

DRAFT RULES UNDER THE COMPANIES ACT, 2013

CHAPTER XIV

INSPECTION, INQUIRY AND INVESTIGATION

14.1 For the purposes of clause (viii) of sub-section (2) of section 211, the Central Government may appoint persons having expertise in the fields of investigations, cyber forensic, financial accounting, management accounting, cost accounting and any other fields as may be necessary for the efficient discharge of Serious Fraud Investigation Office (SFIO) functions under this Act.

14.2 The terms and conditions of service of Director, experts and other officers and employees of the Serious Fraud Investigation Office under sub-section (5) of section 211 shall be as under:-

- a) The terms and conditions of appointment of Director shall be governed by the deputation rules under the Central Staffing Scheme of Government of India
- b) The terms and conditions of service of experts from Central or State or Union Territory (UT) Government, Public Sector Undertaking (PSU), Autonomous Bodies and such other organizations shall be as per the Recruitment Rules which may be duly notified by the Central Government under article 309 of the Constitution of India
- c) The terms and conditions of service of other officers and employees from Central or State or UT government, PSU, Autonomous Bodies and such other organizations shall be as per the Recruitment Rules which may be duly notified by the Central Government under article 309 of the Constitution of India

d) The Central Government may appoint Experts or Consultants or other professionals or professional firms on contractual basis as per the Scheme of engagement of Experts or Consultants laid down in the General Financial Rules of the Government of India.

14.3 For the purposes of sub-sections (8) and (9) of section 212 of the Act-

- (i) The Authorized Officer shall send a copy of the arrest memo in Form 14.1 appended to these Rules along with the material in possession and all the documents to the office of Director, SFIO in a sealed envelope with a forwarding letter after signing on each page of these documents latest by the next working day through the quickest possible means including a special messenger or by way of secured electronic means, if required.
- (ii) Authorized Officer of the Serious Fraud Investigation Office shall keep copy of the arrest memo along with the documents upto two years after disposal of the last appeal in the Court.
- (iii) An Arrest register shall be maintained at every office of the SFIO for the purposes of this rule and the Arresting Officer shall ensure that necessary entries are made in the Arrest register.
- (iv) An Arrest register to the Rules shall also be maintained in the office of Director, SFIO for the purposes of this rule and the Director or any officer nominated by Director shall ensure that necessary entries are made in the Arrest register in respect of all arrests made by the Authorized Officers of the SFIO.

14.4 For the purpose of Investigation, SFIO shall follow the procedure contained in the “Manual of Investigation” duly approved by the Central Government.

14.5 For the purposes of section 214, the Central Government may before appointing an inspector under sub-section (3) of section 210 or clause (b) of section 213, require the applicant to give a security not exceeding Rs. twenty-five thousand for payment of the costs and expenses of investigation as per the criteria given below:

	Turnover as per previous year balance sheet (Rs.)	Amount of security (Rs.)
a.	Turnover upto Rs. 50 crore	Rs. 10,000
b.	Turnover more than Rs. 50 crore and upto 200 crore	Rs. 15,000
c.	Turnover more than Rs. 200 crore	Rs. 25,000

The security shall be refunded to the applicant if the investigation results in prosecution.

14.6 If the company, other body corporate or person concerned is not satisfied with the objection raised by the Tribunal under sub-section (1) of section 218, it may within the period of thirty days of receipt of notice of the objection, prefer an appeal to the Appellate Tribunal under sub-section(3) of section 218 setting forth the grounds of appeal in Form No.14.2. It shall be accompanied with a certified copy of the objection letter, against which the appeal is sought.

Every appeal filed under this rule shall be accompanied by such fee as may be prescribed in Annexure B.

FORM NO 14.1
[Rule No.14.3 (i)]

<u>ARREST MEMO</u>		
1	SFIO Office at	
2	MCA order for investigation No. & Date	
3	Title of the case	
4	Name with alias of the arrestee if any	
5	Date of Birth/known age/	
6	Sex	
7	Parentage of the Arrestee	
8	Distinguishing mark/s of identification if any	
9	Permanent address of the Arrestee	
10	Present address of the Arrestee	
11	Place of arrest	
12	Date and time of arrest	
13	Name, Address & Telephone No. of person whom of Arrest is to be conveyed	
14	Personal Search Memo	
15.	Medical Report	
16	Date and time when produced in the Court	
17	Name, Designation of the Officer (inspector) making the arrest	
18	Name and designation of the officer (Director or authorised officer of Central Government) who is authorised to issue Authorisation Memo	
19	When the inspector applied to the authority at Sr. No. 15 seeking issue of Authorisation memo	
20	Authorisation memo (as per form _____ of Rules)	
21	Grounds of arrest, along with sections under which arrested.	
(Signature of arrestee)/(thumb impression)		
Witnessed by:		

1.		Arrested by (Signature of arresting officer with designation)
2.		

PERSONAL SEARCH MEMO		
1	SFIO Office at	
2	RoC Office at	
3	MCA order for investigation No. & Date	
4	Title of the case	
<p>In the presence of the following witnesses the personal search of Sh. (Name with Alias of the Arrestee) S/o (Parentage of the Arrestee) R/o(Address of the Arrestee) was conducted as per law (as per the provision of Section 51 of Cr.P.C) and following articles have been taken into possession, through this memo.</p> <p>1.....</p> <p>2.....</p> <p>3.....</p> <p style="text-align: center;">(Signature of Arrestee)</p>		
Witnessed by:		
1.		Seized by
2.		(-----)
		(Signature of arresting Officer with designation and date)

Authorisation Memo

I, _____ (Director, Serious Fraud Investigation Office/ Authorised Officer of the Central Government, designation) authorised by Notification No. _____ dated _____ issue Authorisation Memo to _____, who is inspector appointed under section _____ of the Companies Act, 2013 to arrest Shri _____ and to produce him/ her before the Magistrate/ Court within 24 hours of arrest.

Dated

Seal

Signature

Form No. 14.2

Memorandum of Appeal

[Pursuant to rule 14.5]

Before the National Company Law Appellate Tribunal

In the matter of the Companies Act, 2011

And

In the matter of appeal against the order made on..... by.....

Appeal No---

1. Details of the Appellant:

- (a) Name:
- (b) Address of registered office:
- (c) Address for service of notices:
- (d) E-mail ID:
- (e) Telephone/fax number:

2. Details of the order:
3. Facts of the case:
4. Grounds of appeal:
5. Relief sought:
6. Interim relief (if any prayed for):
7. Particulars of payment of fees:

Signature

(appellant/authorised representative)

Place:

Date:

Enclosures:

1. Certified copy of the order against which appeal is sought
2. A copy of authorisation in favour of authorised representative, if any.
3. Optional enclosures.

ANNEXURE-B

Prescribed Fees for Filing Appeal Under Section 218(3)

Sl. No.	Turnover as per previous year balance sheet	Fee for filing appeal
1	Turnover upto Rs. 50 crore	Rs. 1,000
2	Turnover more than Rs. 50 crore and upto 200 crore	Rs. 1,500
3	Turnover more than Rs. 200 crore	Rs. 2,500