

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, sub-Section (i)]

MINISTRY OF CORPORATE AFFAIRS

Notification

New Delhi, 15th December, 2016

GSR_____(E). In exercise of the powers conferred by sub-section (1) and (2) of section 469 read with section 66 of the Companies Act, 2013 (18 of 2013) the Central Government hereby makes the following rules namely:-

1. Short title and Commencement - (1) These rules may be called the National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

(3) The words and expressions used in these rules but not defined and defined in the Companies Act, 2013 (hereinafter referred to as the Act) or in the Companies (Specification of Definitions Details) Rules, 2014 or the National Company Law Tribunal Rules, 2016 shall have the meanings respectively assigned to them in the Act or the said rules.

2. Form of application or petition for Reduction of share capital under section 66 .-(1) An application to the Tribunal to confirm a reduction of share capital of a company shall be in **Form No. RSC-1** and fee shall be, as prescribed in the Schedule of fee to these rules.

(2) An application to confirm a reduction of share capital of a company shall be accompanied with —

(a) the list of creditors duly certified by the Managing Director, or in his absence, by two directors, as true and correct, which is made as on a date not earlier than fifteen days prior to the date of filing of an application showing the details of the creditors of the company, class-wise, indicating their names, addresses and amounts owed to them;

(b) a certificate from the auditor of the company to the effect that the list of creditors referred to in clause (a) is correct as per the records of the company verified by the auditor;

(c) a certificate by the auditor and declaration by a director of the company that the company is not, as on the date of filing of the application, in arrears in the repayment of the deposits or the interest thereon; and

(d) a certificate by the company's auditor to the effect that the accounting treatment proposed by the company for the reduction of share capital is in conformity with the accounting standards specified in section 133 or any other provisions of Act.

(3) Copies of the list of creditors 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 the sum of rupees fifty for inspection and for taking extracts on payment of the sum of rupees ten per page to the company.

3. Issue of notice and directions by the National Company Law Tribunal.—

(1) The Tribunal shall, within fifteen days of submission of the application under rule 2, give notice, or direct that notice be given to —

(i) the Central Government, Registrar of Companies, in all cases, in **Form No. RSC-2**;

(ii) the Securities and Exchange Board of India, in the case of listed companies in **Form No. RSC-2**;

(iii) the creditors of the company, in all cases in **Form No. RSC-3**;

seeking their representations and objections, if any.

(2) The notice under clause (iii) of sub-rule (1) shall be sent, within seven days of the direction given under that sub-rule or such other period as may be directed by the Tribunal, to each creditor whose name is entered in the list of creditors submitted by the company about the presentation of the application and of the said list, stating the amount of the proposed reduction of share capital and the amount or estimated value of the debt or the contingent debt or claim or both for which such creditor's name is entered in the said list, and the time within which the creditor may send his representations and objections.

(3) The Tribunal shall along with directions under sub-rule (1) give directions for the notice to be published, in **Form No. RSC-4** within seven days from the date on which the directions are given, in English language in a leading English newspaper and in a leading vernacular language newspaper, both having wide circulation in the State in which the registered office of the company is situated, or such newspapers as may be directed by the Tribunal and for uploading on the website of the company (if any) seeking objections from the creditors and intimating about the date of hearing.

(4) The notice under sub-rule (3) shall state the amount of the proposed reduction of share capital, and the places, where the aforesaid list of creditors may be inspected, and the time as fixed by the Tribunal within which creditors of the company may send their objections:

Provided that the objections, if any, shall be filed in the Tribunal within three months from the date of publication of the notice with a copy served on the company.

(5) The company or the person who was directed to issue notices and the publication in the newspaper under this rule shall, as soon as may be, but not later than seven days from the date of issue of such notices, file an affidavit in **Form No. RSC- 5** confirming the despatch and publication of the notice.

(6) Where the Tribunal is satisfied that the debt or claim of every creditor has been discharged or determined or has been secured or his consent is obtained, it may dispense with the requirement of giving of notice to creditors or publication of notice under this rule or both.

4. Representation by Central Government, Registrar etc. under sub-section (2) of section 66.- If the authorities or the creditors of the company referred to in clause (i), clause (ii) and clause (iii) of sub-rule (1) of rule 3 desire to make any representation under sub-section (2) of section 66, the same shall be sent to the Tribunal within a period of three months from the date of receipt of notice and copy of such representation shall simultaneously be sent to the company and in case no representation has been received within the said period by the Tribunal it shall be presumed that they have no objection to the reduction.

5. Procedure with regard to representations and objections received.- (1) The company shall submit to the Tribunal, within seven days of expiry of period upto which representations or objections were sought, the representations or objections so received along with the responses of the company thereto.

(2) The Tribunal may give such directions as it may think fit with respect to holding of any enquiry or adjudication of claims or for hearing the objection or otherwise.

(3) At the hearing of the application, the Tribunal may, if it thinks fit, give such directions as may deem proper with reference to securing the debts or claims of creditors who do not consent to the proposed reduction, and the further hearing of the petition may be adjourned to enable the company to comply with such directions.

6. Order on application and Minute thereof:- (1) Where the Tribunal makes an order confirming a reduction, the order confirming the reduction and approving the minute may include such directions or terms and conditions as the Tribunal deems fit .

(2) The order confirming the reduction of share capital and approving the minute shall be in **Form No. RSC - 6** on such terms and conditions as may be deemed fit.

(3) The Certificate issued by the Registrar under sub-section (5) of section 66 shall be in **Form No. RSC -7**.

SCHEDULE OF FEES			
S.No.	Section of the Companies Act, 2013	Nature of application / petition	Fees in Rs.
1.	Sub-Section (1) of Section 66.	Application for reduction of share capital.	5,000/-

FORM NO. RSC-1

[Pursuant to rule 2(1)]

Company Application No of..... 2.....

_____Ltd

Application under section 66 for confirming the reduction of share capital

The petitioner herein submits:□

1. The above named company, the applicant herein (hereinafter called 'the company') was registered on the day of _____, under the provisions of the [Companies Act, _____] as a company limited by shares/limited by guarantee with a share capital.

2. The registered office of the company is situate at..... .

3. The main objects of the company are [_____].

4. The capital of the company is Rs divided into shares of Rs each, of which shares have been issued and have been fully paid-up or credited as fully paid (or have been paid up to the extent of Rs ... per share).

[Note: Where there is more than one class of shares, the petition should set out the classes of shares and state specifically whether there is or there is not any priority as to capital]

5. By article(s) of the articles of association of the company, it is

provided that the company may, from time to time, by special resolution, reduce its capital in any manner permitted by law.

6. Brief information in respect of financial position of the company; qualification, reservation or adverse remark or disclaimer made by the auditor in his report, if any, details of any pending inspection, inquiry or investigation against the company under the Companies Act, 2013.

7. [Set out reasons for reduction.]

8. By a special resolution of the company, duly passed in accordance with section 66(1) of the Companies Act, 2013, at a general meeting thereof held after due notice as provided in the Act on the day of...20 it was resolved

[Here set out the resolution]

9. Details about

(i) the number of members present and voting at such meeting and number of shares or voting power held by them;

(ii) the number of members who voted in favour of the resolution for reduction of share capital and the number of shares or voting power held by them;

(iii) the number of members who voted against the resolution and the number of shares or voting power held by them;

10. [Here set out whether the reduction of share capital involves extinction or reduction of any liability in respect of unpaid share capital or cancellation of an paid-up share capital which is lost or is unrepresented by available assets or the payment to any shareholder of any paid-up share capital]

11. The form of the minute proposed to be registered under section 66(5) is as follows:

[Here set out the proposed minute]

12. The applicant therefore prays :

- (1) That the reduction of capital resolved on by the special resolution set out in paragraph ___above be confirmed;
- (2) That to this end all directions necessary and proper be made and given;
- (3) That the proposed minute be approved; and
- (4) That such further or other orders be made in the premises as to the Tribunal shall seem fit.

Dated

Applicant or his authorised representative

Attachments:-

- (i) List of creditors
- (ii) Certificate by the auditor w.r.t. creditors' list
- (iii) Certificate and declaration w.r.t. company not being in arrears in repayment of deposits
- (iv) certificate by auditor with regard to confirming with accounting standards
- (v) Any other attachment.

FORM NO. RSC-2

[Pursuant to rule 3(1)(i) and (ii)]

Notice to Central Government, Registrar etc in respect of application for
reduction of share capital of M/s _____ (Company)

To

The Central Government/

The Registrar of Companies/

[in all cases]

The Securities and Exchange Board of India/

[as may be applicable]

You are requested to take notice that an application has been presented to the Tribunal at (Bench), on the day of 20..... for confirming the reduction of the share capital of the above company from ₹ to ₹. A copy of the application along with its attachments is enclosed.

You are hereby informed that representations, if any, in connection with the application may be made to the Tribunal within three months from the date of receipt of this notice. Copy of the representation may simultaneously be sent to the concerned company.

In case no representation is received within the stated period of three months, it shall be presumed that you have no representation or objection to make on the application.

Authorized Signatory

Dated this day of20...