

the case may be, by the ROC in addition to attracting penalty which may extend to **Rs.1,00,000**. Alternatively he could insist for change in name.

4. Application for incorporation of the Company shall be filed with the ROC in **Form No. INC. 2** (for OPC) and **Form No. INC.7** (other than OPC) along with following attachments.

- Declaration by professional (an advocate, a Chartered Accountant, Cost accountant or Company Secretary in practice) in **Form no. INC.8** and subscriber's affidavit in **Form No.INC.9**. A specimen signature and latest photograph of the applicants duly verified by the banker or notary shall be in **Form No.INC.10**. *This is a new requirement under the Act.*
- **Form No. DIR.12** by each person mentioned in the articles as first director of the Company indicating his interest in other firms or bodies corporate along with consent to act as director in **Form No. DIR. 2**. *This is a new requirement under the Act.*

5. Memorandum of Association (MOA) and Article of Association (AOA) drafted in terms of the Act and to reflect the proposed business as well as management and administration of the Company shall be signed by each subscriber in the presence of at least one witness in **Form No. INC. 13** accompanied by a declaration made by professional in **Form No.INC. 14**.

- *As per new Act, there is no classification required for the object clause into main objects, incidental objects, and other object in the memorandum.*
- *Where the articles contain the provisions for entrenchment, the company shall give notice to the Registrar of such provisions in **Form No.INC.7**.*
- *Format of MOA for different type of companies given in tables A to E of Schedule I and format of AOA for different types of Companies as in Table F, G, H, I and J in Schedule I.*

6. If the documents filed are found to be in order, ROC will issue a Certificate of Incorporation in **Form No.INC.11**.

7. Following additional requirements have been introduced in CA2013:

- Registered Office to be established within **15 days** from incorporation and verification of registered office shall be filed in **Form No. INC. 22**.

- A declaration in **Form No. INC. 21**. shall be filed by the director confirming the establishment of Registered Office and receipt of subscription amount indicated in MOA, only after which Company can Commence its operation and borrow money.
- If **Form No. INC.21** not filed within 180 days from the date of incorporation, ROC may remove the name of the Company from the Register of Companies.
- If any default is made, Company shall be liable to a penalty which may extend to **Rs.5,000** and every officer who is in default shall be punishable with fine which may extend to **Rs.1,000** for every day during which the default continues.

With the increased information to be provided and a number of Forms to be filed with the regulator, incorporation of a Company is no more a routine task. It has to be planned well, name properly chosen, charter documents legally drafted, initial paid up capital promptly infused by the subscribers so that business can be commenced in right earnest. It is advisable to seek professional legal guidance to ensure a smooth take-off.



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