

## \* CH.6. Procedure for conversion of business entities \*

### \* CONVERSION OF PVT. COMPANY to PUBLIC COMPANY

- Benefits :-
  - Freely transferability of shares
  - Greater reliability.
  - Raising of capital from large group
  - Listing of shares at stock exchange.
  - Future expansion.

#### • Procedure :-

1. Convene a Board meeting



2. Issue notice of Extra-ordinary general meeting (EOGM) to all members, directors & auditors



3. Hold (EOGM) & pass special resolution



4. file copy of Special resolution & form MGT-14 within 30 days to Registrar



5. Make an application to ROC in form INC-27



6. Obtain fresh Certificate of Incorporation from ROC

## \* CONVERSION OF PUBLIC COMPANY TO PVT. COMPANY

### • Procedure :-

1. Hold Board Meeting  
↓
2. Issue notice of General meeting  
↓
3. Hold General Meeting  
↓
4. file copy of Special resolution & form MGT-14 within 30 days to Registrar.  
↓
5. Publication of an Advertisement in 21 days  
↓
6. file application with Regional Director for conversion of Public company into Pvt. company  
↓ (Form RD-1)
7. Approval of application for conversion by regional director / seeking of further information, if required by Regional Director  
↓
8. file e-form INC-28 with ROC  
↓
9. file e-form INC-27 with ROC  
↓
10. Registrar will issue fresh certificate of Incorporation

- Benefits :
  - Less compliances
  - Better Control
  - few members
  - Appointment of Independent director is not mandatory

- At the time of conversion company has to make several alterations they are given below :-

1) change of name.

2) Alteration of MOA.

3) Alteration of AOA.

4) New certificate of incorporation

5) Alteration of letter head, book & papers.

### \* CONVERSION OF COMPANY TO LLP

1. Board meeting pass board resolution & General meeting special resolution with form MGT-14

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2. File 'RUN LLP' to ROC → name reserve

↓

3. ROC will Approve Name

↓

4. Draft LLP agreement it should contain

- LLP name
- Partner, Designated Partner
- Contribution
- Profit share

- Rights / Duties

- Business

↓

5. For incorporation of LLP fillip with ROC

- Registered office address

- Subscribers

- Director → Designated partners

shareholders → partners

↓

6. File form - 18 to ROC & it should contain

- Shareholders list

- Statement of Assets & liabilities, it should be verified by Auditor

↓

- List of all creditors along with their consent to conversion

- NOC from Income tax & copy of latest Income tax return

- Pending cases

- Certificate of incorporation in form - 19

↓

7. file e-form - 3 within 30 days for  
LLP Agreement

## \* CONVERSION OF OPC INTO PVT/PUBLIC COMPANY.

1. Holding of board meeting - Directors will pass a board resolution & will fix a date, time & place for calling general meeting.
2. Issue of notice - to authorise Company Secretary and if there is no CS, authorise any one of director to issue notice to members.
3. Holding of General meeting - In GM special resolution will be passed & form MGT-14 will be filed to ROC within 30 days of passing SR.
4. Filing of e form INC-6 along with following documents within 30 days of SR:
  - 1) Altered MOA & AOA
  - 2) Copy of special resolution.
  - 3) list of proposed members & directors
  - 4) list of creditors
  - 5) Copy of latest financial statements
  - 6) Affidavit by directors that their members & creditors have given consent for conversion.
5. Issuance of New Certificate of incorporation.  
New Certificate of incorporation will be issued in INC-25

Note: There is no actual need of general meeting as there is only one member, member will pass resolution & do the formalities

\* CONVERSION OF SEC. 8 COMPANY into ANY OTHER CO.

1. Board meeting

2. General meeting → special resolution

3. Matters to be covered on explanatory statement -

- Date of incorporation
- Objects of sec.8 company.
- Primary objects to be altered.
- Activities which will not be carried.
- Privileges, Donation, contribution, Tax.
- impact of conversion.

4. MGT-14 should be filed with Registrar.

Company shall file an application in form INC-18 with Regional Director.

5. Regional director → decision → INC-28

6. Copy of application filed with R.D shall also be filed with Registrar.

17<sup>th</sup> Aug.

\* COMPANIES AUTHORISED TO REGISTER UNDER COMPANIES ACT, 2013.

i] For purpose of part chapter 21 'company' includes any Partnership firm, LLP, Cooperative Society, Society or any other business entity formed under any other law, which applies for registration under this part.

ii] If any company formed under any Act of parliament other than companies Act or incorporated under any other law having two or more member can registered under Companies Act, 2013

Conditions -

- Companies registered under companies Act, 1882 or companies Act 1913 or companies Act 1956 cannot apply under this section for registration.

- Any company having limited liability under any law cannot register as unlimited company or limited by guarantee.

- Consent of majority is required

- If members are less than 7 then company shall be registered as private company.

- Once all formalities are done regarding registration registrar shall certify the company.

- All assets and liabilities shall vest in company incorporated under this Act.

- Any suit may be continued in same manner after registration

\* Essential pre-conditions.

- 1) All secured creditors must given consent
- 2) Publish advertisement in newspaper in english & vernacular language seeking objections
- 3) Affidavit from all members or partners that for registration they will dissolve partnership firm, LLP, cooperative society as the case may be

\* Effect of Registration [PART 21]

- 1) Company have to follow all rules & regulation as they have been formed under this Act and they are required to make AOA & MOA as per companies Act, 2013

- 2) All provision of company Act 2013 shall apply to company, members, contributeries & creditors in same manner as they are formed under this Act.

- 3) In event of company being wound up every person shall be contributory who is liable to pay any debt or liability contracted before registration

## \* SEC. 8 COMPANY → PVT. COMPANY.

- Benefits - After conversion company cannot claim any exemption or privileges.

- If any sec. 8 company is converted into Pvt. company and if before conversion company has bought any immovable property from Govt. and has to pay market price.

- When sec. 8 company is lefted some unutilized or accumulated profits & income then it shall be use for settlement of o/s dues or any amount due or creditors

- If after all settlement any amount is left, then it shall be transfer to Investor Education & Protection fund within 30 days of conversion.

## \* CONVERSION OF LLP INTO COMPANY.

### 1. Approval of Name

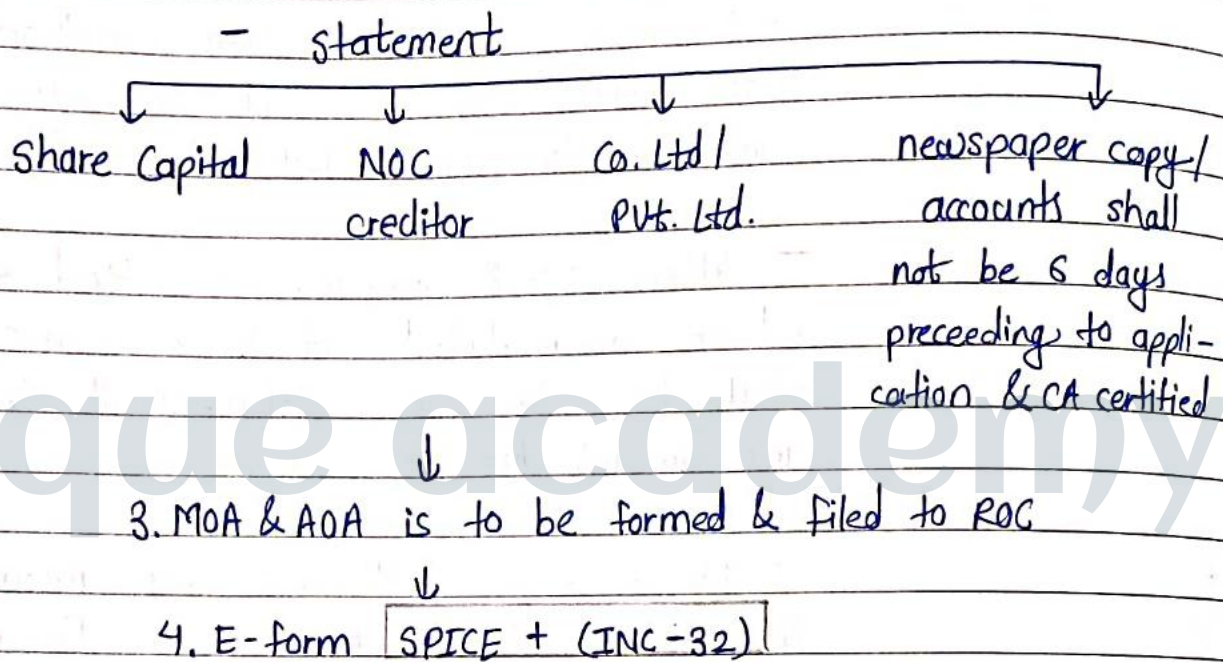
- majority of partners → approval
- Authorise any partner to execute documents
- Apply for 'RUN'
- Name will be valid for 20 days.

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### 2. File form URC - 1

- Attachments
- Members → detail

- first director → detail
- Affidavit from directors that they are not disqualified under sec. 164
- Partners name, LLP agreement, certificate of Registration.



\* CONVERSION OF PVT. COMPANY to OPC.

- Applicability :- There is no need of PSC limit.

1. Members & creditor's 'No objection' in writing form  
↓
2. Hold General meeting & Pass Special Resolution  
↓
3. File copy of SR & form MGT-14 to ROC within 30 days of passing.



4. File application to ROC in form INC-6

- Affidavit declaration by directors
- List of members & creditors.
- Balance sheet & profit and loss account → latest audited
- Copy of objection letter of ~~cred~~ secured creditors
- Altered MOA/AOA