



The Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2019 intimated provisions of Director of ACTIVE non-compliant company

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Ministry of Corporate Affairs (MCA) has recently elucidated that the last date to file e-form ACTIVE (INC-22A) is 15th June 2019, without any further extension. In case it is not filed on or before the due date by concerned companies, the status of such companies shall be marked as

'ACTIVE non-compliant' and the status of their directors shall be marked as 'Director of ACTIVE non-compliant company'.



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With effect from 16th May 2019, the Central Government, by virtue of rule-making powers conferred upon it under the Companies Act, 2013, has brought up the Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2019 to amend the matters publicized in the Companies (Appointment and Qualification of Directors) Rules, 2014.

With such amendment, it has been asserted that under the Companies (Appointment and Qualification of Directors) Rules, 2014, rule 12B shall be inserted after rule 12A.

Rule 12B of the Companies (Appointment and Qualification of Directors) Rules, 2014

1. If a company governed by Rule 25A of the Companies (Incorporation) Rules, 2014, fails to file e-form ACTIVE within the specified period, the Director Identification Number (DIN) of existing directors shall be marked as 'Director of ACTIVE non-compliant company'.
2. The directors of such defaulting company shall take all necessary steps to ensure compliance with filing of e-form ACTIVE by the concerned company.
3. Once e-form ACTIVE has been filed by the defaulting company, the DIN of existing directors shall be marked as 'Director of ACTIVE compliant company'.

Let us have a look at some other necessary details:

Rule 25A of the Companies (Incorporation) Rules, 2014

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1. **Requirement:** Every company incorporated on or before 31st December, 2017 shall file the particulars of the company and its registered office, in **e-Form ACTIVE** (Active Company Tagging Identities and Verification) on or before 15.06.2019.
2. **Restrictions:** However, it is provided that any company which has not filed its due financial statements under section 137 or due annual returns under section 92 or both with the Registrar, shall be restricted from filing e-Form-ACTIVE. It is further specified that companies which have been struck off or are under the process of striking off or under liquidation or amalgamated or dissolved, shall not be required to file e-Form ACTIVE.
3. **Action on non-compliance:** In case a company does not intimate the required particulars, it shall be marked as '*ACTIVE non-compliant*' on or after 16th June 2019 and shall be liable for action under section 12(9) of the Companies Act, 2013. Under section 12(9), if the Registrar is of the opinion that a company has made default in compliance with the provisions of '*registered office of company*', he can initiate action for the removal of the name of the company from the register of companies.
4. **Fees:** If a company files e-Form ACTIVE on or after 16th June 2019, it shall be marked as 'ACTIVE Compliant' on payment of fee of INR 10,000.
5. **Results of non-compliance:** Companies marked as 'ACTIVE non-compliant' shall not be allowed to request for the following changes to be accepted by the Registrar:
 - SH-07 (Change in Authorized Capital)
 - PAS-03 (Change in Paid-up Capital)

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- DIR-12 (Changes in Director except cessation)
- INC-22 (Change in Registered Office)
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The aim of proclaiming mandatory filing of e-Form ACTIVE is to locate and clear out dummy companies with the sole objective to deter non-compliance and reinforce good governance practices.

Some of the details required to be filled in e-Form ACTIVE are as follows:

- Corporate Identity Number (CIN) of the company
- Name of the Company
- Address of registered office (Photo of the Registered Office also showing therein at least one Director(s)/ KMP who has affixed his/her Digital Signature to this form is mandatory)
- email ID of the company
- Enter OTP for email ID of the company
- Whether the company is listed or not
- Number of Directors
- List of Directors as on date of filing
- Details of statutory auditor(s)
- Whether the company is required to appoint Cost Auditor or not
- Details of the Managing director or Chief Executive Officer (CEO) or Manager or Whole-time Director of the company
- Details of Company Secretary of the company
- Details of the Chief Financial Officer (CFO) of the company

Rule 12A of the Companies (Appointment and Qualification of Directors)

Rules, 2014:

Every director allotted with a Director Identification Number (DIN) as on 31st March of a financial year shall submit **e-form DIR-3-KYC** to the Central Government on or before 30th June of immediately next financial year. (Directors' KYC)

It is further provided that every individual who has already been allotted a DIN as at 31st March, 2018 shall submit e-form DIR-3 KYC on or before 5th October 2018.

The e-Form ACTIVE (INC-22A) can be downloaded from the below link:

<http://www.mca.gov.in/MinistryV2/companyformsdownload.html>



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on 03 June 2019



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