

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i)]

Government of India
MINISTRY OF CORPORATE AFFAIRS

Notification

New Delhi, 1st October, 2016

G.S.R.(E).— In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Incorporation) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Incorporation) fourth Amendment Rules, 2016.

(2) Save as otherwise provided, these rules shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Incorporation) Rules, 2014 (hereinafter referred to as the principal rules), in rule 33, for sub-rule (2), the following shall be substituted, namely:-

“(2) subject to the provision of sub-rule (1), for effecting the conversion of a public company into a private company, a copy of order of the Tribunal approving the alteration, shall be filed with the Registrar in Form No.INC-27 with fee together with the printed copy of altered articles within fifteen days from the date of receipt of the order from the Tribunal”.

3. In the principal rules, after rule 37, the following rule shall be inserted, with effect from 2nd October 2016, namely:-

“38. Simplified Proforma for Incorporating Company Electronically (SPICE)

(1) The simplified integrated process for incorporation of a company in Form No. INC-32 alongwith e-Memorandum of Association in Form No. INC-33 and e-Articles of Association in Form No. INC-34.

(2) The provisions of sub-rule (2) to sub-rule (13) of rule 36 shall apply *mutatis mutandis* for incorporation under this rule.

Provided that for the purposes of references to form numbers INC-29, INC-30 and INC-31 in rule 36 with Form No. INC-32, Form no. INC-33 and Form No. INC-34 shall be substituted respectively.

4. In the principal rules, after rule 38 as so inserted these rules, the following rule shall be inserted with effect from **1st November, 2016**, namely:-

"39. Conversion of a company limited by guarantee into a company limited by shares (1) A company other than a company registered under section 25 of the Companies Act, 1956 or section 8 of the Companies Act, 2013 may convert itself into a company limited by shares.

(2) The company seeking conversion shall have a share capital equivalent to the guarantee amount.

(3) A special resolution is passed by its members authorising such a conversion omitting the guarantee clause in its Memorandum of Association and altering the Articles of Association to provide for the articles as are applicable for a company limited by shares.

(4) A copy of the special resolution shall be filed with the Registrar of Companies in Form no. MGT-14 within thirty days from the date of passing of the same along with fee as prescribed in the Companies (Registration Offices and Fees) Rules, 2014.

(5) An application in Form No. INC-27 shall be filed with the Registrar of Companies within thirty days from date of the passing of the special resolution enclosing the altered Memorandum of Association and altered Articles of Association and a list of members with the number of shares held aggregating to a minimum paid up capital which is equivalent to the amount of guarantee hither to provided by its members.

(6) The Registrar of Companies shall take a decision on the application filed under these rules within thirty days from the date of receipt of application complete in all respects and upon approval of Form No. INC-27, the company shall be issued with a certificate of incorporation in Form No. INC-11B."

5. In the principle rules, after the Form No. INC-11A, the following form shall be inserted, namely:-

“Form No. INC-11B

Certificate of Incorporation pursuant to conversion of a company limited by guarantee into a company limited by shares

[Pursuant to section 18 of the Companies Act, 2013 read with rule 39 of the Companies (Incorporation) Rules, 2014]

I hereby certify that.....(name of the company prior to conversion) limited by guarantee has been converted into.....(name of the company after conversion) a company limited by shares with effect from the date of this certificate.

The CIN of the company is.....

Given under my hand at..... this..... day of..... two thousand.....

SEAL:

.....
Registrar of Companies
.....
(State).”

6. In the principle rules for Form No. INC-27, the following form shall be substituted, namely:-

"FORM NO. INC-27

[Pursuant to sections 14 and 18 of the Companies Act, 2013 and Rule 33, Rule 37 and Rule 39 made there under of the Companies Rules, 2013]



Conversion of public company into private company or private company into public company and Conversion of Unlimited Liability Company into a Company Limited by shares or guarantee or conversion of guarantee company into a company limited by shares

Form language English Hindi
Refer the instruction kit for filing the form.

1. *Application for Conversion of private company into public company
 Conversion of public company into private company
 Conversion of Unlimited Liability Company into Company Limited by shares or guarantee
 Conversion of company limited by guarantee into a company limited by shares

Pre-fill

2. *(a) Corporate Identity number(CIN) of company

(b) Global Location Number

3. (a) Name of the Company

(b) Address of registered office

(c) email Id of the company

4. *Reason(s) for conversion

*Particulars of filing Form No. MGT-14 with Registrar of Companies (RoC)

(a) SRN of Form No. MGT-14

(b) Date of passing the special resolution (DD/MM/YYYY)

(c) Date of filing Form No. MGT-14 /MM/YYYY

5. *Particulars of the order of Tribunal

(a) Date of passing the order

(b) Date of receiving the order

6. *Name of the company at the time of incorporation (to be displayed in the certificate)

7. (a) Details of members present at the meeting where the decision of conversion was taken and number of shares held by them

(i) *Number of members

(ii) Number of shares held by them

(iii) Total amount of guarantee

(b) Details of the members who voted in favour of the proposal and number of shares held by them

(i) *Number of members

(ii) Number of shares held by them

(c) Details of the members who voted against the proposal and number of shares held by them

(i) *Number of members

(ii) Number of shares held by them

(d) Details of members who abstained from voting and number of shares held by them

(i) *Number of members

(ii) Number of shares held by them

Attachments

List of attachments

1. *Minutes of the members' meeting;

2. * Copy of altered Memorandum
Articles of Association;

3. Order for condonation of delay if any;

4. *Copy of special resolution;

5. *Copy of newspaper publication;

6. Order of Tribunal;

7. *Declaration of all Directors
as per Rule 37(3)(e) ;

Attach

8. *Declaration of Directors
As per Rule 37(3)(g);

Attach

9. *Complete list of creditors and
debentures holders;

Attach

10.*Declaration of Solvency;

Attach

11.*Declaration regarding no complaints
As per Rule 37(4)

Attach

12.* A copy of Statutory Auditors Certificate

Attach

13.Optional attachment(s) (if any)

Declaration

To the best of my knowledge and belief, the information given in this application and its attachments are correct and complete. The company has obtained all the mandatory approvals wherever applicable from the concerned authorities, departments and substantial creditors. I have been authorized by the board of directors' resolution number

* (DD/MM/YYYY) to sign and submit this application.

To be digitally signed by

DSC BOX

*Designation

*Director identification number of the director; or
DIN or PAN of the manager or CEO or CFO; or
Membership number of Company secretary

Note: Attention is drawn to provisions of Section 448 and 449 of the Companies Act, 2013 which provide for punishment for false statement / certificate and punishment for false evidence respectively.

Check Form

Prescrutiny

For office use only:

eForm Service request number (SRN)

eForm filing date (DD/MM/YYYY)

Digital signature of the authorising officer

This e-Form is hereby approved

Remove Attachment

This e-Form is hereby rejected

Date of signing

(DD/MM/YYYY)

7. in the principle rules, after Form no. INC-31, the following shall be inserted, namely:-

[Pursuant to sections 4, 7, 12, 152 and 153 of the Companies Act, 2013 read with rules made thereunder] – **FORM NO. INC-32**

SPICE

(Simplified Proforma for Incorporating Company Electronically)

Form language English Hindi

Refer the instruction kit for filing the form.

1. (a) *State the type of company
- (b) *State the class of company Public Private One Person Company
- (c) *State the category of company
- (d) *State the sub-category of company
- (e) *Company is Having share capital Not having share capital
- (f) Section 8 license number

2. (a) *Main division of industrial activity of the company

Description of the main division

- (b) Whether Articles of Association is entrenched Yes No

Number of Articles to which provisions of entrenchment shall be applicable

Details of such articles

Sr. No.	Article Number	Short description on entrenchment of the clause

3. (i) *Capital structure of the company

Total authorized share capital (in Rupees)

Authorized share capital	Equity	Preference	Unidentified
Number of shares			
Nominal amount per share (in Rupees)			
Total amount (in Rupees)			

Total subscribed share capital (in Rupees)

Subscribed share capital	Equity	Preference
Number of shares		
Nominal amount per share (in Rupees)		
Total amount (in Rupees)		

- (ii) *Details of number of members

(a) Enter the maximum number of members	
(b) Maximum number of members excluding proposed employees	
(c) Number of members	
(d) Number of members excluding proposed employee(s)	

4. (a) *Correspondence address

*Line I	<input type="text"/>
Line II	<input type="text"/>
*City	<input type="text"/>

*State/Union Territory * Pin code

*District

*Phone (with STD code) -

Fax

*email ID of the company

(b) *Whether the address for correspondence is the address of registered office of the company Yes No

(c) *Name of the office of the Registrar of Companies in which the proposed company is to be registered

5. *Particulars of the proposed or approved name

(a)(i) *Whether name is already approved by Registrar of Companies Yes No

SRN of form INC-1	<input type="text"/>	Pre-Fill	<input type="text"/>
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(ii)

Proposed or approved name	<input type="text"/>
Significance of abbreviated or coined word in the proposed name	<input type="text"/>
State the name of the vernacular language(s) if used in the proposed name and meaning thereof	<input type="text"/>

(b)

(i) *Whether the promoters are carrying on any Partnership firm, sole proprietary or unregistered entity in the name as applied for If yes, whether the business of such entity shall be acquired	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No
(ii) *Whether the proposed name including the phrase 'Electoral trust'	<input type="radio"/> Yes <input type="radio"/> No
(iii) *Whether the proposed name(s) contain such word or expression for which the previous approval of Central Government is required	<input type="radio"/> Yes <input type="radio"/> No
(iv) *Whether approval from any sectoral regulator is required	<input type="radio"/> Yes <input type="radio"/> No
(v) Whether the name is similar to <input type="radio"/> Existing Indian Company <input type="radio"/> Foreign body corporate [Attach the copy of No Objection Certificate by way of Board resolution (duly attested by a director of that company)] Provide CIN <input type="text"/> Pre-fill <input type="text"/> Name of the Company <input type="text"/>	

(c) (i) *Whether the proposed name is based on a trademark registered or is subject matter of an application pending for registration under the Trade Marks Act Yes No

(ii) *Specify the class(s) of trade mark (refer the instruction kit for details)

(iii) *Furnish the particulars of application and the approval of the applicant or owner of the trade mark

6. (a) *Number of first subscriber(s) to MOA and directors of the company

<input type="text"/>	Having valid DIN	<input type="text"/>	Not having valid DIN	<input type="text"/>
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