



**Author:**

**CS Sumit Grover**

**(Practicing Company Secretary)**

**Founder of**

**Sumit Grover and Associates**

Email id:- [Sumit@sgacs.in](mailto:Sumit@sgacs.in)

**NOTE ON SCHEME FOR RELAXATION OF TIME FOR FILING FORMS RELATED TO CREATION OR MODIFICATION OF CHARGE UNDER COMPANIES ACT, 2013 VIDE GENERAL CIRCULAR NO. 23/2020 DATED 17.06.2020**

Ministry of Corporate Affairs (MCA) has issued General Circular No. 12/2020 dated 30.03.2020 to introduce the Scheme of “Companies Fresh Start Scheme, 2020” which provide the benefit of waiver of additional fees on various forms except Charge Related Forms and SH-7.

As per Section 77(1) of the Companies Act, 2013 (the “Act”):-

The Company is required to file forms related to creation or modification of Charge within the timelines of 120 days <sup>[Conclusion]</sup> (with additional fees and advalorem fees as per proviso of the Section 77) of the Creation or modification of Charge.

As per Section 78 of the Act:-

In case, the company fails to register the charge within the period of thirty days referred to in Section 77(1) of the Act, the charge holder may file the form related to creation or modification of charges under section 78 of the Act, within the overall timelines for filing of such form under section 77 (i.e., 120 days).

On the basis of the same, MCA has received many representations in relation to relaxation of timelines relating to filing of certain Charge Forms to provide a window of Compliance for registration of Charges.



By virtue of the same, MCA has introduced a “Scheme for relaxation of time for filing Forms related to Creation or Modification of Charge under Companies Act, 2013” (hereinafter referred as the Scheme) to provide dispensation for filing of Charge related documents by condoning the delay in filing certain forms related to creation/modification of Charges.

**DETAILS OF THE SCHEME ARE AS FOLLOWS:-**

S.No.	Particular	Provisions of the Scheme	
1.	Applicability	Filing of Form CHG-1 and Form CHG-9 (Form(s)) by a Company or Charge Holder, where the date of creation/modification of Charge is before 01.03.2020, but the timeline for filing such form had not expired under Section 77 of the Act ( i.e., 120 days) as on 01.03.2020.  <u>Date of Charge created/Modified before 01.03.2020 but 120 days are not complete</u>	Filing of Form CHG-1 and Form CHG-9 by a Company or Charge Holder, where the date of creation/modification of Charge falls on any date between 01.03.2020 to 30.09.2020 (both dates inclusive)  <u>Date of Charge Created/Modified between 01.03.2020-30.09.2020</u>
2.	Relaxation of Time	<ul style="list-style-type: none"> <li>• Period between 01.03.2020 to 30.09.2020 will not be counted for the purpose of 120 days.</li> <li>• If the Form is not filed before 01.03.2020, then for the purpose of counting of 120 days the First day after 29.02.2020 shall be 01.10.2020.</li> </ul>	<ul style="list-style-type: none"> <li>• The period beginning from the date of Creation/Modification of Charge to 30.09.2020 shall not be counted for the purpose of 120 days.</li> <li>• If Form is not filed between 01.03.2020 to 30.09.2020, then for the purpose of counting of 120 days the First day after date of creation/modification of Charge shall be 01.10.2020.</li> </ul>
3.	Applicable Fees	<ul style="list-style-type: none"> <li>• If the Form filed on or before 30.09.2020, the fees payable as on 29.02.2020 shall be charged.</li> <li>• If the Form is filed after 30.09.2020, the fees charge shall be Fees from Date of</li> </ul>	<ul style="list-style-type: none"> <li>• If the Form is filed before 30.09.2020, normal fees shall be payable.</li> <li>• If the Form is filed after 30.09.2020, Fees calculated from 01.10.2020 to</li> </ul>



		Creation to 29.02.2020 + Fees from 01.10.2020 to Date of filing.	date of filing.
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**SCHEME SHALL NOT APPLY, IN CASE:**

- (a) The forms i.e.CHG-1 and CHG-9 had already been filed before the date of issue of this Circular.
- (b) The timeline (i.e., 120 days) for filing the form has already expired under section 77 or section 78 of the Act prior to 01.03.2020.
- (c) The timeline for filing the form expires at a future date, despite exclusion of the time provided in Relaxation of Time.
- (d) Filing of Form CHG-4 for satisfaction of charges.

**CONCLUSION:-**

The time line of 120 Creation/Modification of Charge is as under:-

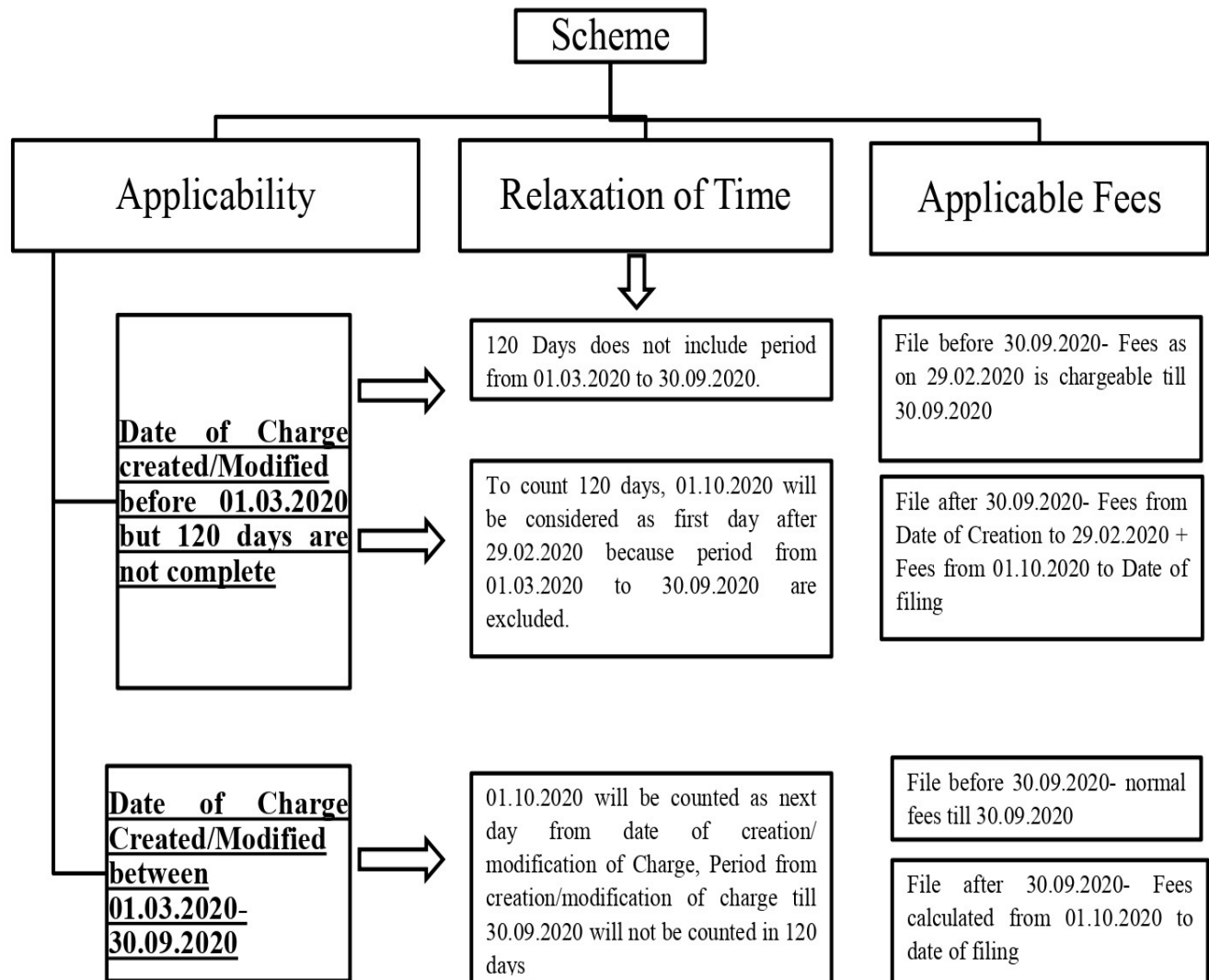
- 30 days as per Section 77(1) from date of Creation or Modification of Charge;
- Next 30 days with additional fees as per First Proviso of Section 77(1) of the Act;
- Next 60 days with advalorem fees as per Second Proviso of Section 77(1) of the Act.

Thus, with the introduction of the Scheme, MCA has provided relaxation to the Companies as well as Charge Holder with the delay in filing of Charge Form.



**SCHEME FOR RELAXATION OF TIME FOR FILING FORMS RELATED TO CREATION OR MODIFICATION OF CHARGE UNDER COMPANIES ACT, 2013 VIDE GENERAL CIRCULAR NO. 23/2020 DATED 17.06.2020**

As per Section 77, time line of 120 days to file form for Creation/Modification is as under:-  
 1. 30 days as per Section 77(1) from date of Creation or Modification of Charge;  
 2. Next 30 days with additional fees as per First Proviso of Section 77(1) of the Act;  
 3. Next 60 days with advalorem fees as per Second Proviso of Section 77(1) of the Act.



**SCHEME SHALL NOT APPLY, IN CASE:**

- The forms i.e.CHG-1 and CHG-9 had already been filed before the date of issue of this Circular.
- The timeline (i.e., 120 days) for filing the form has already expired under section 77 or section 78 of the Act prior to 01.03.2020.
- The timeline for filing the form expires at a future date, despite exclusion of the time provided in Relaxation of Time.
- Filing of Form CHG-4 for satisfaction of charges.