DETAILED CHECKLIST FOR CLOSURE OF COMPANY U/S 248(2)

I. INTRODUCTION

Section 248 states the Powers of Registrar to remove the names of the Companies from the ROC *(Register of Companies)* either voluntarily or on an application made by the Company.

II. PROVISIONS IN DETAIL

AS IN THE ACT

248. *(1) Where the Registrar has reasonable cause to believe that—*

(a) a company has failed to commence its business within one year of its incorporation; [or]

(b) [84][***]

(c) a company is not carrying on any business or operation for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company under section 455,

he shall send a notice to the company and all the directors of the company, of his intention to remove the name of the company from the register of companies and requesting them to send their representations along with copies of the relevant documents, if any, within a period of thirty days from the date of the notice.

(2) Without prejudice to the provisions of sub-section (1), a company may, after extinguishing all its liabilities, by a special resolution or consent of seventy-five per cent members in terms of paid-up share capital, file an application in the prescribed manner to the Registrar for removing the name of the company from the register of companies on all or any of the grounds specified in sub-section (1) and the Registrar shall, on receipt of such application, cause a public notice to be issued in the prescribed manner:

Provided *that in the case of a company regulated under a special Act, approval of the regulatory body constituted or established under that Act shall also be obtained and enclosed with the*

Closure on Application by the Company:

As described u/s 248(2),

A company may, after extinguishing all its liabilities,

i. by a **special resolution**

or

ii. on obtaining consent of 75% of the members in terms of paid-up share capital,

shall file an application in **Form STK-2** to the Registrar for removing the name of the company from the register of companies on all or any of the grounds specified in section 248(1)* and the Registrar shall issue a public notice.

***Section 248(1) :**

Where the Registrar has reasonable cause to believe that—

- ✓ Company has failed to commence its business within one year of its incorporation.

or

- ✓ Company is not carrying on any business or operation for a period of 2 immediately preceding financial years and has not made any application within such period for obtaining status of a dormant company u/s 455.

NOTE:

If a Company is regulated under a special Act, approval of the regulatory body constituted or established under that act shall also be obtained and enclosed with the application.

III. PROCEDURE:

The following is the procedure for closure of a Company u/s 248 (2)

Type of work	Purpose	Documents / Information required
1. STK-2	Form prescribed u/s 248(2)	On filling the CIN in the form,

		System will automatically display the name, address of the registered office of the company, email id and date of incorporation of the company. In case there is any change in the email ID, enter the new valid email ID.
2. Attachments		**i**.Indemnity bond duly notarized by every director in **Form STK 3**; **ii**. **A statement of accounts containing assets and liabilities of the company** made up to a day, not more than thirty days before the date of application and certified by a Chartered Accountant; **iii.** An affidavit in **Form STK 4** by every director of the company; **iv. A copy of the special resolution** duly certified by each of the directors of the company or consent of seventy five per cent of the members of the company in terms of paid up share capital as on the date of application; **v.** A statement regarding **pending litigations**, if any, involving the company

OVERVIEW

ADDITIONAL POINTS

1. This provision is not applicable in respect of Section 8 companies
2. If a Company is regulated under a special Act, approval of such regulatory body shall also be obtained and enclosed with the application.
3. ***Required documents*** are
    - Indemnity Bond
    - Affidavit
    - Statement of Accounts