

Companies (Incorporation) Rules, 2014

One Person Company

They shall come into force on the 1st day of April, 2014.

Rule 3. One Person Company.-

(1) Only a **natural person** who is **an Indian citizen** and **resident in India-**

(a) shall be eligible to incorporate a **One Person Company**;

(b) **shall be a nominee for the sole member of a One Person Company.**

"Resident in India" means a person who has stayed in India for a period of not less than one hundred and eighty two days during the immediately preceding one calendar year.

(2) **No person shall be eligible to incorporate more than a One Person Company or become nominee in more than one such company.**

(3) Where a natural person, being member in One Person Company in accordance with this rule **becomes a member in another such Company by virtue of his being a nominee** in that One Person Company, **such person shall meet the eligibility criteria specified in sub rule (2) within a period of one hundred and eighty days.**

(4) **No minor shall become member or nominee of the One Person Company or can hold share with beneficial interest.**

(5) Such Company **cannot be incorporated or converted into a company under section 8** of the Act.

(6) Such Company cannot carry out Non-Banking Financial Investment activities including investment in securities of anybody corporate.

(7) No such company can convert voluntarily into any kind of company **unless two years have expired from the date of incorporation of One Person Company,**

Except

Threshold limit (paid up share capital) is increased beyond fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees.

4. Nomination by the subscriber or member of One Person Company.-

For the purposes of first proviso to sub-section (1) of section 3-

- (1) The subscriber to the memorandum of a One Person Company **shall nominate a person, after obtaining prior written consent of such person**, who shall, in the event of the subscriber's death or his incapacity to contract, become the member of that One Person Company.
- (2) The name of the person nominated under sub-rule (1) shall be mentioned in the memorandum of One Person Company and **such** nomination in Form No **INC.2** along with consent of such nominee obtained in Form No **INC.3** and fee as provided in the **Companies (Registration offices and fees) Rules, 2014** shall be filed with the Registrar at the time of incorporation of the company along with its memorandum and articles.
- (3) The person nominated by the member of a One Person Company may, withdraw his consent by giving a notice in writing to such sole member and to the One Person Company.

Provided that the sole member shall nominate another person as nominee within **fifteen days** of the receipt of the notice of withdrawal

and shall send an intimation of such nomination in writing to the Company, along with the written consent of such other person so nominated in **Form No.INC.3**.

- (4) The company shall within thirty days of receipt of the notice of withdrawal of consent under sub-rule (3) file with the Registrar, a notice of such withdrawal of consent and the intimation of the name of another person nominated by the sole member in **Form No INC.4** along with fee as provided in the **Companies (Registration offices and fees) Rules, 2014**

and the written consent of such another person so nominated in **Form No.INC.3**.

- (5) The subscriber or member of a One Person Company may, by intimation in writing to the company, change the name of the person nominated by him at any time for any reason including in case of death or incapacity to contract of nominee and nominate another person after obtaining the prior consent of such another person in Form No **INC.3**:

Provided that the company shall, on the receipt of such intimation, file with the Registrar, a notice of such change in Form No **INC.4** along with fee as provided in the **Companies (Registration offices and fees) Rules, 2014** and with the written consent of the new nominee in Form No.**INC.3** within thirty days of receipt of intimation of the change.

- (6) Where the sole member of One Person Company ceases to be the member in the event of death or incapacity to contract and his nominee becomes the member of such One Person Company, such new member shall nominate **within fifteen days of becoming member**, a person who shall in the event of his death or his incapacity to contract become the member of such company,

and the company shall file with the Registrar an intimation of such cessation and nomination in Form No **INC.4** along with the fee as provided in the **Companies (Registration offices and fees) Rules, 2014** within thirty days of the change in membership and with the prior written consent of the person so nominated in Form No.**INC.3**.

6. One Person Company to convert itself into a public company or a private company in certain cases.-

- (1) Where the paid up share capital of an One Person Company exceeds fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees, it shall cease to be entitled to continue as a One Person Company.
- (2) Such One Person Company shall be required to convert itself, within six months of the date on which its paid up share capital is increased beyond fifty lakh rupees or the last day of the relevant period during which its average annual turnover exceeds two crore rupees as the case may be, into either a private company with minimum of two members and two directors or a public company with at least of seven members and three directors in accordance with the provisions of section 18 of the Act.

- (3) The One Person Company shall alter its memorandum and articles by passing a resolution in accordance with sub- section (3) of section 122 of the Act to give effect to the conversion and to make necessary changes incidental thereto.
- (4) The One Person Company shall within period of **sixty days** from the date of applicability of sub-rule (1), give a notice to the Registrar in **Form No.INC.5** informing that it has ceased to be a One Person Company and that it is now required to convert itself into a private company or a public company by virtue of its paid up share capital or average annual turnover, having exceeded the threshold limit laid down in sub-rule (1).
- (5) If One Person Company or any officer of the One Person Company contravenes the provisions of these rules, One Person Company or any officer of the One Person Company shall be punishable with fine which may extend to **ten thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first during which such contravention continues.**

Conversion of private company into One Person Company

- (1) A private company **other than a company registered under section 8** of the Act having paid up share capital of fifty lakhs rupees or less or average annual turnover during the relevant period is two crore rupees or less may convert itself into one person company by passing a special resolution in the general meeting.
- (2) Before passing such resolution, the company shall obtain No objection in writing from members and creditors.
- (3) The one person company shall file copy of the special resolution with the Registrar of Companies within thirty days from the date of passing such resolution in **Form No. MGT.14**.
- (4) The company shall file an application in **Form No.INC.6** for its conversion into **One Person Company** along with fees as provided in in the **Companies (Registration offices and fees) Rules, 2014**, by attaching the following documents, namely:-
- (i) The directors of the company shall give a declaration by way of affidavit duly sworn in confirming that all members and creditors of the company have given their consent for conversion, the paid up share capital company is fifty lakhs rupees or less or average annual turnover is less than two crores rupees, as the case may be;
 - (ii) the list of members and list of creditors;
 - (iii) the latest Audited Balance Sheet and the Profit and Loss Account; and
 - (iv) the copy of No Objection letter of secured creditors.
- (5) On being satisfied and complied with requirements stated herein the Registrar shall issue the Certificate.