

Company Law Board Regulations, 1991

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Company Law Board Regulations, 1991

¹ . Substituted by the Company Law Board (Amendment) Regulations, 1994, w.e.f. 25-7-1994, for the following: "(c) "Bench" means a Bench of the Board formed under sub-section (4B) of section 10E of the Act;" In exercise of the powers conferred by sub-section (6) of section 10E of the Companies Act, 1956 (1 of 1956), the Company Law Board hereby makes the following regulations, namely:-

CHAPTER 1

Preliminary

1. Short title, commencement and interpretation :-

- (1) These regulations may be called the Company Law Board Regulations, 1991.
- (2) They shall come into force on the date of their publication in the Official Gazette.¹
- (3) General Clauses Act, 1897 (10 of 1897), applies to the interpretation of these regulations, as it applies to the interpretation of a Central Act.

1. Substituted by the Company Law Board (Amendment)

Regulations, 1997, w.e.f. 1-8-1997, for the following: " (j) "Company" includes a foreign company;"

2. Definitions :-

(1) In these Regulations, unless the context otherwise requires,-

(a) "Act" means Companies Act, 1956 (1 of 1956);

(b) "Annexure" means an Annexure to these Regulations;

(c) "Application" means an application by which an interlocutory proceeding is commenced before a Bench;

(d) "Authorised representative" means a person authorised in writing by a party under sub-regulation (2) of regulation 19 to function before a Bench as the representative of such party;

¹[(e) "Bench" means a bench of the Board and includes the Principal Bench, ²"Additional Principal Bench" and a member sitting singly;]

(f) "Bench Officer" means an officer notified by the Board for the purpose of-

(i) receiving, examining and processing of applications; and

(ii) performing such other functions as may be entrusted to him by or under these Regulations;

(g) "Board" means the Board of Company Law Administration, constituted under section 10E of the Act;

(h) "Certified" means, in relation to a copy, certified as provided in Section 76 of the Evidence Act, 1872 (1 of 1872);

(i) "Chairman" means Chairman of the Board;

³[(j) "company" includes a non-banking financial company as defined in clause (f) of Section 45I of the Reserve Bank of India Act, 1934 (2 of 1934) and a foreign company;]

(k) "Filed" means filed in the office of the Bench;

(l) "Form" means a form specified in Annexure II;

⁴[(m) "Member" means a Member (whether judicial or technical) of the Board and includes the Chairman and Vice Chairman;]

(n) "The Monopolies Act" means Monopolies and Restrictive Trade

Practices Act, 1969 (54 of 1969);

(o) "Office of the Bench" means the office of the Bench Officer;

(p) "Party" means a person who files an application or petition before a Bench, the respondent, the Registrar of Companies or the Regional Director and includes any person who has a right under the Act ⁵[or Reserve Bank of India Act, 1934] to make suggestions or objections;

(q) "Petition" means an application, appeal or complaint in pursuance of which any proceeding, not being an interlocutory proceeding, is commenced by the Bench;

(r) "Reference" means a reference within the meaning of regulations 35, regulations 40 and regulations 42 of these Regulations;

(s) "Regional Director" means a person appointed by the Central Government as a Regional Director for the purposes of the Act;

(t) "Registrar" means Registrar of Companies appointed under the Act;

(u) "Sealed" means sealed with the seal of the 'Board' or 'Bench';

(v) "Secretary" means Secretary to the Board and includes "Under-Secretary" to the Board and any other officer, by whatever name called, to whom powers and duties of Secretary may be entrusted under regulation 31

(w) "Section" means a section of the Act;

⁶[(x) ***]

⁷ [(y) "Vice Chairman" means Vice Chairman of the Board.]

(2) Words or expressions occurring in these Regulations and not defined in sub- regulation 1 shall bear the same meaning as in the Act.

1. Substituted by the Company Law Board (Amendment) Regulations, 1994, w.e.f. 25-7-1994, for the following: "(c) "Bench" means a Bench of the Board formed under sub-section (4B) of section 10E of the Act;"

2. "Additional Principal Bench" the word inserted in clause (e) of Regulation 2, by the "Company Law Board (Amendment) Regulations, 2000".

3. Substituted by the Company Law Board (Amendment)

- Regulations, 1997, w.e.f. 1-8-1997, for the following: " (j) "Company" includes a foreign company;"
4. Substituted by the Company Law Board (Amendment) Regulations, 1994, w.e.f. 25-7-1994, for the following: "(m) "Member" means a member of the Board;"
5. Inserted by the Company Law Board (Amendment) Regulations, 1997, w.e.f. 1-8-1997.
6. Omitted by the Company Law Board (Amendment) Regulations, 1997, w.e.f. 1-8-1997. Prior to the omission it read as under: "(x) "Securities Act" means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);"
7. Inserted by the Company Law Board (Amendment) Regulations, 1994, w.e.f. 25-7-1994.

CHAPTER 2

General

3. Composition of Benches of the Board :-

(1) Subject to regulation 4, every Bench of the Board formed under sub-section (4B) of section 10E may consist of one or more members.

(2) The order of the Chairman forming any Bench shall specify therein the powers which shall be exercised and functions which shall be discharged by the Bench.

(3) The Chairman shall, in relation to each Bench formed specify the member of the Bench before whom every matter requiring decision of the Board (not being a matter affecting the final disposal of the petition) shall be placed for orders and in the absence of the member so specified every such matter shall be placed before any other member of the Bench who is present.

4. Power of the Chairman to specify matters which may be dealt with by a Bench :-

1

(1) It shall be lawful for the Chairman to provide that matters falling under section 235 , section 237 , section 247 , section 248 , section 250 , section 388B , section 408 and section 409 and matters falling under Chapter VI of Part VI of the Act and under S.2A of the Monopolies Act shall be dealt with by a Bench consisting of ²["one or more members"] (which shall be known as the Principal Bench).

3

"(1A) it shall also be lawful for the Chairman to provide that

matters falling under sections 235 and 237 of the Act and matters falling under Chapter VI of Part VI of the Act in so far as they relate to Southern Region shall be dealt with by a Bench consisting of ⁴["one or more members"] (which shall be known as Additional Principal Bench)".

(2) The Principal Bench shall be at New Delhi but the Principal Bench may sit at such places in India and at such time as may be most convenient in exercise of its powers and functions in India.

⁵"(2A) The Additional Principal Bench shall be at Chennai but it may sit at such places in the Southern Region as may be more convenient in exercise of its powers and functions."

(3) It shall be lawful for the Chairman to provide for matters falling under [section 111 , section 111A and section 269 of the Act] shall be dealt with by a Bench consisting of ⁶["one or more members"].

(4) All other matters including interlocutory and miscellaneous applications connected with the matters falling under sub-regulations (1), ⁷(1A) and (3) of this regulation may be heard and decided by a Bench consisting of a single member:

Provided that notwithstanding anything contained in Regulation 7, it shall be lawful for the Chairman to transfer any matters pending before any "Regional Bench" ⁸ ["or the Additional Principal Bench"] to the Principal Bench, for reasons to be recorded in writing.]

1. Substituted by the Company Law Board (Amendment) Regulations, 1995, w.e.f. 2-5-1995. Prior to substitution the Regulation read as under: "4. Power of the Chairman to specify matters -which may be dealt with by a Bench.- (1) It shall be lawful for the Chairman to provide that matters falling under sections 235, 237, 247, 248, 250, 388B, 408 and 409 and matters falling under Chapter VI of Part VI of the Act and under section 2A of the Monopolies Act and all other matters incidental thereto shall be dealt with by a Bench consisting of not less than two members, including the Chairman or the Vice Chairman (which shall be known as the Principal Bench). (2) The Principal Bench shall be at New Delhi but the Principal Bench may sit at such places in India and at such time as may be most convenient in exercise of its powers and functions in India. (3) It shall be lawful for the Chairman to provide that matters falling under sections 111 and 269 of the Act and under section 22A of the Securities Act shall be dealt with by a Bench consisting of not less than two members and all other matters not falling under sub-regulations (1) and (3) of this regulation including issuing of directions and interlocutory matters may be dealt with by a Bench consisting of a single member:

Provided that notwithstanding anything contained in regulation 7, it shall be lawful for the Chairman to transfer any matter pending before any Regional Bench to the Principal Bench, for reasons to be recorded in writing." Earlier, the above regulation was substituted by the Company Law Board (Amendment) Regulations, 1994, w.e.f. 25-7-1994 for the original regulation.

2. In Regulation 4, sub-regulation (1) the words "not less than two members including the Chairman or Vice-Chairman" shall be substituted by Company Law Board (Amendment) Regulations, 2002., Noti. No. G.S.R. 619(E), dated September 5, 2002, published in the Gazette of India, Extra., Part II, Section 3(i), dated 5th September, 2002, p. 2, No. 414

3. "Sub-regulation (1A)" inserted after sub-regulation 1 of regulation 4, by the "Company Law Board (Amendment) Regulations, 2000".

4. In Regulation 4, sub-regulation (1-A) the words "not less than two members" shall be substituted by Company Law Board (Amendment) Regulations, 2002., Noti. No. G.S.R. 619(E), dated September 5, 2002, published in the Gazette of India, Extra., Part II, Section 3(i), dated 5th September, 2002, p. 2, No. 414

5. "Sub-regulation (2A)" inserted after sub-regulation 2 of regulation 4, by the "Company Law Board (Amendment) Regulations, 2000".

6. In Regulation 4, sub-regulation (3) the words "not less than two members" shall be substituted by Company Law Board (Amendment) Regulations, 2002., Noti. No. G.S.R. 619(E), dated September 5, 2002, published in the Gazette of India, Extra., Part II, Section 3(i), dated 5th September, 2002, p. 2, No. 414

7. ",(1A)," the brackets, figure and letter inserted after the word, brackets and figures "sub-regulation (1)" in sub-regulation (4) of regulation 4, by the "Company Law Board (Amendment) Regulations, 2000".

8. "or the Additional Principal Bench" the word inserted after the word "Regional Bench" in the proviso, in sub-regulation (4) of regulation 4, by the "Company Law Board (Amendment) Regulations, 2000".

5. Vacancy in the office of the Chairman :-

* * *]

6. Inability of the Chairman to function :-

* * *]

7. Jurisdiction of the Bench :-

(1) All proceedings, other than the proceedings before the Principal Bench under regulation 4, shall be instituted before the Bench within whose jurisdiction the registered office of the company is situated.

(2) The regions where the Benches shall ordinarily have their sittings are the Northern Region, the "Southern Region", ¹["including Additional Principal Bench"] the Eastern Region and the Western Region, the States and Union territories falling within each of such regions being states and Union territories as provided in Annexure I to these Regulations.

(3) The Benches shall ordinarily have their sittings at Calcutta (Eastern Region), Bombay (Western Region), Madras (Southern Region), ¹ [including Additional Principal Bench] and New Delhi (Northern Region): Provided that the Bench may, at its discretion, hold its sittings in any other city or town falling within the region [or at any other place outside the region with the consent of the parties].

1. "including Additional Principal Bench" the word inserted in sub-regulation (2) and (3) of regulation 7, by the "Company Law Board (Amendment) Regulations, 2000".

8. Language of the Bench :-

(1) The proceedings of a Bench shall be conducted in English or Hindi.

(2) No petition, application, reference, document or other matter contained in any language other than English or Hindi shall be accepted by the Board unless the same is accompanied by a true translation thereof in English or Hindi.

(3) All documents required to be translated into English or Hindi shall be translated by a person appointed or approved by the Board: Provided that any translation which is agreed to by the parties to the proceedings may be accepted by the Board in appropriate cases as a true translation.

(4) All final and interlocutory orders of the Bench shall be in English or Hindi.

9. Sitting hours of the Bench :-

Sitting hours of the Bench shall ordinarily be from 10.30 a.m. to 1.30 p.m. and from 2.30 p.m. to 4.30 p.m. on all working days except Saturday, Sunday and other public holidays, subject to any general or special order made by the Chairman.

10. Bench to have seal of its own :-

(1) There shall be a separate seal of a Bench of the Board.

(2) Every such seal shall be kept in the custody of the Secretary or Bench Officer and shall be used under his direction or control.

(3) Every order or communication made, notice issued or certified copy granted by a Bench shall be stamped with the seal of the concerned Bench and shall be authenticated by the Secretary or the Bench Officer, as the case may be.

11. Petitions, etc., to be in writing :-

(1) Every affidavit, application, reference or petition shall be written, typewritten, cyclostyled or printed, neatly and legibly, on one side of the substantial paper of foolscap size in double space and separate sheets shall be stitched together and every page shall be consecutively numbered.

(2) Numbers and dates specified in any affidavit, application, reference or petition shall be expressed in figures as well as in words; and, where the date specified therein has not been stated according to the Gregorian Calendar, the corresponding date according to the Gregorian Calendar shall also be specified.

12. Application, reference or petition to be divided into paragraphs :-

Every application, reference or petition shall be divided into separate paragraphs which shall be numbered serially and shall state thereon the matter, and the name of the company, to which it relates.

13. General heading to be in Form No. 1 in Annexure II :-

The general heading in all proceedings, whether original or interlocutory, and of advertisements and notices, shall be as in Form No. I in Annexure II.

14. Procedure for filing petition :-

(1) Subject to the provisions of regulations 35 and regulation 37, a petition to the Bench shall be prepared in Form No. I in Annexure II and presented by the petitioner in person or through authorised representative to the office of the Bench or be sent by registered post with acknowledgment due addressed to the Secretary or Bench Officer of the Bench concerned as the case may be.

¹[(2) The petitioner shall serve a copy of the petition, reference or application on the respondent or respondents, as the case may be, and produce evidence of such service.]

(3) The petitioner shall serve a copy of the reference or petition other than a petition under section 49 , section 79 , section 80A , section 111 , ² section 111A section 113 , section 118 , section 144 , section 163 , section 188 , section 196 , section 219 , section 225 , section 284 , section 304 and section 307 of the Act ³[* * *] upon the concerned Registrar of Companies having jurisdiction over the company and shall attach to and present with his petition, reference, an acknowledgment from the office of the Registrar of Companies receiving a copy of the petition or reference so served: Provided that, in the case of a petition under section 17 by a company licensed under section 25 of the Act, the copy of the petition shall also be served upon the Regional Director: Provided further that, in case of a petition or complaint under section 235 , section 237 , section 250 , section 397 , section 398 , section 408 and section 409 of the Act, a copy thereof shall also be served upon the Central Government.

(4)

(a) Notwithstanding anything contained in sub-regulations (1) to (2), the Bench may permit more than one person to join together and file a single petition if it is satisfied, having regard to the cause of action and the nature of relief prayed for, that they have a common interest in the matter.

(b) Such permission shall be granted where the joining of the petitioners by a single petition is specifically permitted by the Act.

(5) Every petition other than an application under ⁴[sub-section (9) of Section 58A ⁵["or sub-section (4) of Section 117C "] section 58A of the Act or under sub-section (2) of Section 45QA of the Reserve Bank of India Act, 1934 (2 of 1934), I shall be accompanied by an affidavit verifying the same and shall be drawn upon the first person and shall state the full name, age, occupation and complete residential address of the deponent and shall be signed by the deponent and sworn before the person specified in ⁶ "or under sub-section (4) of Section 117-C" of the Act.

(6) Where the deponent is not personally known to the person before whom the affidavit under sub-regulation (5) is sworn, he shall be identified by a person who is known to the person before whom the affidavit is sworn.

(7) Every affidavit under sub-regulation (5) shall clearly and

separately indicate the statements which are true to the-

- (a) knowledge of the deponent;
- (b) information received by the deponent;
- (c) belief of the deponent; and
- (d) information based on legal advice.

(8) Where the statement referred to in sub-regulation (7) is stated to be true to the information received by the deponent, the affidavit shall also include the name and complete residential address of the person from whom the information has been received by the deponent and whether the deponent believes that information to be true.

1. Inserted by the Amendment Regulations, 1992, w.e.f. 14-5-1992.

2. Substituted by the Amendment Regulations, 1992, w.e.f. 14-5-1992. Prior to its substitution, the sub-regulation read as under: "(2) A party may, by writing, authorise an advocate or a chartered accountant or a cost and works accountant or a company secretary or a secretary in whole-time practice to function as the representative of such party. A company may also appoint a director of the company to appear, duly authorised in this behalf, in a proceeding before the bench."

3. The words "and section 22A of the Securities Act" omitted, Company Law Board (Amendment) Regulations, 1997, w.e.f. 1-8-1997.

4. Substituted for the words "section 58A(9) of the Act", .

5. In Regulation 14, sub-regulation (5) after the word, figures and letters ["Section 58A"] the word ["or sub-section (4) of Section 117C"] shall be inserted by Company Law Board (Amendment) Regulations, 2001. Published in the Gazette of India, Extraordinary, Part II, Section 3(i) No.308, dated 15th June, 2001.

6. "Section 558 A" Substituted by Company Law Board (Amendment) Regulations, 2001 Ministry of Road Transport and Highways Transport Wing), Noti. No. G.S.R. 428(E), dated June 12, 2001, published In the Gazette of India, Extra., Part II, Section 3(i), dated 12th June, 2001, p. 1, No. 299

15. Presentation and scrutiny of petition :-

(1) The office of the Bench shall endorse on every petition the date on which it is presented.

(2) If, on scrutiny, the petition is found to be in order, it shall be duly registered and given a serial number.

(3) If the petition, on scrutiny, is found to be defective and the defect noticed is formal in nature, the Secretary or Bench Officer may allow the party to rectify the same in his presence and if the said defect is not formal in nature, the Secretary or Bench Officer may allow the petitioner such time to rectify the defect as he may deem fit.

(4) Where the petitioner is aggrieved by the order made by the Secretary or Bench Officer under sub-regulation (3), the matter shall be placed before the Bench for its order and it shall be competent for a single member of the Bench to issue necessary direction which shall be deemed to be the direction of the Bench.

16. Contents of petition :-

Every petition, other than an application filed under regulation 37 shall set forth the name of the Company, with its status, date of incorporation, the address of its registered office, authorised capital, paid-up Capital with division of different classes of shares and terms of issue, if any, in the case of preference shares, main objects in brief, for which the company was formed, present business activities of the company, and shall also set forth concisely under distinct heads the grounds for such petition and the nature of relief(s) prayed for.

17. Contents of interlocutory -application :-

An application filed subsequent to the filing of the petition applying for any interim order or direction shall, as far as possible, be in Form No. 2 in Annexure II and shall be accompanied by an affidavit verifying the application in the manner laid down in regulation 14: Provided that it shall not be necessary to present a separate application to seek an interim reliefer direction, except for condonation of delay in filing the petition, if, in the original petition, the same is prayed for.

18. Documents to accompany the petition :-

(1) A petition shall be accompanied by documents as prescribed in Annexure III and shall be accompanied by an Index of Documents.

(2) Documents referred to in sub-regulation (1) may be attested by the '[party or the authorised representative or the advocate]' and the documents shall be marked serially as Annexures A-1, A-2, A-3 and so on.

(3) Where the petition is filed by the authorised representative,

memorandum of appearance shall be appended to the petition ¹ [as in Form No. 5 in Annexure II]: Provided that where the petition is filed by an advocate, it shall be accompanied by a duly executed Vakalatnama.

1. Inserted by the Amendment Regulations, 1992, w.e.f. 14-5-1992.

19. Rights of a party to appear before the Bench :-

(1) Every party may appear before a Bench in person or through an authorised representative.

¹ [(2) A party may, in writing, authorise an advocate or a secretary in whole-time practice or a practising chartered accountant or practising cost and works accountant, to function as a representative of such party. A company may appoint and authorise its director or company secretary to appear, in its behalf, in any proceeding before the Bench. The Central Government, the Regional Director or the Registrar may authorise an officer to appear in its behalf.]

1. Substituted by the Amendment Regulations, 1992, w.e.f. 14-5-1992. Prior to its substitution, the sub-regulation read as under: "(2) A party may, by writing, authorise an advocate or a chartered accountant or a cost and works accountant or a company secretary or a secretary in whole-time practice to function as the representative of such party. A company may also appoint a director of the company to appear, duly authorised in this behalf, in a proceeding before the bench."

20. Plural remedies :-

A petition shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another.

21. Service of notice and process issued by the Bench :-

(1) Any notice or process to be issued by the Bench may be served by any of the following modes directed by the Bench:

(i) service by the party itself;

(ii) by hand delivery (dasti) through a messenger of the Office of the Bench;

(iii) under certificate of posting;

(iv) by registered post with acknowledgment due if so required by

an order of the Bench;

(v) where the Central Government is a party, through the Secretary of the concerned Ministry or Department or through Branch Secretariat of the Ministry of Law or through Standing Counsel of the Central Government;

(vi) where the State Government is a party, through the Chief Secretary or the Standing Counsel of the State Government.

(2) Where a notice is required to be served on a company, it shall be served in the manner specified in section 51 or, in the case of a foreign company, in the manner specified in section 596 , and may also be served in such other manner as the Secretary or the Bench Officer may direct.

(3) Save as otherwise provided in sub-regulation (2), notices and other documents, which are required to be served on any person, other than a company, shall be served by delivering or tendering a copy thereof to such person or his authorised representative, where he appears by such representative or by prepaid registered post, acknowledgment due, addressed to the last-known address of such person.

(4) Where a notice is served by the registered post, the Secretary or Bench Officer may, if the acknowledgment is not received, determine the question as to the sufficiency of the service of the notice.

(5) Where the notice sent by registered post is returned by the post office with the remarks "refused", the notice may be presumed to have been duly served.

(6) Every notice, of the petition or reference issued by the Bench shall, unless Otherwise ordered, be accompanied by a copy of the petition or reference, as the case may be.

(7) Notwithstanding anything contained in sub-regulations (1) to (6), where, for any reason whatsoever, it is not reasonably practicable to serve notice of petition on all the respondents, the notice may be served by public advertisement, as the Bench may in each case direct ¹ [* * *].

(8) The Bench shall, in such cases, determine who shall bear the cost of the public advertisement.

1. Words "for the protection of the interests of the shareholders, creditors or any class of them", omitted by the Amendment Regulations, 1992, w.e.f. 14-5-1992.

22. Filing of reply and other documents by the respondents

:-

(1) Each respondent intending to contest the petition shall file, in triplicate, the reply to the petition and the documents relied upon with the office of the Bench within such period as may be fixed by the Bench but not exceeding fifteen days of service of petition upon him.

(2) In the reply filed under sub-regulation (1), the respondent shall specifically admit, deny or explain the facts stated by the petitioner in his petition and may also state such additional facts as may be found necessary for the just decision of the case. The reply so filed shall be signed and verified in the manner as provided in regulation 14.

(3) The documents referred to in sub-regulation (1) shall also be filed along with the reply and the same shall be marked as Annexures R1, R2, R3 and so on.

(4) The respondents shall also serve a copy of the reply along with the documents mentioned in sub-regulation (1) duly attested to be true copies on the petitioner or his authorised representative, if any, and file proof of such service with the office of the Bench.

(5) The Bench may, if so satisfied, allow filing of the reply after the expiry of the prescribed period, on sufficient cause being shown.

23. Filing of counter-reply by the petitioner :-

Where the respondent states such additional facts as may be necessary for the just decision of the case under sub-regulation (2) of regulation 22, the Bench may allow the petitioner to file a counter-reply to the reply filed by the respondent. The procedure laid down in regulation 22 shall apply, mutatis mutandis, to the filing of such counter-reply.

24. Power of the Bench to call for further information/evidence :-

The Bench may, before passing orders on the petition required the parties or any one or more of them, to produce such further documentary or other evidence as the Bench may consider necessary-

(a) for the purpose of satisfying itself as to the truth of the allegations made in the petition; or

(b) for ascertaining any information which, in the opinion of the Bench, is necessary for the purpose of enabling it to pass orders on the petition.

25. Hearing of petition :-

The Bench may, if sufficient cause is shown at any stage of the proceeding, grant time to the parties or any of them and adjourn the hearing of the petition or the application. The Bench may make such order as it thinks fit with respect to the costs occasioned by such adjournment.

26. Procedure to be followed where any party does not appear :-

(1) Where, on the date fixed for hearing of the petition or any application or on any other date to which such hearing may be adjourned, the petitioner or the applicant as the case may be, does not appear when the petition or the application is called for hearing, the Bench may, in its discretion, either dismiss the petition or the application for default or hear and decide the same ex parte.

(2) Where a petition or application has been dismissed for default and the petitioner or the applicant files an application within thirty days from the date of dismissal and satisfies the Bench that there was sufficient cause for his non-appearance when the petition or the application was called for hearing, the Bench may pass an order setting aside the order dismissing the petition or the application and restore the same: Provided, however, where the case was disposed of on merits, the decision shall not be recalled.

(3) Where, on the date fixed for hearing or any other date to which such hearing may be adjourned, the petitioner appears but the respondent does not appear when the petition is called for hearing, the Bench, may, in its discretion, adjourn the hearing or hear and decide the petition ex parte.

(4) Where the petition has been heard exparte against the respondent or respondents, such respondent or respondents may apply to the Bench within thirty days for an order to set aside and if the respondent or respondents satisfy the Bench that the notice was not duly served on him or them or that he or they were prevented by any sufficient cause from appearing when the petition

was called for hearing, the Bench may make an order setting aside the ex parte order against him or them on such terms as it thinks fit and shall appoint a date for proceeding with the petition: Provided that where the ex parte order is of such nature that it cannot be set aside as against one respondent only, it may be set aside as against all or any of the other respondents also: Provided further that in cases covered by sub-regulation (7) of regulation 21, the Bench shall not set aside the ex parte order merely on the ground that a shareholder or a creditor did not have the notice of the petition.

27. Review :-

* * *]

28. Substitution of legal representative :-

(1) In the case of death of any party during the pendency of the proceedings before the Bench, the legal representatives of the deceased party may apply within thirty days of the date of such death for being brought on record as necessary parties.

(2) Where no application is received within the period specified in sub-regulation (1), the proceedings against the deceased party shall abate: Provided that, on good and sufficient reasons, the Bench on an application, may set aside the order of abatement and substitute the legal representatives.

29. Order of the Bench :-

(1) Every order of the Bench shall be in writing and shall be signed by the member or members constituting the Bench which pronounces the order.

¹[(2) In case of difference of opinion among the members of the Bench, the opinion of the majority shall prevail and the opinion or orders of the Bench shall be expressed in terms of the views of the majority: Provided that where a matter is heard by a Bench consisting of an even number of members and such members are divided equally in their opinion, it shall be placed before the Chairman who may himself deal with the matter or nominate any other member to deal with the same.]

²[(3)] Any order of the bench deemed fit for publication in any journal, authoritative report or the Press may be released for such publication on such terms and conditions as the Board may specify

by general or special order.

³[(4)] A copy of every interim order granting or refusing or modifying interim relief and final order passed on any petition or reference shall be communicated to the petitioner or the applicant and to the respondents and other parties concerned free of cost: Provided that in the case of an order under section 17 confirming change of registered office, two copies of the order shall be supplied to the petitioner company free of cost.

⁴[(5)] If the petitioner or the applicant or the respondent to any proceeding requires a copy of any document or proceeding, the same shall be supplied to him on such terms and conditions and on payment of such fee ⁵as may be fixed by the Bench by general or special order.

⁶[(6)] The Bench may make such order or give such direction as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

⁷ [(7)] It shall be lawful for a Bench to fix, and award, costs to any of the parties before it where it is of opinion that the award of such costs is necessary.

1. Inserted by the Amendment Regulations, 1992, w.e.f. 14-5-1992.
2. Renumbered by the Amendment Regulations, 1992, w.e.f. 14-5-1992.
3. Renumbered, by the Amendment Regulations, 1992, w.e.f. 14-5-1992.
4. Renumbered, by the Amendment Regulations, 1992, w.e.f. 14-5-1992.
5. Rs. 5 per page vide Order F. No. 1/10/88-CL/CLB Admn./90, dated 4-6-1991.
6. Renumbered by the Amendment Regulations, 1992, w.e.f. 14-5-1992.
7. Renumbered, by the Amendment Regulations, 1992, w.e.f. 14-5-1992.

30. Inspection of records and supply of certified copies :-

(1) Records of every pending proceedings will be open, as of right, to the inspection of the parties or their authorised representatives, on making an application in writing and on payment of a fee of Rs. 10 per day.

(2) Subject to the provisions of sub-regulation (4) of regulation 29,

a person who is not a party to the proceedings, may after the final orders are passed, for sufficient reasons shown to the satisfaction of the Bench, obtain copies of the petitions, replies and counter-replies on payment of such fee, as may be fixed by the Bench by general or special order.

(3) A person, who is not a party to the proceedings, may also obtain, as of right, at any time after the final orders are passed by the Bench, copies of the orders, on payment of such fee, ¹ as may be fixed by the Bench by general or special order.

(4) A person, who is not a party to the proceedings, has, however, no right to inspect the records of the proceedings or to obtain copies of the exhibits put in evidence, except with the consent of the person by whom they were produced or under the orders of the Bench.

1. Rs. 5 per page vide Order F. No. 1/10/88-CL/CLB Admn./90, dated 4-6-1991.

31. Power and functions of the Secretary :-

(1) The Secretary shall be the Principal Officer of the Board and shall exercise his powers and perform his duties under the control of the Chairman.

(2) The Board, in discharge of its functions under the Act, may take such assistance from the Secretary, as it may deem fit, and the Secretary, shall be bound to assist the Board.

(3) In particular and without prejudice to the generality of the provisions of this rule, the Secretary shall have the following powers and perform the following duties, namely,-

(a) The Secretary shall have the custody of the records of the Principal Bench.

(b) The Secretary shall receive all petitions, applications or references pertaining to the Principal Bench.

(c) The Secretary shall assist the Principal Bench in the proceedings relating to the powers exercised by the Principal Bench.

(d) The Secretary shall have the power to call for information/records and to inspect or cause to be inspected the records of other Benches.

(e) The Secretary shall authenticate the orders passed by the

Principal Bench.

(f) The Secretary shall ensure compliance of the orders passed by the Principal Bench and other Benches.

(g) The official seal of the Board shall be in the custody and control of the Secretary.

(h) The Secretary shall have the right to collect from the Central Government or other offices, companies and firms, or any other persons such information as may be considered useful for the purpose of efficient discharge of the functions of the Board under the Act and place the said information before the Board.

32. Powers and duties of the Bench Officers :-

(1) In addition to the powers conferred elsewhere in these Regulations, the Bench Officer shall have the following powers and duties subject to any general or special order of the Bench concerned namely,-

(i) to receive all petitions or applications and other documents including transferred applications;

(ii) to decide all questions arising out of the scrutiny of the petitions and applications before they are registered;

(iii) to require any petition or application presented to the Bench to be amended in accordance with the Act and the regulations;

(iv) subject to the direction of the Bench, to fix the date of first hearing of the petitions or applications or other proceedings and issue notices thereof;

(v) to direct any formal amendment of records;

(vi) to order grant of copies of documents to parties to the proceedings;

(vii) to grant leave to inspect the records of the bench;

¹[(viii) to dispose of matters relating to service of notices];

(ix) to receive applications within thirty days from the date of death for substitution of authorised representatives of the deceased parties during the pendency of the petition or application;

(x) to receive and dispose of applications for substitution, except

where the substitution would involve setting aside an order of abatement;

(xi) to receive and dispose of applications by parties for return of documents.

2 (2) An appeal against any decision by a Bench Officer under clauses (ii), (in), (v) and (vii) shall be made to the bench by the aggrieved party within fifteen days from the date such decision is communicated to him.]

1. Substituted by the Amendment Regulations, 1992, w.e.f. 14-5-1992. Prior to its substitution, the clause read as under: "(viii) to dispose of all matters relating to the service of notices or other processes, applications for the issue of fresh notices and extending the time for filing such applications and to grant time not exceeding fifteen days for filing a reply or rejoinder, if any, and to place the matter before the Bench for appropriate orders after the expiry of the aforesaid period."

2. Substituted by the Amendment Regulations, 1992, w.e.f. 14-5-1992. Prior to its substitution, the sub-regulation read as under: "(2) An appeal against any decision by a Bench Officer under clauses (ii), (i), (v) and (vii) shall be made to the Secretary by the aggrieved party within fifteen days from the date such decision is communicated to him and the decision thereon of the Secretary shall be final."

33. Registers of petitions and applications :-

(1) There shall be kept in the office of the Bench two separate registers, one for the petitions and the other for the applications filed before the Bench.

(2) In every register, referred to in sub-regulation (1), there shall be entered the following particulars, namely-

(a) the serial number of the petition or application and in addition, in the case of an application the serial number of the petition to which it relates;

(b) the date of presentation or receipt of the petition or application;

(c) the name of the company to which the matter relates;

(d) the name and address of the petitioner or applicant;

(e) the names and addresses of the other parties to the petition or application and the names and addresses of the authorised representatives of the parties, if any;

- (f) the provision of law under which the petition or application is made;
- (g) the nature of the reliefs which have been sought;
- (h) the date of disposal of the petition or application;
- (i) the nature of the order made by the Bench;
- (j) the date when the formal order is drawn up and communicated to the parties;
- (k) remarks], if any.

(3) Separate registers shall be opened for each year and each register of petitions shall be preserved permanently and each register of application shall be preserved for a period of eight years.

34. Fees :-

(1) In respect of the several matters mentioned in Annexure III, there shall be paid fees for every petition as prescribed: Provided that no fee shall be payable or shall be liable to be collected on a petition filed or reference made by the Registrar of Companies, Regional Director or by any officer on behalf of the Central Government: Provided further that no fee shall be payable or shall be liable to be collected in respect of any matter in respect of which proceedings are initiated by the Board on its own motion.

(2) Fee as may be prescribed shall be levied and collected on every interlocutory application: Provided that no fee shall be payable or shall be liable to be collected on an application filed by the Registrar of Companies, Regional Director or by any officer on behalf of the Central Government.

(3) In respect of a petition or application filed before the Principal Bench or the Northern, Eastern, Southern,¹ ["Additional Principal Bench"] and Western Regional Benches of the Board, fees payable under these regulations shall be paid by means of a bank draft drawn in favour of the Pay and Accounts Officer, Department of Company Affairs, New Delhi/Calcutta/Madras/Bombay, as the case may be.

1. "Additional Principal Bench" the word inserted in sub-regulation (3) of regulation 34, by the "Company Law Board (Amendment) Regulations, 2000".

Special provisions relating to certain specific matters

35. Reference to Company Law Board :-

Any reference to the Board by the Registrar of Companies under section 621 A of the Act or any reference to the Board by the Central Government under section 250 , section 269 , section 388B and section 408 of the Act or any reference by a company under clause (c) of sub-section (4) of section 22A of the Securities Act shall be made by way of an application in Form No. 3, and shall be accompanied by documents mentioned in Annexure III.

36. Petition under section 17 :-

(1) The company shall, not less than one month before filing any petition under sub-section (2) of section 17 ,-

¹ [(i) published a general notice, at least once, in the district in a daily newspaper published in English and in the principal language of that district in which the registered office of the company is situated, and circulating in that district clearly indicating the substance of the petition and stating that any person whose interest is likely to be affected by the proposed alteration of the memorandum may intimate to the Bench Officer within twenty-one days of the date of publication of that notice, the nature of interest and grounds of opposition; and]

(ii) serve, by certificate of posting, individual notice(s) to the effect set out in clause (i) above on each debentureholder and creditor of the company, unless otherwise required by the Bench to be sent by registered post.

(2) Where the petition seeks to change the registered office of the petitioner-company from one State to another, a notice together with the copy of the petition shall also be served by registered post on the Chief Secretary to the Government of the State in which the registered office of the petitioner-company is situate, or, where the registered office of company is situated in a Union territory, to the Administrator/Lt. Governor of the Union territory.

(3) Any person intending to oppose the petition shall within twenty-one days from the date of service or publication of the notice, as the case may be, deliver, or cause to be delivered, or send by registered post, the objections supported by an affidavit, in original, to the Bench Officer and shall serve a copy of the objections on the petitioner-company at its registered office.

(4) If default is made in complying with any provision of sub-regulation (3), the person concerned shall be deemed to have consented to the alteration proposed in the petition: Provided that the Bench, may, if it thinks fit, even after the final hearing, permit any person to file objections after giving notice to the petitioner-company.

(5) The petitioner-company shall prove the despatch, publication and service of notice(s) by an affidavit and such affidavit shall be enclosed with the petition.

(6) A petition under section 17 shall invariably contain information relating to the number of creditors and the total amount due to them upto the latest practicable date preceding the date of filing of the petition and, in any case, the date to which the list referred to in sub-regulation (8) is made up, shall not precede the date of filing the petition by more than two months. A list of creditors and debentureholders shall also be filed along with the petition.

(7) The Secretary of the petitioner-company, if any, and not less than two directors of the company, one of whom shall be a Managing Director, where there is one, shall file an affidavit to the effect that they have made a full enquiry into the affairs of the company and, having done so, have formed the opinion that the list referred to in sub-regulation (8)

(8) Duly authenticated copy of the list of creditors and debentureholders showing their names, addresses and the amounts due to each of them shall be kept at the registered office of the company and any person desirous of inspecting the same may, at any time, during the ordinary hours of business, inspect and take extracts from the same on payment of rupees ten to the company.

[(9) Where no objection has been received from any of the parties, who have been duly served, the Bench Officer may put up the petition for orders without hearing;]

(10) [***]

1. Substituted by the Amendment Regulations, 1992, w.e.f. 14-5-1992. Prior to its substitution, the clause read as under: "(i) publish a general notice at least once in the daily newspaper published in the regional language of the State in which the registered office of the company is situated, and at least once in English, in a daily newspaper published in the English language and circulating in that State clearly indicating therein the substance of the petition and

stating that any person whose interest is likely to be affected by the proposed alteration of the memorandum may intimate to the Bench Officer within twenty-one days of the date of the publication of the notice, the nature of interest and the grounds of opposition; and"

37. Application for deposit M2and debenture :-

Applications under sub-section (9) of section 58A ¹ ["or under sub-section (4) of Section 117-C"] of the Act or Section 45QA of the Reserve Bank of India Act, 1934 (2 of 1934), shall be in Form No. 4 in Annexure II and shall be submitted in duplicate.]

1. After the word, figures and letter "Section 58-A", the words, brackets, figures and letter "or under sub-section (4) of Section 117-C" shall be inserted By Company Law Board (Amendment) Regulations, 2001 Ministry of Road Transport and Highways tTransport Wing), Noti. No. G.S.R. 428(E), dated June 12, 2001, published In the Gazette of India, Extra., Part II, Section 3(i), dated 12th June, 2001, p. 1, No. 299.

38. Petition under section 397 or 398 :-

A petition under section 397 or 398 shall not be withdrawn without leave of the Board, and where the petition has been presented by a member or members authorised by the Central Government under sub- section (4) of section 399 , notice of the application for leave to withdraw shall be given to the Central Government.

39. Petition under section 407 :-

A petition under clause (b) of sub-section (1) of section 407 for leave to any of the persons mentioned therein as to be appointed or to act as the managing or other director or manager of the company, shall state whether notice of the intention to apply for such leave has been given to the Central Government and shall be accompanied by a copy of such notice.

40. Reference-under section 621A :-

(1) Every application for compounding of an offence shall be made by a company ¹ [or its officers in default] to the Registrar specifying clearly the nature of offence, the date or period during which the offence was committed or continued, the names and addresses of officers, of the company who have committed the offence and the prayer made.

(2) The Registrar shall forward the application made by the company together with his comments thereon, to the Board or the Regional Director, as the case may be, within 30 days from the

date of receipt of the application.

(3) Every Regional Director shall exercise the powers to compound an offence, subject to any general or special order of the Board.

1. Inserted by the Amendment Regulations, 1992, w.e.f. 14-5-1992.

41. Petition under section 2A of the Monopolies Act :-

¹ [Provisions of these regulations shall apply, mutatis mutandis, to the petition made under S.2A of the Monopolies Act.]

1. Substituted by the Amendment Regulations, 1992, w.e.f. 14-5-1992. Prior to its substitution, the regulation read as under: "Provisions of these regulations shall, as far as may be, apply to the petitions made under section 2A of the Monopolies Act."

42. 42 :-

* * *]

42A. Intimation or petition under Section 58-AA or 117-B :-

¹ " An intimation under sub-section (1) of Section 58-AA or a petition under sub- section (4) of Section 117-B of the Act, shall be filed in Form No. 1 in Annexure II.";

1. After Regulation 42, Regulation 42A, shall be inserted by Company Law Board (Amendment) Regulations, 2001. Published in the Gazette of India, Extraordinary, Part II, Section 3(i) No.308, dated 15th June, 2001.

CHAPTER 4

Miscellaneous

43. Enlargement of time :-

Where any period is fixed by or under these regulations, or granted by a Bench, for the doing of any act, or filing of any documents or representation, the Bench may, in its discretion from time to time, enlarge such period, even though the period fixed by or under these regulations or granted by the Bench may have expired.

44. Saving of inherent power of the Bench :-

Nothing in these Rules shall be deemed to limit or otherwise affect the inherent power of the Bench to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Bench.

45. Amendment of order :-

¹ [Any clerical or arithmetical mistakes in any order of the bench or error therein arising from any accidental slip or omission may, at

any time, be corrected by the bench either on its own motion or on the application of any party.]

1. Substituted for the words "Union Territory of Dadra and Nagar Haveli", the Amendment Regulations, 1992, w.e.f. 14-5-1992.

46. General power to amend :-

A Bench may, at any time, and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceeding before it; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on such proceeding.

47. Bench to be deemed to be a court for certain purposes :-

A Bench shall be deemed to be a court or lawful authority for the purpose of prosecution or punishment of a person who wilfully disobeys any direction or order of such Bench.

48. Power to dispense with the requirement of the regulations :-

Every Bench shall have power, for reasons to be recorded in writing, to dispense with the requirements of any of these regulations, subject to such terms and conditions as may be specified.

49. Preparation of paper book :-

The Bench Officer, if it so deemed fit, may call upon the parties to prepare a paper book after completion of the pleadings.

50. Dress for the members, for the Authorised Representatives and for the parties in person :-

(1) For the Members.-The dress for the members will be suit with a tie or buttoned-up coat over a pant.

(2) For the Authorised Representatives.-An Authorised Representative who is a professional, shall appear before the Bench in his/her professional dress, if any, and if there is no such dress,-

(a) In the case of male, a suit with a tie or buttoned-up coat over a pant.

(b) In the case of female, in a saree or any other dress of a sober colour.

(3) For parties in person.-Parties appearing in person before the

Company Law Board shall be properly dressed.]