

**PROCEDURE FOR SHIFTING OF REGISTERED OFFICE WITHIN THE SAME STATE BUT OUTSIDE THE LOCAL LIMITS OF CITY, TOWN, VILLAGE AND WITHIN THE JURISDICTION OF THE SAME REGISTRAR OF COMPANIES**

**33**

{Section 12(5) read with Rules 27 and 28 of the Companies (Incorporation) Rules, 2014}

**Synopsis**

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**Relevant Sections, Rules and Forms at a Glance**

<b>Particulars</b>	<b>Section(s), Rule(s) and Name of e-Form(s)</b>
The Companies Act, 2013	Sections 4, 12, 13, 15, 110, 117, 118, 173, 179 and 403
The Companies (Incorporation) Rules, 2014	Rules 25, 25A, 27 and 28
The Companies (Management and Administration) Rules, 2014	Rule 22 and 24
The Companies (Registration Offices and Fees) Rules, 2014	Rules 7, 8 and 12
Secretarial Standard-1 of ICSI	Clauses 3, 4, 5, 6, 7 and 8
Secretarial Standard-2 of ICSI	Clauses 1, 3, 4, 5, 6, 7 and 17
e-Forms to be filed	INC-22 MGT-14

**Significant Relevant Approvals and Requirements**

- ❖ Documents related to new premise
- ❖ Board resolution
- ❖ Special resolution

### 33.1 PROCEDURE WITH CHECK POINTS

S. No.	Particulars
1.	<p>Ensure that—</p> <ul style="list-style-type: none"> <li>• the status of the company is ‘<b>ACTIVE COMPLIANT COMPANY</b>’ otherwise the Registrar shall not accept and take on record the <b>e-Form INC-22</b> which is required to be filed in case of shifting of registered office. (<i>Fourth Proviso of Rule 25A of the Companies (Incorporation) Rules, 2014</i>), and if the status of the company is ‘<b>ACTIVE NON-COMPLIANT</b>’, then first complete the formalities of filing of <b>e-FORM INC-22 A</b> as per rule 25A of the Companies (Incorporation) Rules, 2014.</li> <li>• the proposed new registered office is under the jurisdiction of the same Registrar of Companies but outside the local limits of the same town, village or city where the existing registered office of the company is presently situated and note that there is no need to alter the memorandum of association of the company.</li> <li>• the company is not a listed company or company is an unlisted public company and the number of members is up to 200 or the company is a One Person Company, otherwise, members resolution shall be transacted through postal ballot {Section 110(1) read with Rule 22(16)(c) of the Companies (Management and Administration) Rules, 2014} and the resolution may be transacted in general meeting after providing facility to members to vote by electronic means in the manner provided under section 108 of the Act {<i>First proviso to Rule 22(16) of the Companies (Management and Administration) Rules, 2014</i>} .</li> </ul>
2.	<p>Arrange following documents before filing verification of the new registered office with the Registrar:</p> <ul style="list-style-type: none"> <li>• Conveyance deed if the new registered office premises is owned by the company <b>OR</b> lease deed or the rent agreement along with paid rent receipt not older than one month if the new registered office premises is taken on lease/rent by the company <b>OR</b> no objection certificate (NOC) from the owner including director for using premises as registered office if the new registered office premises is owned by the director of the company or any other person if the new registered office premises is not taken on lease/rent by the company.</li> <li>• Copy of utility bill (telephone bill/gas connection bill/electricity bill/mobile phone bill), not older than 2 months, of the new registered office premises.</li> </ul>
3.	<p>Complete formalities regarding calling of board meeting in the following manner:</p> <ul style="list-style-type: none"> <li>• Prepare notice of board meeting along with draft resolution(s) to be passed in the board meeting.</li> <li>• Send notice of board meeting to all the directors— <ul style="list-style-type: none"> <li>– at least 7 days before the date of board meeting or</li> <li>– in such manner as prescribed under section 173(3) of the Companies Act, 2013 and clause 1 of the Secretarial Standard-1.</li> </ul> </li> </ul>

S. No.	Particulars
	<p>The subscribers, who are individuals in the Memorandum of Association (MOA) shall be deemed as first directors until the directors are duly appointed by the members in accordance with Section 152 of the Companies Act, 2013 and rules made thereunder (Section 152 of the Act).</p> <ul style="list-style-type: none"> <li>• Not the person intended/proposed to be appointed a director of a company has a valid Director Identification Number (DIN) under section 174 or any other number as may be prescribed under section 174 of the Companies Act, 2013, however, in case of first directors of a new company, the DIN up to 3 (three) persons can be obtained through incorporation with integrated form SPICe-1 (INC-32) (Section 152 of the Act read with rule 152 of the Companies Incorporation Rules, 2014).</li> <li>• Not a total number of directors, at least one director has stayed in India for a total period of not less than 182 days during the financial year. Provided that in case of newly incorporated company, residential status shall be determined proportionately. However, it is not required in case the director is appointed by the Central Government or State Government (Section 152 of the Act).</li> <li>• A person, who is intended to be appointed, shall not be eligible for appointment, if he/she has any disqualification for appointment under section 164 of the Act (Section 164 of the Act read with companies provisions a government company and regulations in COA 2012 about COA 2012).</li> <li>• A person proposed to be appointed as a director in a company other than a company registered under Section 8 (non-profit company) of the Companies Act, 2013 (Section 152 of the Act)             <ul style="list-style-type: none"> <li>- shall not hold office as a director including any alternate directorship in more than 20 companies including directorship in dormant companies.</li> <li>- shall not hold office in more than 10 public companies including the private companies which are holding or subsidiary of public companies.</li> </ul> </li> </ul>
2.	In case of one person company, an individual being sole member is deemed to be the first director of the company, if the articles of association has not mentioned the names of first directors (Section 152 of the Act).
3.	Forms created in writing, on or before appointment, from the appointed director to act as director in the company as Form 208-2 (Part 2 of the Companies Appointment and Qualification of Directors) Rule, 2014.
4.	Forms in electronic in writing, on or before appointment, from the appointed director as Form 208-2 regarding that he/she is not disqualified under Section 164 of Companies Act, 2013, to act as a Director (Section 164 of the Act read with rule 17 of the Companies Appointment and Qualification of <u>Directors</u> ) Rule, 2014.
5.	The particulars of first directors to be integrated with Form SPICe-1 (INC-32) at the time of incorporation of company.

For the detailed procedure, please refer Company Law Procedures & Compliances by Dr. Sanjeev Gupta, 2nd edn, 2021. You can buy from your bookseller or online at [www.bharatlaws.com](http://www.bharatlaws.com)

[COMPANY LAW Procedures & Compliances \(in 2 vols.\)](#)