GOVERNMENT OF INDIA
DEPARTMENT OF COMPANY AFFAIRS

REPORT
OF THE
REVIEW COMMITTEE
ON
WORKING OF REGISTRARS
OF COMPANIES

SEPTEMBER, 1994
NEW DELHI
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CHAPTER I

INTRODUCTION

Constitution of Committee

1.1 The Department of Company Affairs vide Order No. 14/6/94-CL.V dated 1.9.94 constituted a Review Committee to look into the various aspects of working of the offices of Registrars of Companies. The terms of reference of the Committee are as follows:

(i) To study working of the ROC offices with a view to streamline their working.

(ii) To suggest changes for simplification of procedure involved in dealing with documents.

(iii) To suggest changes for reduction in the number of documents filed with ROCs.

1.2 The Committee chaired by Shri R.D. Joshi, Joint Secretary and consisting of S/Shri U.P. Mathur, Director; R. Aghoramurthy, Regional Director, Madras; and V.S. Galgali, Registrar of Companies, NCT of Delhi & Haryana, as members, met on 17th, 18th, 19th, 28th, 29th and 30th September, 1994, for its deliberations at New Delhi. Individually, the members looked into the functioning of the ROC offices to concretise the recommendations of the Committee.
Company Population

2.1 Over the years, the number of companies registered under the Companies Act, 1956, have increased manifold as is evident from the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Companies at work</th>
</tr>
</thead>
<tbody>
<tr>
<td>1957</td>
<td>29,357</td>
</tr>
<tr>
<td>1967</td>
<td>27,027</td>
</tr>
<tr>
<td>1977</td>
<td>45,866</td>
</tr>
<tr>
<td>1987</td>
<td>1,40,670</td>
</tr>
<tr>
<td>1990</td>
<td>2,02,128</td>
</tr>
<tr>
<td>1991</td>
<td>2,24,452</td>
</tr>
<tr>
<td>1992</td>
<td>2,50,361</td>
</tr>
<tr>
<td>1993</td>
<td>2,75,664</td>
</tr>
<tr>
<td>1994</td>
<td>3,05,954</td>
</tr>
</tbody>
</table>

2.2 It is evident from the above table that during the last few years, about 25,000 companies are registered every year by all the Registrars of Companies situated at 19 locations in different States. More than 85% of the total number of companies at work are private companies.

2.3 The distribution of non-Government companies based on paid up capital (PUC) as on 31.3.92 was as under:
3.2 The demand on ROC offices from the public (including corpora
tive sector) is mainly for availability of names, incorporation of new companies, registration of charges, inspection of documents and providing certified copies thereof. Despite paucity of staff, ROC offices are attending to matters relating to name availability and new registration.

### Main Functions of ROC

3.1 ROC is a statutory authority under the Companies Act and his main functions are to register the companies, register and take on record the documents filed by the companies from time to time, providing access to the documents to the members of public, enforcing compliance of the provisions of the Companies Act, 1956 and taking penal action for defaults. The office of ROC is basically a Registry and an Office of Record. The efficiency of the functioning of ROC office depends largely on taking documents on record without delay and making such documents available to public for scrutiny.

<table>
<thead>
<tr>
<th>Range of PUC</th>
<th>Public Companies</th>
<th>Private Companies</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upto Rs. 50 lacs</td>
<td>23,761</td>
<td>2,19,275</td>
<td>2,43,036</td>
</tr>
<tr>
<td>Rs 50 lacs-1 crore</td>
<td>2,121</td>
<td>471</td>
<td>2,592</td>
</tr>
<tr>
<td>Rs. 1 crore-5 crores</td>
<td>2,586</td>
<td>186</td>
<td>2,772</td>
</tr>
<tr>
<td>Rs. 5 crores-25 crores</td>
<td>655</td>
<td>18</td>
<td>673</td>
</tr>
<tr>
<td>Rs. 25 crores &amp; above</td>
<td>108</td>
<td></td>
<td>108</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>29,231</strong></td>
<td><strong>2,19,950</strong></td>
<td><strong>2,49,181</strong></td>
</tr>
</tbody>
</table>

3.2 The demand on ROC offices from the public (including corporate sector) is mainly for availability of names, incorporation of new companies, registration of charges, inspection of documents and providing certified copies thereof. Despite paucity of staff, ROC offices are attending to matters relating to name availability and new registration.
without much delay. However, the registration of charges are not being attended to promptly. The registration of documents is also not getting adequate attention and large number of documents (particularly the latest ones) are not available in the document files. As a consequence, the very purpose of public inspection and establishment of Registries is defeated.

Documents Filed with ROC Offices

4.1 There are about 50 returns/forms prescribed under the Companies Act and the Companies (Central Government) General Rules & Forms, 1956, required to be filed by the companies. These returns/documents are required to be filed within the specified period statutorily provided in the substantive provisions of the Act, generally within 30 days. Most of these documents are event based and are to be filed on the happening of a certain event. For instance, in case of allotment of shares, a return in Form No. 2 is required to be filed within 30 days from the date of allotment, and in case, a special resolution is passed, the same is required to be filed in Form No. 23 within 30 days from the date of passing of the resolution. However, documents like Annual Returns and Balance Sheets are required to be filed every year by all the companies, public or private, with the Registrars of Companies within the time frame prescribed under the Act. Although about 50 forms/returns are prescribed, the maximum number of returns filed by the companies are as under:

(a) Annual Accounts (Balance Sheet etc.) under Section 220 of the Act.
(b) Annual Return under Section 159 of the Act.
(c) Form No. 32 regarding appointment/cessation of Directors under Section 303(2) of the Act.
(d) Returns relating to creation/modification/satisfaction of charges in Form Nos. 8/17 and 13 under Sections 125, 135 and 138 of the Act.

A sample study of the documents filed in the Office of the ROC, Delhi during the year ending 31.3.1994 indicates that the above documents constitute about 75% of the total number of documents filed in that office.

4.2 The following table indicates the number of documents filed/taken on record during the year 1992-93 in all ROC offices:

<table>
<thead>
<tr>
<th>Name of the document and section concerned</th>
<th>Brought forward from the previous year</th>
<th>Received during the year</th>
<th>Total of Cols. 2 &amp; 3</th>
<th>Taken on record</th>
<th>Returned for rectification of the year</th>
<th>Pending at end of the year</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
</tr>
<tr>
<td>1. Annual Return (Secs. 159 &amp; 160)</td>
<td>98,085</td>
<td>1,50,853</td>
<td>2,48,938</td>
<td>1,09,695</td>
<td>43,088</td>
<td>96,155</td>
</tr>
<tr>
<td>2. Balance Sheets &amp; Profit &amp; Loss Accounts (Sec. 220)</td>
<td>1,08,009</td>
<td>1,49,360</td>
<td>2,57,369</td>
<td>1,13,948</td>
<td>36,029</td>
<td>1,07,392</td>
</tr>
<tr>
<td>3. Others</td>
<td>2,71,865</td>
<td>3,95,557</td>
<td>6,67,422</td>
<td>3,05,636</td>
<td>82,276</td>
<td>2,79,510</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4,77,959</strong></td>
<td><strong>6,95,770</strong></td>
<td><strong>11,73,729</strong></td>
<td><strong>5,29,279</strong></td>
<td><strong>1,61,393</strong></td>
<td><strong>4,83,057</strong></td>
</tr>
</tbody>
</table>

The above table indicates that about 7 lakh documents were filed by the Companies during the year 1992-93 and this number will continue to rise every year with the
incorporation of about 25,000 new companies every year. At the end of the year 1992-93, about 5 lakh documents were pending for various reasons. The offices of ROC are not in a position to cope up with the increasing number of documents and the position is quite alarming. This is so despite the several reforms and liberalised measures brought in by the Department for quicker disposal of documents.

4.3 Another significant feature noticeable from the above table is that the number of annual returns and balance sheets filed annually by the companies are about 1.5 lakhs as against the number of companies (relevant to the period) being 2.5 lakhs. Making an allowance of say 25,000 companies for the old balance sheets and annual returns being included in the said figure of 1.5 lakhs, it can be safely concluded that about 50% of the companies (out of 2.5 lakhs companies) have defaulted in filing these documents. The incidence of the default in this regard is very high. This is partly due to the fact that a sizeable number of companies are defunct and are not carrying on any business, and partly due to lack of effort on the part of ROC Offices to pursue default action for non-compliance, for whatever reasons.

5. In the preceding paragraphs, the dimension of the problems in the working of the offices of ROC's has been highlighted and in the succeeding paragraphs, the Committee has made appropriate recommendations in Chapters II, III and IV on various items of work attended to by these offices. In making the recommendations, the Committee has taken into consideration the various liberalised measures/decisions taken by the Department from time to time for smooth working of these offices including computerisation, as also legislative measures taken in the Companies Bill, 1993 and in the proposed New Bill.
CHAPTER II

STREAMLINING OF THE WORKING OF ROC OFFICES

Availability of Names

6.1 At present, the work relating to name availability is fully computerised in most of the ROC offices, with the result these applications are dealt with in a week's time. The incidence of rejection of names is mostly on the ground of similarity of names and also due to rigid application of the name availability guidelines. The Department has recently increased the fee for name availability applications from Rs. 100/- to Rs. 500/- w.e.f. 1.11.1994.

6.2 The following suggestions are made:

(a) The promoters may be permitted the facility of using the PC in ROC offices to ascertain the availability of name as to whether the name proposed is identical with any existing name so that based on the available information, the promoter may make an application. This procedure will ensure that the name asked for is generally allowed. No separate fee be charged for availing this facility.

(b) As per Rule 4A(2)(b) of the Companies (Central Government's) General Rules & Forms, 1956 the validity period of a name approved by the ROC is 3 months. Since the application fee has already been increased, it is suggested that the validity period is also extended to 6 months so as to
The name availability guidelines require to be liberalised so that there should not be any minimum authorised capital requirement for availability of names for using key words like "International", "Globe" etc. (vide Circular No. 27/1/87-CL III dated 13.3.89) except for allowing the names with the words "Corporation", "Industries/Udyog", and "Hindustan" in which case, the name availability application should be as per existing guidelines. Further, presently, there is a restriction on abbreviated names (like ITC Limited) in case of existing Companies requiring approval of the RDs. It is felt that no

reduce the paper work in the ROC offices on account of renewal/revalidation of names.

(c) The Department vide Circular No. 27/1/89-CL III dated 17.2.89 advised the ROCs to ensure that at the time of registration of a new company, the subscribers to the memorandum tally with the list of promoters/first directors stated in the application for availability of name, and in case one or more of the promoters are not interested in participating in the promotion of a new company at a later stage, a "no objection" letter from such promoter(s) is made available to ROC. This circular was amended on 5.1.1990 (No. 1/90) to the effect that ROCs should register the company only in cases where the promoters, as per availability of name application, are also subscribers to the Memorandum. It is suggested that so long as there is at least one promoter common both in the name availability application and the subscription clause in the Memorandum of Association, the company may be registered and the Department's circular be amended accordingly.

(d) The name availability guidelines require to be liberalised so that there should not be any minimum authorised capital requirement for availability of names...
such approval of RD is necessary and ROCs may dispose of such applications on merit.

(e) In respect of Companies seeking registration under Part IX of the Companies Act, Section 572 provides that any change in the name, if the existing name is undesirable, requires the approval of the Central Government. Since this section is in _pari materia_ with Section 20/21 of the Act, it is suggested that the power of Central Government may be delegated to ROCs.

(f) Rule 4A(1) provides for a time limit of 14 days for disposal of name availability applications. In view of computerisation in this area, it is suggested that the rules may be amended to reduce this period to 7 days. Administratively, ROCs be instructed to dispose off these applications within three days.

New Registration

7.1 Pursuant to the provisions contained in Sections 15(c) & 30(c) of the Companies Act, ROCs are insisting for the subscribers to the memorandum and articles of association and the witness to write their particulars in their own hand. This requirement has been done away with in the Companies Bill, 1993. Until the Bill is enacted, in the meantime, ROCs may be advised administratively not to insist upon the particulars being written in the hand of the subscribers and the witness. It would suffice if they only sign and the particulars are either printed or written by someone else (including power of attorney holder).
7.2 There are divergent views as to the number of clauses that can be allowed under Section 13(1)(d)(i) as main objects -- Part A to the Object Clause of the Memorandum of Association. While some ROCs allow a fixed number of objects, say 5, some ROCs, insist for only 2. There is no rationale approach of ROC's to limit the number of object clauses in Part A. The general principle is that in the case of object oriented names, Part-A should contain only those objects which are in consonance with the objects reflected in the name. In case of non-object oriented names like Tata Sons Limited, Birla Brothers Limited etc. there should be no restriction as to the number of objects to be included under Part-A. Similar should be the approach in the case of names with general expressions like 'Industries', 'Enterprises' etc. without prefixing the nature of industry or enterprise. In either case, ROCs should ensure that objects stated in Part-A of the Memorandum are those specified against column No. 5 of Form IA. In case of object oriented names, like Hindustan Sugar Limited, the main object under Part-A should constitute only sugar. There should, however, be no restriction to the inclusion of any number of objects under "other objects".

7.3 ROCs quite often come across the cases of new incorporation of companies where all the subscribers to the Memorandum of Association/proposed directors are residing abroad, being either foreign nationals or NRIs. There cannot be any restriction for incorporation of such companies subject to the approval of RBI, where necessary. Some ROCs are not clear about the legal position and the same may be clarified.

Revision of Forms

8. In the forms prescribed under the Rules, it is suggested that the formats may be slightly amended to provide space to enter particulars regarding receipt of documents
The Department has issued instructions in June, 1994 for streamlining and standardising the levy of additional fee in respect of companies with authorised share capital upto Rs. 1 crore and in respect of delays upto six months. This liberalised procedure is working very well and it is suggested that the standardisation may be extended to all the companies irrespective of authorised capital and the period of delay.

Preservation of Records and Weeding Out

9. The Department has already taken a decision for change of retention schedule by reducing the periodicity/destruction of some of the documents. The rules are being amended to provide that the date for preservation of documents will be reckoned from the date of filing of documents and not from the date of registration of documents. There is huge backlog of documents pending for weeding with the ROCs, which is a neglected area so far. There will be manifold increase in the Returns/Documents to be weeded out in view of the changes made in the retention schedule. Since it is not possible to cope up with the volume of this work with the existing staff, it is suggested that adequate funds are placed at the disposal of ROCs for engaging the services of temporary staff (as in case of the Census Department) and also to pay honorarium to the members of staff for attending to this work beyond working hours.

Levy of Additional Fee

10.1 The Department has issued instructions in June, 1994 for streamlining and standardising the levy of additional fee in respect of companies with authorised share capital upto Rs. 1 crore and in respect of delays upto six months. This liberalised procedure is working very well and it is suggested that the standardisation may be extended to all the companies irrespective of authorised capital and the period of delay.
10.2 It is also suggested that suitable amendment be made in Section 611(2) of the Act to empower the Central Government to prescribe the payment of additional fee, instead of empowering ROC to determine the additional fee on case to case basis.

Delegation of Powers to ROCs under Section 31

11. In case of conversion of public companies into private companies, at present the Central Government has delegated its powers to the Regional Directors. As and when an application is made to the RD, he normally calls for the report from the concerned ROC to enable him to take appropriate decision. Normally, the report of the ROC deals with special resolution filed/taken on record. It is felt that if this power is delegated to ROCs, the delay in disposal of these applications could be considerably reduced.

Claims under Section 555(7)(b)

12. As per delegation of power, ROCs are empowered to sanction payment of unclaimed dividend relating to companies in liquidation up to a sum of Rs. 1,000. For payment of amounts above Rs. 1,000, the power of sanction has been delegated to RDs. In either case, the actual payment is made by ROCs. It is suggested that the powers may be delegated to the ROCs for this payment without any limit. In this connection, it is significant to mention that ROCs are authorised to make payment towards unclaimed dividend of companies at work under Section 205A of the Act without any monetary limit.

Amendment of Section 166/210(3) of the Act

13. At present, ROCs have been empowered to grant extension of time to hold AGM upto 3 months beyond the statutory period. A number of private companies seek such
extension of time and in most of the cases, they are unable to hold the AGM within the extended time as accounts are not ready and/or audited. It is suggested that private companies be permitted to hold their AGM within 9 months from the close of the financial year (instead of 6 months) and the power of grant of extension of time in case of private companies in individual cases by ROCs may be dispensed with. This will appreciably reduce the paper work in ROC offices.

Harmonisation of Practices

14. It is noticed that various ROCs have developed certain practices in their working and it is necessary that such practices should be uniformly followed by all offices. Some of these instances are given below:

(a) Power of Attorney

Power of Attorney is required for correction in the documents at the time of incorporation of companies, filing of prospectus and other documents. While in case of correction of documents, Power of Attorney is required from the signatory concerned, in case of corrections to be made in the Memorandum and Articles of Associations at the time of incorporation and prospectus, Power of Attorney is insisted upon from all the subscribers of the Memorandum and Articles of Association/directors who have signed the prospectus. At times, some ROCs insist for either separate power of attorney from each subscriber or jointly executed with the stamp paper of the adequate value as if executed by the subscriber individually. It is suggested that only one power of attorney from all subscribers or directors is enough on usual value stamp. ROCs should accept the power of attorney in the manner given and no objection be raised in this behalf.
ROCs should also not insist for any authorisation from the Board of Directors for appointing a power of attorney. ROCs should also not insist for Power of Attorney if the professionals or company's representatives come over to ROC to make oral enquiry or submission on any matter.

(b) Resignation by a Director

Some ROCs are insisting for a copy of the letter of resignation of a director and also require the company to produce minute book at the time of filling Form No. 32. There is no necessity of calling for letter of resignation/minute book. In fact, the documents filed should not be held up for want of any information and the same should be taken on record. Thereafter, if so desired, ROC may call for the desired information/explanation as per the provisions of Section 234 of the Act.

(c) Form No. 5

Some of the ROCs, at the time of filing Form No. 5 for increase in authorised capital, call for a copy of the memorandum of association, as altered. There is no such requirement under the law and this should not be insisted upon.

(d) Notice of Meeting

Some of the ROCs are calling for a copy of the Notice of the general meeting in which special resolution is passed, at the time of filing Form No. 23. There is no such requirement under the law and such a notice should not be called. However, a copy of
the Explanatory statement should be insisted upon in view of the mandatory requirements of Section 192(1) of the Act.

Vacant Posts

15. As per available information, it is gathered that a large number of posts in Group 'A', 'B', 'C' and 'D' are lying vacant in the offices of ROCs. For example, in the office of ROC, NCT of Delhi & Haryana, out of 127 sanctioned posts, 10 posts are vacant as on 31.8.1994. There has been no increase in staff strength in the offices of ROCs at least after 1980 even though the number of companies registered have increased many fold. Keeping even the sanctioned post vacant is not in the interest of work and is affecting the efficiency of ROC's functioning adversely. It is necessary that vacant posts are filled up within a fixed time frame.

Training Programme

16. At present, there is no training programme for the officers and staff of this Department and the field offices, apart from Departmental examination for the post of UDC/JTA. It is necessary to update the professional knowledge of the officers/staff in the field offices, particularly in the context of several changes taking place relating to Corporate Sector. It is also felt that the thinking of the Department does not percolate down and the message is not conveyed to each and every officer/member of staff. It is suggested there should be a regular training programme both for officers and staff with faculties drawn from the senior officers at the Headquarters/Regional offices, retired CCLS officers and professionals.
CHAPTER III

SIMPLIFICATION OF PROCEDURES FOR DEALING WITH DOCUMENTS

Prospectus

17.1 The draft prospectus is vetted by SEBI and the concerned Regional Stock Exchange. In view of this, it is not necessary for ROCs to make elaborate scrutiny of the contents of the prospectus. It is enough to ensure that the documentation in the form of consents, underwriting agreements, expert's report, material contracts etc. accompany the prospectus; the prospectus is duly signed by all the directors and the fee is paid.

17.2 Registration of the Prospectus should be done within two days of its filing.

Registration of Charges

18.1 This is an area where companies and the lending banks/financial institutions are finding it extremely difficult to get the charges registered in time and getting necessary certificates. In most of the cases, objections are raised by ROCs regarding the contents in Form No. 8/13/17 and this delays the matter. At times, the Companies and financial institutions feel unduly harassed. It is suggested that the procedural formalities may be changed by amending the Rules/Forms so as to filing of charge documents in prescribed form and instrument evidencing the charge, in triplicate, under the signatures of both the company and the creditor. At present, the form and the copy of instrument is filed singly signed by the company representative or the charge holder. Once the
document is filed in triplicate along with the requisite fee, ROC will endorse on all the three copies (including the accompanying instrument) by rubber stamp with the impression "Registered" and sign the same. The first copy be taken on ROC's record and the duplicate and triplicate copies be returned to the company/creditors concerned. There is no necessary of issuing any separate certificate of registration of charge as endorsed document itself will constitute such a certification.

18.2 In view of the simplified procedure specified above, it is suggested that these documents are registered the same day by the Assistant Registrar/Registrar and returned to the company representative across the table.

18.3 The above procedure can only be applied prospectively. So far as the existing pending documents are concerned, a special drive be organised by the ROCs to clear the same.

**Balance Sheet and Annual Return**

19. These are recurring documents required to be filed every year by every company. These do not require elaborate scrutiny at initial stage except to ensure that the fee is paid, enclosures referred to therein are available along with the accounts of subsidiaries and other supporting documents like profit & loss account, directors' report/auditors' report etc. and are certified/signed by the officer of the company, in the manner required. Compliance of these requirements be checked at the filing stage itself and the documents are straightaway taken on record.
20. A large number of Forms-32 are filed in the ROC offices. This relate to changes in the composition of the Board of directors. This is a very simple document not requiring any examination except to ensure that it is signed and the fee is paid. Such documents should also be taken on record on day-to-day basis.

Form Relating to Directors

21. As stated, the maximum number of documents filed relate to Annual Return, Balance Sheet, Form 32 and charge documents, which account for about 75% of the total documents filed in the ROC offices. Other documents are mostly event based and account for only 25% of the total intake. The procedure outlined above in respect of balance sheet/annual return/Form 32 be adopted mutatis mutandis for other documents also for their expeditious disposal.

Other Documents

22.1 In almost all ROC offices, there are large number of documents which have been passed for registration, but have not been ledgerised and placed in the document files concerned. This is the last link in the process of registration. For non-completion of this process, all the efforts made earlier are frustrated, in as much as the documents are not available for inspection to the members of the public. It is, therefore, necessary to devote particular attention to this neglected area and remove the bottleneck at any cost. Major ROC offices have been computerised. Such offices be geared up so as to feed in the computer the passed documents as a substitute for ledgerisation, without the
necessity of maintaining ledgers in the form of registers. The non-computerised ROC offices have necessarily to go through the ledgerisation process until such time they are also computerised. After ledgerisation/feeding in the computer, it is necessary to place the documents in the concerned document files through manual process. It is also suggested that there is no need for preparation of separate manual index to be kept in document files, as at present, in view of the fact that the ledgerisation is done through computer and the information is available instantaneously on the screen.

22. In view of the huge backlog of this item of work, and large intake of documents that are likely through the simplification process discussed in preceding paragraphs, it is absolutely necessary to place at the disposal of the ROCs additional funds for engagement of temporary staff (as in case of Census Department) and also to pay honorarium to the staff of the ROCs, for undertaking this work beyond working hours.

**Microfilming**

23. In the long run, the problem of receipt and disposal in lacs and lacs of documents in ROCs offices can be tackled only by introducing microfilming in the offices of ROCs, as has been done in Singapore Registry. The massive record management cannot be continued in the manner we are doing now. As mentioned earlier, the efficient functioning of the ROC offices depend largely upon the ability of ROCs to contain the bulk of records within the manageable limits. Hence, it is desirable to undertake microfilming of records in a phased manner. To begin with, this could be introduced at ROC, Delhi, Bombay, Calcutta, Madras & Ahmedabad. For this purpose, if necessary, the size of all the documents may be standardised.
Applications under Section 108(1-D)

24.1 A large number of applications are received from the investors seeking extension of time in lodging the share transfer deeds with the company under Section 108(1-D). During the period from 1.4.93 to 31.3.94, 1,72,145 applications were considered including the cases brought forward from 1992-93, out of which 1,54,927 applications were disposed off and, and on 31.3.94, 17,218 applications were pending. In bigger offices, about 2,000 such applications are received in a month. In the past, the Department had advised ROCs to deal with these applications across the table. However, in view of the large intake and absence of adequate staff, they have not been able to deal with these applications as expeditiously as the Department wanted. Scrutiny of such application does not take much time as the office has only to ensure payment of application fee and whether the applicant or the company concerned is within the jurisdiction of that office.

24.2 As per the existing practice, a standard letter is issued to the transferee by registered post alongwith the impugned transfer deed, extending the time upto one month from the date of issue, and a copy of the letter is also endorsed to the company concerned. This itself is a time consuming process. It is suggested that instead of issuing the letter, only an endorsement may be made by rubber stamp on the transfer deed itself.

24.3 In view of the above simplified procedure, it is suggested that the required endorsement be made by the Registrar/Asstt. Registrar, the same day of receipt of application and returned to the investor concerned across the table.
CHAPTER IV

REDUCTION OF DOCUMENTS

25.1 As stated, about 50 documents/returns are filed with the Registrars of Companies and most of these documents are event based except the Annual Return and Balance Sheet. There is ample justification for making legislative changes in the Act so that the private companies (about 85% of total number of Companies) need not be required to file the following documents as it is felt that these documents are not very significant:

(i) Form No. 2, being return of allotment under Section 75(1).

(ii) Form No. 3, being particulars of contract relating to allotment of shares under Section 75(2).

(iii) Resolutions, other than special resolution, under Section 192.

(iv) Form No. 32, regarding appointment/cessation of directors and secretary under Section 303(2).

(v) Declaration to be filed by persons having beneficial interest in shares etc. under Section 187-C of the Act.

25.2 The required information available in Form Nos. 2, 3 and 32 will be available in the Annual Return filed with ROC annually and accordingly, he would not be handicapped for want of the said information.
CHAPTER V

SUMMARY OF RECOMMENDATIONS

CHAPTER II: STREAMLINING OF THE WORKING OF ROC OFFICES

Availability of Names

26.1 The promoters be permitted the facility of using the PC in ROC offices to ascertain availability of name, free of cost. [Para 6.2 (a)]

26.2 Rules may be amended to extend the validity period of availability of name from 3 months to 6 months. [Para 6.2 (b)]

26.3 The departmental circular may be amended for registration of a company, in case at least one promoter is common both in the name availability application and subscription clause in the memorandum of association. [Para 6.2 (c)]

26.4 Name availability guidelines may be liberalised with regard to use of key words "Corporation, Industries/Udyog and Hindustan" and abbreviated names may be allotted by ROCs without requiring approval of RDs. [Para 6.2 (d)]

26.5 The power of Central Government may be delegated to ROCs under Section 572. [Para 6.2 (e)]

26.6 The rules may be amended to reduce the period of disposal of name availability of application from 14 days to 7 days and administratively, ROCs be instructed to dispose of these applications within 3 days. [Para 6.2 (f)]
New Registration

27.1 ROC be advised administratively not to insist upon the particulars being written in the hand of the subscribers and the witness in the memorandum of association. (Para 7.1)

27.2 In case of object oriented names, the main objects be restricted to the activity covered by the name of a company. In case of non-object oriented names, there should be no restriction as to the main objects in the memorandum of association. (Para 7.2)

27.3 ROCs be clarified the legal position about incorporation of companies where all the subscribers are either foreign nationals and NRIIs. (Para 7.3)

Revision of Forms

28. The forms prescribed in the rules may be suitably amended to provide space to enter particulars regarding receipt of documents, payment of fee/additional fee and for registration of documents. The authorised capital should also be indicated in the forms where this information is not given. (Para 8)

Preservation of Records and Weeding Out

29. Adequate funds be placed at the disposal of ROCs for engaging the services of temporary staff and also to pay honorarium to the members of the staff for attending to this work. (Para 9)
Levy of Additional Fee

30.1 The standardisation of additional fee as per instructions issued by the Department in June, 1994 be extended to all companies irrespective of authorised capital and the period of delay. (Para 10.1)

30.2 Section 611(2) of the Act be amended empowering the Government to prescribe the payment of additional fee. (Para 10.2)

Delegation of Power to ROCs under Section 31

31. The power under Section 31 of the Act may be delegated to ROCs, instead of RDs. (Para 11)

Claims under Section 555(7)(b)

32. The powers may be delegated to ROCs for payment of unclaimed dividend relating to companies in liquidation without any monetary limit. (Para 12)

Amendment of Sections 166, 210 of the Act

33. The Act may be amended to permit private companies to hold AGM within 9 months from the close of the financial year and the power of grant of extension of time in individual cases by ROCs be dispensed with. (Para 13)
Harmonisation of Practices

34.1 Only one power of attorney from all subscribers to the memorandum is enough on usual value stamp and ROCs should accept the power of attorney in the manner given without raising any objection. ROCs should not insist for power of attorney from professionals/companies. [Para 14(a)]

34.2 In case of resignation of Director, ROCs need not insist for calling letter of resignation or minute book. The documents filed should not be held up for want of any information and should be taken on record. [Para 14(b)]

34.3 In case of filing Form No. 5 for increase in authorised capital, ROC should not insist for memorandum of association, as altered. [Para 14(c)]

34.4 In case of filing of special resolution, copy of notice of the General Meeting should not be insisted upon by ROCs. [Para 14(d)]

Vacant Posts

35. The vacant posts of Group A, B, C and D in ROC offices be filled up within a fixed time-frame. (Para 15)

Training Programme

36. There should be a regular training programme for officers and staff. (Para 16)
CHAPTER III: SIMPLIFICATION OF PROCEDURES FOR DEALING WITH DOCUMENTS

37.1 No elaborate scrutiny of contents of the prospectus is required except to ensure that proper documents accompany the prospectus and the same is signed by Directors and the fee is paid. (Para 17.1)

37.2 Prospectus be registered within 2 days. (Para 17.2)

Registration of Charges

38. As per revised procedure, Form No. 8/13/17 be filed alongwith instrument evidencing the charge, in triplicate, and ROCs may endorse all the three copies by rubber stamp with the impression "Registered" and the sign the same. These documents be registered on the same day and returned to the company representative across the table. (Para 18)

Balance Sheet and Annual Returns

39. This document does not require elaborate scrutiny and should be checked at the filing stage itself and straightaway taken on record. (Para 19)

Form Relating to Directors

40. Form No. 32 does not require any examination except to ensure that it is signed and the fee is paid. Such document should be taken on record on day-to-day basis. (Para 20)
Other Documents

41. These documents also be taken on record on day-to-day basis. (Para 21)

Ledgerisation/Placement of Documents

42.1 ROC offices which have been computerised should feed in computer the past documents as a substitute for ledgerisation, without insisting of maintaining ledgers in the form of Registers. There is no need for preparation of separate manual index to be kept in document file, as at present. (Para 22.1)

42.2 Additional funds be placed at the disposal of the ROCs for engagement of temporary staff and also to pay honorarium to the staff for undertaking this work, in view of large arrears. (Para 22.2)

Microfilming

43. Microfilming of records be undertaken, in a phased manner. (Para 23)

Application under Section 108(1-D)

44. Scrutiny of such applications does not take much time and instead of issuing a letter, only endorsement be made by rubber stamp on a transfer deed itself. In view of simplified procedure, the required endorsement be made by ROCs on the same day of receipt of application and return to the investor concern across the table. (Para 24)
CHAPTER IV: REDUCTION OF DOCUMENTS

45. Private companies, which constitute about 85% of total number of companies need not be required to file the return on allotment; resolution, other than special resolution; return regarding appointment of cessation of Directors; and declaration by persons having beneficial interest by shares etc. (Para 25.1)

New Delhi,
the 30th Sept., 1994
Circular No.1/95

To

All Registrar of Companies


Sir,

I am directed to say that this Department has recently constituted a Review Committee to study the working of Offices of the Registrar of Companies with a view to streamline their working and to suggest changes for simplification of procedures involved in dealing with documents and for reduction in the number of documents filed by the companies. The Committee in its Report has observed that the Office of ROC is basically a Registry and an Office of Record and the efficiency in the functioning of such an office depends largely on taking documents on record without delay and making such documents available for public inspection. The demand on ROC Offices from the public and corporate sector is mainly for availability of names, incorporation of new companies, providing certified copies thereof etc. However, it is a matter of common knowledge that a host of these services are not being provided as promptly as desirable. The registration of documents including the charges is not getting adequate attention, with the result a large number of documents are pending for registration. The very purpose of public inspection and establishment of Registries is, therefore, not being served adequately. The Committee has made a number of recommendations for implementation either by issue of administrative instruction or by amending the Rules/provisions of the Companies Act, 1956. The report of the Committee has been considered by the Government and steps are being taken separately to amend the rules and the law. In the meantime, you are hereby directed to implement the following recommendations of the Committee, with immediate effect: -

Availability of names:

(1) The Government has increased the application fee from ₹100 to ₹500 with effect from 1.11.1994. In view of computerisation in this area in most of the offices, you are advised to make arrangements for a computer terminal being available in your office for few hours on all working days to the promoters or their representatives with a view to ascertain the availability of proposed names. ROC, Bangalore
New Registration:

(v) There are divergent practices in the offices of ROCs as to the number of clauses/objects that can be allowed under "Main Objects" to be pursued by the company on its incorporation vide Section 13(1)(d)(i) of the Companies Act. ROCs are advised to follow the general principle that in case of object oriented names like Hindustan Sugar Limited, the main object should constitute only that object (like sugar in case of Hindustan Sugar Ltd.), while in case of non-object oriented names (like Tata Sons Limited) there should be no restriction as to the number of main objects. Similar should be the approach in case of companies having names with general expressions like "Industries/Enterprises", etc., without prefixing the nature of industry or enterprise. In either case, ROCs are advised to follow the general principle that in case of object oriented names like Hindustan Sugar Limited, the main object should constitute only that object (like sugar in case of Hindustan Sugar Ltd.), while in case of non-object oriented names (like Tata Sons Limited) there should be no restriction as to the number of main objects. Similar should be the approach in case of companies having names with general expressions like "Industries/Enterprises", etc., without prefixing the nature of industry or enterprise. In either

...3/-
Registration of charges:

(x) This is an area where companies and the lending banks/financial institutions are finding it extremely difficult to get the charges registered in time and getting necessary certificates. In most of the cases, objections are raised by ROCs regarding the contents in Form No. 8/13/17 and this delays the matter. It has now been decided that the procedure in this regard may be changed by amending the Rules/Forms so as to make the filing of charge documents a smooth operation.

Preservation of records and weeding out:

(vii) There is huge backlog of documents pending for destruction with ROC Offices. This is an area which has been neglected by ROCs so far and has created many problems including availability of space for records. ROCs are advised to give their personal attention to this work and if necessary payment of honorarium to staff for attending to this work: beyond working hours in consultation with the Regional Director concerned.

Levy of additional fee:

(viii) The Department had earlier issued instructions in June, 1994 for streamlining and standardising the levy of additional fee in respect of companies with authorised share capital up to Rs. 1 crore in respect of delays up to six months. This liberalised procedure is working well and the standardisation is being extended to all companies, irrespective of their authorised capital and period of delay. Instructions in this regard will be issued separately.

Prospectus:

(ix) The draft prospectus is vetted by SEBI and the concerned Regional Stock Exchange. In view of this, it is not necessary for ROCs to make elaborate scrutiny of the contents of the prospectus. It is enough to ensure that the documentation in the form of consents, underwriting agreements, expert's report, material contracts etc. accompany the prospectus; the prospectus is duly signed by all the directors and the fee is paid. It has been decided that the prospectus filed be taken on record preferably on the same day or by next working day.

Registration of charges:

(x) This is an area where companies and the lending banks/financial institutions are finding it extremely difficult to get the charges registered in time and getting necessary certificates. In most of the cases, objections are raised by ROCs regarding the contents in Form No. 8/13/17 and this delays the matter. It has now been decided that the procedure in this regard may be changed by amending the Rules/Forms so as to make the filing of charge documents a smooth operation.
In almost all ROC Offices, there are large number of documents which have been passed for registration, but have neither been ledgerised nor placed in the document files.

...
Delegation of powers to ROCs:

(xvi) It has been decided to delegate powers under Section 31 of the Act to ROCs, hitherto delegated to RDs. It has also been decided that the power of ROC be enhanced from Rs.1,100 to Rs.1,11,11,11 under Section 555(7)(b) of the Act. It is also proposed to delegate the power to ROCs for change of name under Section 572 of the Act. Necessary notifications in this behalf will be issued shortly.
Harmonisation of practices:

(xvii) It is noticed that various ROCs have developed certain practices in their working over the years which has resulted in dealing with the same issue differently by different ROCs. It is desirable that there should be a common approach to such practices followed by all offices. Some of these instances are given below:

(a) **Power of Attorney:**

Power of Attorney is required for correction in the documents at the time of incorporation of companies, filing of prospectus and other documents. While in case of correction of documents, Power of Attorney is required from the signatory concerned, in case of correction to be made in the Memorandum & Articles of Association and prospectus, Power of Attorney is insisted upon from all the subscribers of the Memorandum and Articles of Association/directors who have signed the prospectus. At times, some ROCs insist for either separate power of attorney from each person or jointly executed with the stamp paper of the adequate value as if executed by the person individually. It is hereby clarified that only one power of attorney from all subscribers or directors is enough on usual value stamp in such cases. ROCs should accept the power of attorney in the manner as classified here and no objection be raised in this behalf. ROCs should also not insist for any authorisation from the Board of Directors for appointing a power of attorney or where the professionals or company's representative come over to ROC to make oral enquiry or submission on any matter.

(b) **Resignation by a Director:**

Some ROCs are insisting for a copy of the letter of resignation of a director and also require the company to produce minute book at the time of filing Form No.32. It is clarified that there is no necessity of calling for letter of resignation/minute book. In fact, the documents filed should not be held up for want of such information and the same should be taken on record. Thereafter, if considered necessary, ROC may call for the desired information-explanation as per the provisions of Section 234 of the Act.

(c) **Notice of Meeting:**

Some of the ROCs are calling for a copy of the Notice of the general meeting in which special resolution is passed, at the time of filing Form No.23. There is no such requirement under the law and such a notice need not be called, as a matter of course. However, a copy of the Explanatory statement should be insisted upon in view of the mandatory requirements of Section 192(1) of the Act.
(xviii) ROCs are requested to ensure that the posts vacant and within their administrative powers are filled up promptly. Wherever direct recruitment is involved, steps be taken well in advance so that persons are available for posting as soon as the posts fall vacant.

2. Please acknowledge receipt.

Yours faithfully,

(R.D. JOGHI)
Joint Secretary to the Govt. of India.
(Phone: 381226)

Copy forwarded for information to:

1. All Regional Directors.
3. All Chambers of Commerce and Industry.
4. Secretary, Institute of Chartered Accountants of India.
5. Secretary, Institute of Company Secretaries of India.
6. Secretary, Institute of Costs & Works Accountants of India.
7. All Officers at Headquarters.
8. Secretary, Company Law Board.
9. Senior Librarian.

(A.S. DHILLON)
Under Secretary to the Govt. of India.
(Phone: 389782)