

SONIYA0454.
WORDPRESS.
COM

COMPANY FORMATION IN INDIA

PROCEDURE FOR INCORPORATION OF PRIVATE LIMITED COMPANY

S.N.	PROCESS	RELEVANT FORMS	ATTACHMENT	FORM DIGITALLY VERIFIED BY
1	APPLY FOR DSC OF EACH DIRECTOR FROM AUTHORIZED DSC ISSUING AUTHORITY	DSC FORM	I. SELF ATTESTED PAN CARD – ID (COMPULSORY) II. SELF ATTESTED ADDRESS PROOF III. PASSPORT SIZE PHOTO - 1	
2	OBTAIN DIN	DIR3	i. SELF ATTESTED PAN CARD - ID PROOF(COMPULSORY) ii. PASSPORT SIZE PHOTO – 1 iii. SELF ATTESTED ADDRESS PROOF	DIGITALLY SIGNED BY BOTH APPLICANT AND PROFESSIONAL (CA/CS/CWA)

PROCEDURE FOR INCORPORATION OF PRIVATE LIMITED COMPANY				
S.N.	PROCESS	RELEVANT FORMS	ATTACHMENT	FORM DIGITALLY VERIFIED BY
3	APPLY FOR NAME APPROVAL	INC -1	1. NOC NEEDED FROM PROPRIETOR IF PROPRIETORSHIP IS CONVERTED TO COMPANY OR NOC FROM EACH PARTNER IF PARTNERSHIP FIRM IS CONVERTED TO COMPANY (VERIFIED BY THE NOTARY) 2. LATEST BALANCE SHEET & PROFIT / LOSS ACCOUNT OF PROPRIETORSHIP / PARTNERSHIP BUSINESS	DIGITALLY SIGNED BY ANY ONE DIRECTOR
4	DRAFTING OF MOA	MOA SHALL BE IN RESPECTIVE FORMS AS PRESCRIBED IN TABLE A , B , C , D , E OF SCHEDULE - I		
5	DRAFTING OF AOA	AOA SHALL BE IN RESPECTIVE FORM AS PRESCRIBED IN TABLE F, G , H , I AND J OF SCHEDULE - I		

PROCEDURE FOR INCORPORATION OF PRIVATE LIMITED COMPANY

S.N.	PROCESS	RELEVANT FORMS	ATTACHMENT	FORM DIGITALLY VERIFIED BY
6	APPLICATION FOR INCORPORATION OF COMPANIES WITHIN WHOSE JURISDICTION THE REGISTERED OFFICE OF THE COMPANY IS PROPOSED TO BE SITUATED	INC - 7	INC 8 - Declaration by professionals (CA/CS/CWA)(verified by the notary with court fee (20*5)) INC 9 - Affidavit from Subscribers and First Directors (On stamp paper) (verified by the notary) INC 10 - Specimen signature and Photo (verified by the notary with court fee (20*5)) - MOA (along with Subscriber sheet) - AOA (along with Subscriber sheet) - Proof of Identity for each subscriber : PAN Card (mandatory) and any one of the following : - Voter's identity card - Passport copy - Driving License copy - Residential proof for each subscriber: such as Bank Statement, Electricity Bill, Telephone / Mobile Bill not more than two	DIGITALLY SIGNED BY BOTH APPLICANT AND PROFESSIONAL (CA/CS/CWA)

PROCEDURE FOR INCORPORATION OF PRIVATE LIMITED COMPANY

S.N.	PROCESS	RELEVANT FORMS	ATTACHMENT	FORM DIGITALLY VERIFIED BY
7	REGISTERED OFFICE OF COMPANY	INC - 22	1. Proof Of Evidence Of Any Utility Service (Like Electricity bill, telephone bill etc) (Not older than 2 month) 2. Authorization / NOC from owner along with proof of ownership 3.Registration document / Notarized copy of lease or rent agreement and copy of rent paid receipt not older than 1 month	DIGITALLY SIGNED BY BOTH APPLICANT AND PROFESSIONAL (CA/CS/CWA)
8	APPOINTMENT OF DIRECTOR	DIR - 12	1. DIR 2 + declaration (verified by the notary with court fee ((20*5)) 2. INC 10 3. INC 9 4. DIR 8-Declaration of non disqualification 5. MBP-1 - Disclosure of Interest in other entities	DIGITALLY SIGNED BY BOTH APPLICANT AND PROFESSIONAL (CA/CS/CWA)

NEW INTEGRATED E- FORM INC 29

Methods of Incorporation of a company
e-form INC-29 or
earlier route - INC-1, INC-7, DIR-12 and INC-22

SOME KEY POINTS RELATED TO INC-29

- ❖ MCA has introduced a new integrated e-form INC-29 with effect from 1st May 2015.
- ❖ INC-29 will provide applicants a facility to avail of the following services through a single e-form:
 1. Allotment of Director Identification No. (DIN) (Max 3 Directors)
 2. Name of a Company
 3. Incorporation of a company
- ❖ SECTION-8 COMPANY CAN'T INCORPORATED BY INC-29.
- ❖ Since through INC-29, you are applying for 3 approvals i.e. Name, DIN and company registration, if any one fails all the others also fails.
- ❖ DIN for only 3 Directors can be applied at one time.
- ❖ Only 1 name is allowed. So while applying, applicant has to undertake the necessary diligence regarding the name keeping in mind the guidelines issued by MCA. In case the name applied is rejected then you have the option to re-submit it for 2 more times.
- ❖ Only 2 re-submission are allowed. In case the form is rejected, refund needs to be applied through Refund Form.
- ❖ All attachments which are required to be filed with INC-1, INC-7, INC-22, DIR-12 will also be filed with this form.
- ❖ In order to save time, it is advisable that the applicant should first apply DIN separately and then file e-form 29.

The Companies (Incorporation) Amendment Rules, 2015

**MCA has come out with amendment to Incorporation rules,
key features being:-**

- Verification of signature of promoter/director done away with. INC -10 now needs to be self attested (new format in amendment rules)
- A Private may get itself converted into OPC only if its paid up capital is less than Rs. 50 lacs AND turnover is less than Rs. 2 Crore.
- Penalty for violation rules regarding OPC halved . upto Rs. 5000 and upto Rs. 500 per day till the default continues(existing rule 5 deleted and rule 7A inserted)
- Integrated process of incorporation:- Rule 36 has been introduced for the purpose. Form INC-30 and INC-31 for model MOA & AOA introduced.

Register One Person company

BRIEF INTRODUCTION

- U/S 2(62) “**One Person Company { OPC}** means a company which **has only one member.**”
- OPC can be registered with single person, but options to have 15 Directors
- OPC to appoint nominee for the management
- Minor cannot shall become member or nominee of the One Person Company or can hold share with beneficial interest.

STEPS TO INCORPORATE ONE PERSON COMPANY (OPC)

An **One Person Company incorporation** is similar to Private Company registration, the only variation is appointment of nominee.

1. **Obtain Digital Signature Certificate [DSC]** for the proposed Director(s)
2. **Obtain Director Identification Number [DIN]** for the proposed director(s).
3. **Name reservation:** Select suitable Company Name, and make an application to the Ministry of Corporate Affairs for availability of name in Form INC-1
4. **Draft Memorandum of Association and Articles of Association [MOA & AOA]**
5. **Incorporate OPC:** After name approval, Sign and file various documents including MOA & AOA + consent of nominee obtained in Form No INC.3 with the Registrar of Companies electronically in form **INC-2** within 60 days of filing form INC-1.
6. **Form DIR-12** shall be filed along with (linked) form INC-2 except when promoter is the sole director of the OPC.
7. **Stamp duty on eForm INC-2**, Memorandum of Association (MoA) and Articles of Association (AoA) can be paid electronically through the MCA portal.
8. **The company shall file form INC-22** within 30 days once form INC-2 is registered in case the address of correspondence and registered office address are not same.

INCORPORATION OF SECTION 8 COMPANY

BRIEF INTRODUCTION

- ❑ In India, a non-profit organisation can be registered as Trust by executing a Trust deed or as a Society under the Registrar of Societies, or as a private limited non profit company u/s 8 Company under the [Companies Act, 2013](#).
- ❑ **One Person Company cannot be a Sec 8 Company (Rule 3(5))**
- ❑ Section 8 company can be established for “promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object”, provided it “intends to apply its profits, if any, or other income in promoting its objects” and “intends to prohibit the payment of any dividend to its members.”
- ❑ To register a section 8 company in India, the process is similar to the incorporation of other companies (except an additional license is required).

INCORPORATION OF SECTION 8 COMPANY

BRIEF INTRODUCTION

- ❑ In India, a non-profit organisation can be registered as Trust by executing a Trust deed or as a Society under the Registrar of Societies, or as a private limited non profit company u/s 8 Company under the [Companies Act, 2013](#).
- ❑ **One Person Company cannot be a Sec 8 Company (Rule 3(5))**
- ❑ Section 8 company can be established for “promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object”, provided it “intends to apply its profits, if any, or other income in promoting its objects” and “intends to prohibit the payment of any dividend to its members.”
- ❑ To register a section 8 company in India, the process is similar to the incorporation of other companies (except an additional license is required).

Register One Person company

BRIEF INTRODUCTION

- U/S 2(62) “**One Person Company { OPC}** means a company which **has only one member.**”
- OPC can be registered with single person, but options to have 15 Directors
- OPC to appoint nominee for the management
- Minor cannot shall become member or nominee of the One Person Company or can hold share with beneficial interest.

STEPS TO INCORPORATE ONE PERSON COMPANY (OPC)

A **One Person Company incorporation** is similar to Private Company registration, the only variation is appointment of nominee.

1. **Obtain Digital Signature Certificate [DSC]** for the proposed Director(s)
2. **Obtain Director Identification Number [DIN]** for the proposed director(s).
3. **Name reservation:** Select suitable Company Name, and make an application to the Ministry of Corporate Affairs for availability of name in Form INC-1
4. **Draft Memorandum of Association and Articles of Association [MOA & AOA]**
5. **Incorporate OPC:** After name approval, Sign and file various documents including MOA & AOA + consent of nominee obtained in Form No INC.3 with the Registrar of Companies electronically in form **INC-2** within 60 days of filing form INC-1.
6. **Form DIR-12** shall be filed along with (linked) form INC-2 except when promoter is the sole director of the OPC.
7. **Stamp duty on eForm INC-2**, Memorandum of Association (MoA) and Articles of Association (AoA) can be paid electronically through the MCA portal.
8. **The company shall file form INC-22** within 30 days once form INC-2 is registered in case the address of correspondence and registered office address are not same.

INCORPORATION OF SECTION 8 COMPANY

BRIEF INTRODUCTION

- ❑ In India, a non-profit organisation can be registered as Trust by executing a Trust deed or as a Society under the Registrar of Societies, or as a private limited non profit company u/s 8 Company under the [Companies Act, 2013](#).
- ❑ **One Person Company cannot be a Sec 8 Company (Rule 3(5))**
- ❑ Section 8 company can be established for “promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object”, provided it “intends to apply its profits, if any, or other income in promoting its objects” and “intends to prohibit the payment of any dividend to its members.”
- ❑ To register a section 8 company in India, the process is similar to the incorporation of other companies (except an additional license is required).

STEPS TO INCORPORATE SECTION 8 COMPANY

PROCEDURE FOR THE INCORPORATION OF SECTION 8 COMPANY:

1. **Obtain Digital Signature Certificate [DSC]** for the proposed Director(s)
2. **Obtain Director Identification Number [DIN]** for the proposed director(s).
3. **Name reservation:** Select suitable Company Name, and make an application to the Ministry of Corporate Affairs for availability of name in Form INC-1
4. **MAKE APPLICATION FOR LICENSE OF SECTION -8 COMPANY :** To incorporate a new company under section 8, an application shall be made in **Form No. RD -1** And application shall be accompanied with following documents:
 - ✓ **Application in Form INC 12 (Manually filled up and signed)**
 - ✓ **Draft Memorandum and Articles of association of the Company, in Form no. 13;**
 - ✓ **Declaration (in Form no. INC.14)** by an Advocate, a Chartered Accountant, Cost Accountant or Company Secretary in practice, that the draft memorandum and articles of association have been drawn up in conformity with the provisions of section 8 and rules made there under and all the requirements under section 8 have been complied with;
 - ✓ **an estimate of the future annual income and expenditure** of the company for next three years, specifying the sources of the income and the objects of the expenditure; and
 - ✓ **A declaration (in Form no. INC.15)** by each of the persons (Proposed Directors/ Promoters) making the application.
 - ✓ **A statement specifying briefly the grounds on which the application is made**
5. Form INC – 7 along with INC – 22 and DIR – 12 to be filed online after MOA and AOA are drafted.
6. If the E Forms are found to be in order and gets approved by ROC grant the Certificate of Incorporation.

THE COMPANIES (AMENDMENT) ACT, 2015

FEATURES OF COMPANIES (AMENDMENT) ACT, 2015 WITH RESPECT TO INCORPORATION

- **Elimination of minimum paid up share capital requirement** - In case of Private and Public company now there is no requirement of minimum paid up capital [amendment in clauses (68), (71) of section 2 and section 11]
- **Common seal now make optional** - Common seal is now optional, and consequential changes for authorisation for execution of certain documents.[Amendment in sections 9, 12, 22, 46 and 223]
- Section 11 pertaining to Commencement of Business Certificate to be omitted.