

## **MINISTRY OF CORPORATE AFFAIRS**

### **Notification**

**New Delhi, the 24<sup>th</sup> August, 2017**

#### **Companies (Arrests in connection with Investigation by Serious Fraud Investigation Office) Rules, 2017**

**G.S.R. 1062(E).**- In exercise of the powers conferred under sub-section (1) of section 469 read with section 212 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 Companies (Arrests in connection with Investigation by Serious Fraud Investigation Office) Rules, 2017.

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

**2.** (1) Where the Director, Additional Director or Assistant Director of the Serious Fraud Investigation Office (herein after referred to as SFIO) investigating into the affairs of a company other than a Government company or foreign company has, on the basis of material in his possession, reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of any offence punishable under section 212 of the Act, he may arrest such person;

Provided that in case of an arrest being made by Additional Director or Assistant Director, the prior written approval of the Director SFIO shall be obtained.

(2) The Director SFIO shall be the competent authority for all decisions pertaining to arrest.

**3.** Where an arrest of a person is to be made in connection with a Government company or a foreign company under investigation, such arrest shall be made with prior written approval of the Central Government.

Provided that the intimation of such arrest shall also be given to the Managing Director or the person in-charge of the affairs of the Government Company and where the person arrested is the Managing Director or person in-charge of the Government Company, to the Secretary of the administrative ministry concerned, by the arresting officer.

**4.** The Director, Additional Director or Assistant Director, while exercising powers under sub-section (8) of section 212 of the Act, shall sign the arrest order together with personal search memo in the Form appended to these rules and shall serve it on the arrestee and obtain written acknowledgement of service.

**5.** The Director, Additional Director or Assistant Director shall forward a copy of the arrest order along with the material in his possession and all the other documents including personal search memo to the office of Director, SFIO in a sealed envelope with a forwarding letter after signing on each page of these documents, so as to reach the office of the Director, SFIO within twenty four hours through the quickest possible means.

6. An arrest register shall be maintained in the office of Director, SFIO and the Director or any officer nominated by Director shall ensure that entries with regard to particulars of the arrestee, date and time of arrest and other relevant information pertaining to the arrest are made in the arrest register in respect of all arrests made by the arresting officers.

7. The entry regarding arrest of the person and information given to such person shall be made in the arrest register immediately on receipt of the documents as specified under rule 5 in the arrest register maintained by the SFIO office.

8. The office of Director, SFIO shall preserve the copy of arrest order together with supporting materials for a period of five years

a) from the date of judgment or final order of the Trial Court, in cases where the said judgment has not been impugned in the appellate court; or

b) from the date of disposal of the matter before the final appellate court, in cases where the said judgment or final order has been impugned, whichever is later.

9. The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to arrest shall be applied mutatis mutandis to every arrest made under this Act.

## FORM

### ARREST ORDER

(see rule 4 and 5 of the Companies (Arrests in connection with Investigation by Serious Fraud Investigation Office) Rules, 2017)

Whereas, I.....Director/Additional Director/Assistant Director authorised in this behalf by the Central Government, have reason to believe that .....[name of the person arrested] resident of..... has been guilty of an offence punishable under the provisions of the Companies Act, 2013 (18 of 2013).

Now, THEREFORE, in exercise of the powers conferred on me under section 212 of the Companies Act, 2013 (18 of 2013), I hereby arrest the said.....[name of the person arrested] at.....hours on .....and he has been informed of the grounds for such arrest.

PARTICULARS OF ARREST MADE		
1	SFIO Office at	
2	MCA order for investigation No. and 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 marks 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 and Telephone No. of person whom intimation of arrest is to be conveyed	
14	Name and Designation of the Officer making the arrest	
15	Grounds of arrest along with sections under which arrested.	
(Signature of arrestee)/(thumb impression)		
Witnessed by:		
1.		Arrested by
2.		(Signature of arresting officer with name and designation)

To,

.....

.....

[Name and complete address of the Person arrested]

PERSONAL SEARCH MEMO		
1	SFIO Office at	
2	RoC Office at	
3	Ministry of Corporate Affairs order for investigation No. and Date	
4	Title of the case	
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.		
1.....		
2.....		
3.....		
(Signature of Arrestee)		
Witnessed by:		
1.		Seized by
2.		(-----)
		(Signature of arresting Officer with name, designation and date)

**[F. No. 1/12/2013 CL-V]**

**AMARDEEP SINGH BHATIA, Jt. Secy.**