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Instruction Kit for eForm ADJ (Memorandum of Appeal)

About this Document

The Instruction Kit has been prepared to help you file eForm with ease. This document provides references to law(s) governing the eForms, instructions to fill the eForm at field level and common instructions to fill all eForms. The document also includes important points to be noted for successful submission.

User is advised to refer instruction kit specifically prepared for each eForm.

This document is divided into following sections:

[Part I – Laws Governing the eForm](#)

[Part II – Instructions to fill the eForm](#)

[Part III – Important Points for Successful Submission](#)

Click on any section link to refer to the section.

Part I – Law(s) Governing the eForm

Section and Rule Number(s)

eForm ADJ is required to be filed pursuant to section 454(5) of the Companies Act, 2013 and Rule 4(1) of Companies(Adjudication of Penalties) Rules, 2014 which is reproduced for your reference.

Section 454:

- (1) The Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of this Act in the manner as may be prescribed.
- (2) The Central Government shall while appointing adjudicating officers, specify their jurisdiction in the order under sub-section (1).
- (3) The adjudicating officer may, by an order impose the penalty on the company and the officer who is in default stating any non-compliance or default under the relevant provision of the Act.
- (4) The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such company and the officer who is in default.
- (5) Any person aggrieved by an order made by the adjudicating officer under subsection (4) may prefer an appeal to the Regional Director having jurisdiction in the matter.

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(6) Every appeal under sub-section (5) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and be accompanied by such fees as may be prescribed.

(7) The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

(8)

(i) Where company does not pay the penalty imposed by the adjudicating officer or the Regional Director within a period of ninety days from the date of the receipt of the copy of the order, the company shall be punishable with fine which shall not be less than twenty five thousand rupees but which may extend to five lakh rupees.

(ii) Where an officer of a company who is in default does not pay the penalty within a period of ninety days from the date of the receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

Rule 4(1):

Every appeal against the order of the adjudicating officer passed under sub-section (3) of section 454 shall be filed in writing with the Regional Director having jurisdiction in the matter within sixty days from the date of receipt of the order of adjudicating officer by the aggrieved party, in Form No. ADJ setting forth the grounds of appeal and shall be accompanied by a certified copy of the order against which the appeal is sought:

Provided that where the party is represented by an authorized representative, a copy of such authorization in favor of the representative and the written consent thereto by such authorized representative shall also be appended to the appeal:

Provided further that an appeal in Form No. ADJ shall not seek relief(s) therein against more than one order unless the reliefs prayed for are consequential.

(2) Every appeal filed under this rule shall be accompanied by such fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

Purpose of the eForm

An adjudicating officer(s), not below the rank of Registrar, appointed by Central Government can impose any penalty on the company and the officer who is in default stating any non-compliance or default under the provisions of the Companies Act, 2013. Person aggrieved by such order may prefer an appeal to the Regional Director having jurisdiction in the matter by filing eForm ADJ.

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eForm Number as per Companies Act, 1956

This eForm has been introduced in the Companies Act, 2013.

Part II – Instructions to fill the eForm

Specific Instructions to fill the eForm ADJ at Field Level

Instructions to fill the eForm are tabulated below at field level. Only important fields that require detailed instructions to be filled in eForm are explained. Self-explanatory fields are not discussed.

S. No/ Section Name		Field Name	Instructions
1		Category of Appellant	Select one of the options from the drop down values –Company/ Foreign Company/Others.
2		Corporate identity number (CIN) of company or Foreign Company registration number (FCRN)	<p>Enter a valid ‘Corporate identity number’ (CIN) or Foreign company registration number (FCRN).</p> <p>On clicking the Pre-fill button, system will automatically display the name, registered office address or principal place of business in India and email ID of the company.</p> <p>In case there is any change in the email ID, you can enter the new valid email ID in case of company only and not in case of others category.</p>
4	(a)	Details of Appellant	<p>Enter the approved DIN or valid income tax PAN or passport number of the appellant.</p> <p>Click the Pre-fill button. On clicking the button, system will automatically display the name, address, email ID of the applicant on the basis of DIN entered.</p> <p>In other cases, all the details of the appellant are required to be entered.</p>
5	(a) to (b)	Details of the respondent	<p>Select the details of respondent i.e. adjudicating officer from the drop down list of ROC names including others. In case of others selected, user is required to specify the details of the respondent.</p> <p>Enter the address of adjudicating officer.</p>


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S. No/ Section Name	Field Name	Instructions
6	Section under which penalty was imposed	Select the section from the dropdown values under which penalty was imposed based on which description of the same shall be auto filled.
7	Penalty imposed (Amount in Rupees)	Enter the amount for the penalty imposed.
8	Reason for Penalty	Enter the reason for penalty.
9	Details of imprisonment (if any)	Enter the details of imprisonment, if any imposed by the court / competent authority.
11	SRN of the form specified above	Enter the relevant or associated referred eForm for non-compliance or default for which the adjudicating officer has issued the penalty order.
16 & 17	Date of issuing certified copy of Penalty order	Enter the date of issue of certified copy of order issued by adjudicating officer and system shall auto fill the due date for filing the appeal.
18	Delay in days	Enter the delay in days for filing the order. If there is delay in filing the appeal then appellant is required to condone the delay and attach order of the same.
19	Reason for delay in filing the order	Enter the reason for delay in filing the order.
21	Jurisdiction of Regional Director	Select jurisdiction from the drop down list of RDs given.
To be digitally signed by	Declaration	Select all the check boxes except second in case form is filed by company or foreign company and select all check boxes except first in case of filing is being done by others. Enter serial number and date of board resolution where the person is authorized to sign and submit this eForm and give a declaration.
	DSC	Ensure the eForm is digitally signed by Authorized representative in case of a foreign company /Appellant in case of others and by Director / Manager / Company Secretary / CEO / CFO in case of an Indian company.

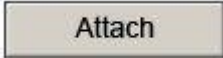



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S. No/ Section Name	Field Name	Instructions
	PAN of the Authorized representative; or DIN/PAN or passport number of the appellant; or DIN of the director; or DIN or PAN of the manager or CEO or CFO; or Membership number of the Company Secretary	<ul style="list-style-type: none"> • In case the person digitally signing the eForm is a Director - Enter the approved DIN. • In case the person digitally signing the eForm is appellant - Enter valid DIN/PAN or passport number. • Enter valid income-tax PAN number of the authorized representative whose name has been registered with Registrar of Companies. • In case the person digitally signing the eForm is Company Secretary- Enter valid membership number. • DIN/PAN may be specified in case the eForm is signed by manager or CEO or CFO.
Attachments	<ul style="list-style-type: none"> • Certified copy of the order against which appeal is sought is mandatory in all cases. • A copy of authorization in favor of authorized representative and also written consent of such authorized person is also required to be attached where party is represented by such authorized person. • Order of condonation of delay is mandatory in case there is any delay in filing the order <p>Any other information can be provided as an optional attachment(s).</p>	


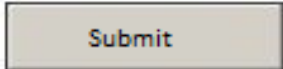
Common Instructions to fill eForm

Buttons	Particulars
Pre-Fill 	<p>The Pre-fill button can appear more than once in an eForm. The button appears next to a field that can be automatically filled using the MCA database.</p> <p>Click this button to populate the field.</p> <p>Note: You are required to be connected to the Internet to use the Pre-fill functionality.</p>

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Buttons	Particulars
Attach 	<p>Click this document to browse and select a document that needs to be attached to the eForm. All the attachments should be scanned in pdf format. You have to click the attach button corresponding to the document you are making an attachment.</p> <p>In case you wish to attach any other document, please click the optional attach button.</p>
Remove Attachment 	<p>You can view the attachments added to the eForm in the List of attachment field.</p> <p>To remove any attachment from the eForm, select the attachment in the List of attachment field and click the Remove attachment button.</p>
Check Form 	<ol style="list-style-type: none"> 1. Click the Check Form button after, filling the eForm. System performs form level validation like checking if all mandatory fields are filled. System displays the errors and provides you an opportunity to correct errors. 2. Correct the highlighted errors. 3. Click the Check Form button again and system will perform form level validation once again. On successful validations, a message is displayed “Form level pre scrutiny is successful”. <p>Note: The Check Form functionality does not require Internet connectivity.</p>
Modify 	<p>The Modify button is enabled, after you have checked the eForm using the Check Form button.</p> <p>To make changes to the filled and checked form:</p> <ol style="list-style-type: none"> 1. Click the Modify button. 2. Make the changes to the filled eForm. 3. Click the Check Form button to check the eForm again.

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Buttons	Particulars
Pre scrutiny 	<ol style="list-style-type: none"> 1. After checking the eForm, click the Prescrutiny button. System performs some checks and displays errors, if any. 2. Correct the errors. 3. Click the Prescrutiny button again. If there are no errors, a message is displayed “No errors found.” <p>The Prescrutiny functionality requires Internet Connectivity.</p>
Submit 	This button is disabled at present.

Part III - Important Points for Successful Submission

Fee Rules

S. No	Purpose of the form	Normal Fee	Additional Fee (Delay Fee)	Logic for Additional Fees		Remarks
				Event Date	Time limit(days) for filing	
1.	Memorandum of Appeal	The Companies (Registration Offices and Fees) Rules, 2014	#N/A	#N/A	As per provisions	

Fees payable is subject to changes in pursuance of the Act or any rule or regulation made or notification issued thereunder.

Processing Type

The eForm will be processed by the office of Regional Director (Non-STP).

SRN Generation

On successful submission of the eForm ADJ, SRN will be generated and shown to the user which will be used for future correspondence with MCA.

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Challan Generation

On successful submission of the eForm ADJ, Challan will be generated depicting the details of the fees paid by the user to the Ministry. It is the acknowledgement to the user that the eForm has been filed.

Email

When an eForm is approved/rejected by the authority concerned, an acknowledgement of the same along with related documents, if any, is sent to the user in the form of an email to the email id of the company/appellant. In case email is not possible, printout is generated and sent to the applicant by regular mail.

Rejection Code

When an eForm is processed by the authority concerned, it may be rejected on the following grounds:

Rejection Code	Description
1	Furnish copy of authorization in favor of authorised representative.
2	Furnish copy of condonation of delay.
3	Select appropriate section number under which penalty is imposed.
4	Mention appropriate jurisdiction of Regional Director.
Others	In this case the description is entered by Back Office User.

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Annexure A

The Companies (Registration Offices and Fees) Rules, 2014

	Application made	Other than OPC & Small company	OPC & Small company
(i)	By a company having an authorized share capital of: a) Up to Rupees 25,00,000 b) Above Rupees 25,00,000 but up to Rupees 50,00,000 c) Above Rupees 50,00,000 but up to Rupees 5,00,00,000 d) Above Rupees 5,00,00,000 but up to Rupees 10 crore or more e) Above Rupees 10 crore	2,000 5,000 10,000 15,000 20,000	1,000 2,500 N/A N/A N/A
(ii)	By a company limited by guarantee but not having a share capital	2,000	N/A
(iii)	By a company having a valid license issued under section 8 of the Act (Section 8 Company)	2000	N/A
(iv)	By a foreign company	5,000	N/A

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