



MARS & Partners

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COMPANY INCORPORATION IN INDIA

A business entity in incorporated form can be established in India under the (Indian) Companies Act, 1956; in either of the following modes –

1. **Private Limited Company** – In this form, the liability of each shareholder is limited to the extent of the unpaid amount of the shares value. A Private Limited Company cannot make or accept deposits from Public and there are also some restrictions on the transfer of shares.
2. **Public Limited Company** – a company with unlimited number of shareholders and also entitled to have public subscription of shares or debentures. In this form, the business is not automatically commenced on its incorporation. In addition thereto, it is also required to obtain “certificate for commencement of Business” by issuing its business prospectus or statement in lieu thereof.
3. **Section 25 Company** – This particular form is adopted by entities whose main business object, involves one or other of the educational, religious and charitable activity, and is not the profit making from the activities they intend to commercially take up. In other words, these are “**Not for profit Company**”.

Pre-requisites for incorporating a Business Company –

The procedure and requirements are more or less the same in both cases. The only difference is of minimum number of Shareholders & Directors and the minimum amount of Share Capital thereof. The said requisites are more particularly described as follows –

Requisites	Private Limited Co.	Public Limited Co.	Section 25 Co.
Individual to act as Directors	Minimum 2 Directors	Minimum 3 Directors	Minimum 2 Directors
Shareholders, natural or artificial	Minimum 2 and Maximum 50	minimum 7 and maximum unlimited	



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Minimum Share Capital	Rs. 1 (One) Lac	Rs. 5 (Five) Lac	
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1. Foreign national can also be the Directors. Persons to be appointed as Directors are also required to have Director Identification No. (DIN) and approved Digital Signature (DSC);
2. **Company Name** which must be indicative of the main business of the company and not resembling with already registered / approved company name(s). Where proposed names of Company are based on a registered trade mark or is the subject matter of an application pending for registration, then details thereof are required;
3. Consent Letter(s) of the appointee Managing Director, Director(s), Manager or Secretary of the Company;
4. **Physical address in India** for communication as its Registered Office, which need not be the address from where the actual business is conducted. Even the address of the solicitor firm's with serve the purpose;
5. **Memorandum of Association**, i.e. Company's charter containing its name, registered office, share capital and (business) object for which it has been formed;
6. **Articles of Association** – for internal regulations of the company;
7. For incorporating a Wholly Owned Subsidiary (WOS) of foreign Company, the Power of Attorney (POA) and Company Board Resolution should be executed by the parent company for authorizing a particular person or firm to act as its lawful attorney for such Co. incorporation. Further, the amount of Proposed Authorised Capital is also required to be checked in view of proposed business activity and FDI sectoral cap and government approval requirements thereon;
8. Where a foreign national / resident will be signing as subscriber on the company incorporation documents or being appointed as its Director, such POA and parent company's memorandum / incorporation documents are required to be attested by the Notary Public in the country of foreign company / national / resident, clearly mentioning registration No. and date up to which the Notary Public has the authority



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to notarize the documents. Such attested POA then requires the attestation of the Indian Consulate in that Country.

Information & Documents for obtaining DIN and DSC of Directors –

1. Complete Name, Father's Name, Resident Address, Date and Place of Birth as given in their Identity and residence proof. Even married women are required to give father's name. If proposed Director is already Director / Promoter in any other Indian company, then Company Incorporation No. (CIN) of that company;
2. Documentary Proof of identity and Address (Copy of PAN / Voter ID card / Driving License / Passport);
3. Passport Size Photographs.