

## 1. Who is eligible to act as a member of an OPC?

- Only a natural person who is an Indian citizen and resident in India shall be eligible to act as a member and nominee of an OPC.

For the above purpose, the term “resident in India” means a person who has stayed in India for a period of not less than one hundred and eighty-two days during the immediately preceding one financial year.

## 2. How to incorporate an OPC?

- Stakeholders can avail of 5 different services (Name Reservation, Allotment of Director Identification number (DIN), Incorporation of New Company, Allotment of PAN and Allotment of TAN) in one form by applying for Incorporation of a new company through SPICe form (INC-32) - Simplified Proforma for Incorporating Company electronically (SPICe) - with eMoA (INC-33), eAOA (INC-34). In case eMoA, eAoA are not applicable, users are required to attach the pdf attachments of MoA and AoA. There is no need for reserving a name separately before filing SPICe. One name for the proposed company can be applied through SPICe (INC-32).

### Incorporation through SPICe (With RUN)

- Name reservation: RUN service shall be used for name availability. Incorporate OPC: After name approval, form SPICe shall be filed for incorporation of the OPC within 20 days from the date of approval of RUN. The company shall file form INC-22 within 30 days once form SPICe is registered in case the address of correspondence and registered office address are not same.

## 3. How to inform RoC about change in membership of OPC?

- The company shall file form INC-4 in case of cessation of member of OPC on account of death, incapacity to contract or change in ownership. In the same form, user needs to provide details of the new member of the OPC.

## 4. Is there any threshold limits for an OPC to mandatorily get converted into either private or public company?

- In case the paid-up share capital of an OPC exceeds fifty lakh rupees or its average annual turnover of immediately preceding three consecutive financial years exceeds two crore rupees, then the OPC has to mandatorily convert itself into private or public company.

## 5. How to intimate RoC that the OPC has exceeded the threshold limits and require conversion into private or public company?

- The OPC shall inform RoC in form INC-5, if the threshold limits is exceeded and is required to be converted into private or public company.

## 6. What is the mandatory compliance that an OPC needs to observe?

- The basic mandatory compliance are:

- ✓ At least one Board Meeting in each half of calendar year and time gap between the two Board Meetings should not be less than 90 days.
- ✓ Maintenance of proper books of accounts.
- ✓ Statutory audit of Financial Statements.
- ✓ Filing of business income tax return every year before 30th September.
- ✓ Filing of Financial Statements in Form AOC-4 and ROC Annual return in Form MGT 7.
- ✓ And other event-based compliances.

**7. What is the time limit for filing form INC-5?**

 Form INC-5 shall be filed within sixty days of exceeding threshold limits.

**8. Is there any form that is to be filed for conversion of an OPC into private or public company? Is there any other purpose for filing this form?**

 Form INC-6 shall be filed by an OPC for conversion of an OPC into private or public company. Yes, the private company will also file form INC-6 for converting itself into an OPC. The paid-up share capital of private company should not be exceeding fifty lakh rupees and should not have average annual turnover more than two crore rupees at the time of such conversion into OPC. The company shall be having one member and shall appoint one nominee to act as member in case of death or incapacity of the member at the time of conversion into OPC.

**9. What is the time limit for filing form INC-6?**

 Form INC-6 shall be filed within 30 days in case of voluntary conversion and within six months of mandatory conversion.

**10. A person can be a member in how many OPCs?**

 A person can be member in only one OPC

**11. Who cannot form a One Person Company?**

 A minor shall not eligible to become a member:

- ✓ Foreign citizen
- ✓ Non-Resident
- ✓ Any person incapacitated by contract

**12. What if a member of an OPC becomes a member in another OPC by virtue of being a nominee in that other OPC?**

 Where a natural person, being member in One Person Company becomes a member in another OPC by virtue of his being a nominee in that OPC, then such person shall meet the eligibility criteria of being a member in only one OPC within a period of one hundred and eighty days, i.e., he/she shall withdraw his membership from either of the OPCs within one hundred and eighty days.

**13. Which form is to be filed in case of withdrawal of consent by the nominee of an OPC or in case of intimation of change in nominee by the member?**

- Form INC-4 shall be filed in case of withdrawal of consent by the nominee or in case of intimation of change in nominee by the member.

#### **14. How do I convert an OPC to a Private limited company?**

- Mandatory Conversion of One Person Company (OPC) to Private Limited Company (PLC) is required in case a One Person Company meets certain parameters, like:

- ✓ Effective date of increase in the paid-up share capital of a One Person Capital beyond rupees fifty lakhs, AND
- ✓ An increase of average annual turnover during the period of immediately preceding three consecutive financial years is beyond rupees two crores.

In the above case, the One Person Company shall be mandatorily required to convert itself into either a private or a public company Within a Period of Six Months. In this article, we also look at the procedure for conversion of one Person Company into a private limited company or limited company.