
5. It may be noted that prescribed fee or/ and additional fee, as the case may be, shall be levied without prejudice to penalty & punishment contained in the relevant section, incase of any failure in filing of any Form within the prescribed time or with additional fee as the case may be.

Impact of Amendment in Section 403 on certain Routine nature Forms are as follows:

S. No.	Purpose of Form Filing	To be Filed in Form	Can be filed with additional fee or not	Reason
1.	Any resolution for which Special Resolution is passed by the Shareholders		No	There is no provisions regarding additional fee for filing of Form in the relevant section, Therefore Form shall be filed within the prescribed time in the relevant Section.
	Any resolution of Board of Directors or agreement executed by the Company, relating to the appointment, reappointment or renewal of the appointment, or variation of the terms of appointment of Managing Director.		No	

	Any resolution to make calls on shareholders in respect of money unpaid on their shares	MGT-14	No	
	Any resolution to authorize buy-back of securities under section 68		No	
	Any resolution to issue securities, including debentures, whether in or outside India		No	
	Any resolution to borrow monies		No	
	Any resolution to invest the funds of the company		No	
	Any resolution to grant loans or give guarantee or provide security in respect of loans		No	
	Approval of the Financial Statement and The Board Report of the Company		No	
	Any resolution for diversification of the business of the company		No	
	Any resolution passed for approval of amalgamation, merger or reconstruction of the Company.		No	
	Any resolution passed for Takeover a company or acquire a controlling or substantial stake in another company		No	
	Any resolution for making political contributions		No	
	Appointment or removal key managerial personnel (KMP)		No	
	Appointment of internal auditors and secretarial auditor		No	
	Resolution passed by the Company for the voluntary Winding-up pursuant to Section 59 of IBC		No	
	Any other resolution or agreement as may be prescribed and placed in the public domain.	No		

2.	Appointment of Director	DIR-12	No	There is no provisions regarding additional fee for filing of Form in the relevant section, Therefore Form shall be filed within the prescribed time in the relevant Section.
	Cessation of Director		No	
	Change in the Designation of the Director		No	
	Appointment of Manager, Secretary, CEO, CFO and any other KMP		No	
	Cessation of Manager, Secretary, CEO, CFO and any other KMP		No	
3.	Return of Allotment	PAS-3	No	There is no provisions regarding additional fee for filing of Form in the relevant section, Therefore Form shall be filed within the prescribed time in the relevant Section.
4.	Increase in share capital independently by company	SH-7	No	There is no provisions regarding additional fee for filing of Form in the relevant section, Therefore Form shall be filed within the prescribed time in the relevant Section.
	Increase in number of members in-case of Company limited by Guarantee		No	
	Increase in share capital with Central Government order		No	
	Consolidation or division of Share capital of the Company		No	
	Conversion of all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination		No	
	Cancellation of any Share capital of the Company which on the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled		No	
	Redemption of redeemable preference shares		No	
5.	Declaration in Respect of Beneficial Interest in Any Shares	MGT-6	Yes	As the provision regarding additional fee is prescribed in the relevant Sections for

30.	Report on Annual General Meeting	MGT-15	Yes	filing of Form, Therefore Form can be filed with additional fee as may be prescribed*.
31.	To file the orders of the Court or Tribunal or any other Competent Authority	INC-28	No	There is no provisions regarding additional fee for filing of Form in the relevant section, Therefore Form shall be filed within the prescribed time in the relevant Section.

NOTE: The above analysis is subject to relevant Rules as may be prescribed by the Central Government and the forms to be revised after such amendment.