

**DRAFT COMPANIES (AUTHORISED TO REGISTER) SECOND AMENDMENT
RULES, 2018**

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 (Authorised to Register) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Authorised to Register) Second Amendment Rules, 2018.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Authorised to Register) Rules, 2014 (herein after referred to as the principal rules), in rule 2, in sub-rule (1), after clause (g), the following clauses shall be inserted, namely :-

(h) “society” means a society registered under the Societies Registration Act, 1860 (21 of 1860) and includes a society registered under or deemed to be registered under any other subsequent society law;

(i) “subsequent society law” means Acts relating to registration and regulation of societies in force after the repealing of the Societies Registration Act, 1860 in a State;

(j) “trust” means an irrevocable public charitable or religious trust registered under any Act, represented by its trustees, in whom the trust property is so vested, as members;

(k) “Registrar of Trusts” includes the Charity Commissioner, the Inspector-General of Registrations or such other authority registering trusts in a State;

3. In the principal rules, for rule 3, the following rule shall be substituted, namely:-

“3 (1) For the purposes of sub-section (2) of section 366 of the Act, the provision of Chapter II relating to incorporation of company and matters incidental thereto shall be applicable mutatis mutandis for such registration:

Provided that there shall be two or more members for the purposes of registration of a company under this sub-rule;

Provided further that a company with less than seven members shall register as a private company.

(2) A company shall attach the required documents and information to the Registrar along with Form No. URC. 1 in the following manner, namely:-

(a) In case of an application by a Limited Liability Partnership or a firm for registration as a company limited by shares:

(i) A list showing the names, addresses, and occupations of all persons named therein as members with details of shares held by them respectively, showing separately shares allotted for consideration in cash and for consideration other than cash along-with the source of consideration) and distinguishing, in cases where the shares are numbered, each share by its number, who on a day, not being more than six clear days before the day of seeking registration, were partners of the Limited Liability Partnership or firm as the case may be;

(ii) a list showing the particulars of persons proposed as the first directors of the company, alongwith DIN, passport number(if any) with expiry date, residential addresses and their interests in other firms or bodies corporate along with their consent to act as directors of the company;

(iii) an affidavit from each of the persons proposed as the first directors, that he is not disqualified to be a director under sub section (1) of section 164 and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;

(iv) In case of a firm, deeds of partnership, bye laws or other instrument constituting or regulating the company and in case the deed of partnership was revised at any time in the past copies of the principal and all subsequent deeds including the latest deed, along with the certificate of the registration issued by Registrar of firms, in case the firm is registered;

(v) written consent or No Objection Certificate from all the secured creditors of the applicant;

(vi) written consent from the majority of members whether present in person or by proxy at a general meeting agreeing for registration under this part;

(vii) an undertaking that the proposed directors shall comply with the requirements of Indian Stamp Act, 1899 (2 of 1899) as applicable;

(viii) a copy of latest income tax return of the Limited Liability Partnership or firm as the case may be.

(b) In case of an application by a Limited Liability Partnership or a firm for registration as a company limited by guarantee or as an unlimited company:

(i) a list showing the names, addresses and occupations of all persons, who on a day, not being more than six clear days before the day of seeking registration, were members of the company with proof of membership;

(ii) a list showing the particulars of persons proposed as the first directors of the company, alongwith DIN, passport number(if any) with expiry date, residential addresses and their interests in other firms or bodies corporate along with their consent to act as directors of the company;

(iii) an affidavit from each of the persons proposed as the first directors, that he is not disqualified to be a director under sub section (1) of section 164 and that all the documents filed with the

Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;

(iv) In case of a firm, deeds of partnership, bye laws or other instrument constituting or regulating the company and in case the deed of partnership was revised at any time in the past copies of the principal and all subsequent deeds including the latest deed, along with the certificate of the registration issued by Registrar of firms, in case the firm is registered;

(v) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount guarantee;

(vi) written consent or No Objection Certificate from all the secured creditors of the applicant;

(vii) written consent from the majority of members whether present in person or by proxy at a general meeting agreeing for registration under this part;

(viii) an undertaking that the proposed directors shall comply with the requirements of Indian Stamp Act, 1899 (2 of 1899) as applicable;

(ix) a copy of latest income tax return of the Limited Liability Partnership or firm as the case may be.

(c) In case of an application by a society for registration as a company limited by guarantee under section 8:

(i) a list showing the names, addresses and occupations of all persons, who on a day, not being more than six clear days before the day of seeking registration, were members of the company with proof of membership;

(ii) a list showing the particulars of persons proposed as the first directors of the company, alongwith DIN, passport number(if any) with expiry date, residential addresses and their interests in other firms or bodies corporate along with their consent to act as directors of the company;

(iii) an affidavit from each of the persons proposed as the first directors, that he is not disqualified to be a director under sub section (1) of section 164 and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;

(iv) a list containing the names and addresses of the members of the governing body of the society;

(v) a certified copy of the certificate of registration of the society;

(vi) written consent or No Objection Certificate from all the secured creditors of the applicant;

(vii) written consent from the majority of members whether present in person or by proxy at a general meeting agreeing for registration under this part, the said resolution should also provide for declaration of the amount of guarantee;

(viii) an undertaking that the proposed directors shall comply with the requirements of Indian Stamp Act, 1899 (2 of "1899) as applicable;

(ix) a copy of latest income tax return of the society;

(x) an undertaking by the members of the governing body that event of registration under the Act, no application for conversion into a company of any other kind under clause (ii) of sub-section (4) of section 8 shall be made till the expiry of a period of ten years from the date of incorporation under the Act.

(d) In case of an application by a trust for registration as a company limited by guarantee under section 8:

(i) a list showing the names, addresses and occupations of all persons, who on a day, not being more than six clear days before the day of seeking registration, were members of the company with proof of membership;

(ii) a list showing the particulars of persons proposed as the first directors of the company, alongwith DIN, passport number(if any) with expiry date, residential addresses and their interests in other firms or bodies corporate along with their consent to act as directors of the company;

(iii) an affidavit from each of the persons proposed as the first directors, that he is not disqualified to be a director under sub section (1) of section 164 and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;

(iv) a certified copy of the certificate of registration of the trust and the trust deed;

(v) written consent or No Objection Certificate from all the secured creditors of the applicant;

(vii) written consent from the majority of members whether present in person or by proxy at a general meeting agreeing for registration under this part, the said resolution should also provide for declaration of the amount of guarantee;

(viii) an undertaking that the proposed directors shall comply with the requirements of Indian Stamp Act, 1899 (2 of "1899) as applicable;

(ix) a copy of latest income tax return of the trust;

(x) an undertaking by the members of the trust that in the event of registration under the Act, no application for conversion into a company of any other kind under clause (ii) of sub-section (4) of section 8 shall be made till the expiry of a period of ten years from the date of incorporation under the Act.

(3) Where an application is made by the society or a trust for registration as a company limited by guarantee, it shall be proved to the satisfaction of the Registrar that the proposed company has its objects in accordance with clause (a) of sub-section (1) of section 8 and it intends to comply with the restrictions and prohibitions as mentioned respectively in clauses (b) and clause (c) of that subsection.

(4) An undertaking from all the members or partners shall be filed, providing that in the event of registration as a company under Part I of Chapter XXI of the Act, necessary documents or papers shall be submitted to the registering or other authority with which the company was earlier registered, for its dissolution.

Provided that no such undertaking is required to be submitted in case the application for registration under Part I of Chapter XXI of the Act has been made by a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009).

(5) The list of members and directors and any other particulars relating to the company which are required to be delivered to the Registrar shall be duly verified by the declaration of any two or more proposed directors.

4. (i) In rule 4 of the principal rules, in sub-rule (1), for the words “Limited Liability Partnership or the firm as the case may be is situate” the words “Limited Liability Partnership, firm, society or a trust as the case may be is situated” shall be substituted.

(ii) In rule 4 of the principal rules, in sub-rule (2), for the words “Registrar (LLP)” the “Registrar of Limited Liability Partnership, firm, society or a trust as the case may be” shall be substituted.

(iii) In rule 4 of the principal rules, in sub-rule (3), for the words “thirty days” the words “twenty five days” shall be substituted.

(iv) In rule 4 of the principal rules, in sub-rule (4), the following proviso shall be inserted, namely:-

“Provided that if an application is made by a society or trust for registration as a company limited by guarantee, before issuing the certificate of incorporation in Form No. INC.11, the Registrar shall after satisfying himself in terms of sub-rule (3) of rule 3, issue a license in Form No. 16 to allow such society or a trust to be registered to registered as a limited company without addition without the addition to its name of the word "Limited", or as the case may be, the words "Private Limited.

Provided further that a society which has not filed annual or other returns, statutorily required to be filed with the Registrar of Societies shall not be eligible to apply for incorporation under section 366 of the Act.”

5. (i) In rule 5 of the principal rules, for clause (i), the following clause shall be substituted, namely:-

“(i) where a firm or a society or a trust has obtained a certificate of registration under section 367, an intimation to this effect shall be given within fifteen days of such registration to the concerned Registrar of firms, Registrar of Trusts or the Registrar of Societies as the case may be, under which it was originally registered, along with papers for its dissolution as a firm, society or a trust as the case may be”;

(ii) In rule 5 of the principal rules, in clause (iii), after the words “Registrar of firms”, wherever they occur, the words “or the Registrar of societies or the Registrar of Trusts as the case may be” shall be inserted.

(iii) In rule 5 of the principal rules, in clause (v), for the words “Limited Liability Partnership or the firm” the words “Limited Liability Partnership, firm, trust or a society” shall be substituted.

(iv) In rule 5 of the principal rules, after clause (v), the following clauses shall be inserted, namely:-

“(vi) In case the society or a trust intending to register as a company under section 366 of the Companies Act, 2013 is registered under section 12A of the Income Tax Act, 1961 for claiming exemption on its income, an intimation in this regard shall be sent to the Income Tax authorities and proof of its service shall be attached with Form No. URC. 1.

(vii) Upon registration of a trust or society as a company under this Act, no application for conversion into a company of any other kind under clause (ii) of sub-section (4) of section 8 shall be made till the expiry of a period of ten years from the date of incorporation under the Act.

(viii) No application for registration as a company under this Act shall be made by a trust during the pendency of any proceedings under section 92 of Code of Civil Procedure, 1908. (Act No. 5 of 1908).”

6. In annexure to the principal rules,

(A) for Form No. URC-2 the following form shall be substituted, namely:-

FORM NO. URC-2

Advertisement giving notice about registration under Part I of Chapter XXI [Pursuant to section 374(b) of the companies Act, 2013 and rule 4(1) of the companies (Authorised to Register) Rules, 2014]

1. Notice is hereby given that in pursuant of sub-section (2) of section 366 of the Companies Act, 2013, an application is proposed to be made after fifteen days hereof but before the expiry of thirty days hereinafter to the Registrar at that A partnership firm /LLP/Co-operative Society/Society/a business entity(delete what is not applicable) may be registered under Part I of Chapter XXI of the Companies Act 2013, as a company limited by shares, or as a company limited by guarantee or as an unlimited company (delete whichever is not applicable)
2. The Principal objects of the company are as follows:
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3. A copy of the draft memorandum and articles of association of the proposed company may be inspected at the office at] [give the address here].
4. Notice is hereby given that any person objecting to this application may communicate their objection in writing to the Registrar at Central Registration Centre (CRC), Indian Institute of Corporate Affairs (IICA), Plot No. 6,7, 8, Sector 5, IMT Manesar, District Gurgaon (Haryana), Pin Code-122050, within twenty one days from the date of publication of this notice, with a copy to the company at its registered office.

Dated this day of 20.....

Name(s) of Applicant

1.....

2.....