

**Memorandum On The Incorporation Of
A Private Limited Company In
Singapore**

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1. Proposed Name of the Company

A company cannot be registered under a particular name unless that name has been reserved for its use. Thus, before a company can be registered, it is necessary to reserve a name for it under section 27 of the Companies Act. This reservation must be made in the prescribed form and is effective for two months. During the period for which a name is reserved, no other company may change its name to, or a new company be registered with, that name. The reservation may be extended for a further period of two months at the discretion of the Registrar.

Every private limited company must have the words “Private Limited” as part of and at the end of its name. The abbreviation of the aforesaid words (“Pte. Ltd.”) is permitted.

The Registrar is empowered not to register a company with a name that:

- (a) is undesirable;
- (b) is identical to that of any other company, corporation or business name as to be likely to be mistaken for it;
- (c) so nearly resembles the name of another company, corporation or business name as to be likely to be mistaken for it; or
- (d) is of a kind that the Minister has directed the Registrar not to accept for registration.

If the proposed name of the company is or includes the trademark or patent name of a product or the name of a company existing elsewhere, you will be required to produce the written consent of the owner of the trademark or patent name or the written consent of the company for the use of the name.

Please note that you will only be entitled to reserve one name at a time. The Registrar of Companies will generally grant its approval on the same day of application. For your information, it costs S\$15 for each name submitted.

2. Memorandum of Association

In Singapore, a company has full capacity to carry on or undertake any business activity and to do any act or enter into any transaction.

However, a company may choose to restrict its powers by including in its memorandum of association, the objects for which the company is incorporated and a list of the powers that may be exercised by the company in achieving those objects. The legal capacity of the company to carry on any activity is then restricted to and derived from its objects and powers contained in the memorandum.

The memorandum (and articles) of association must be submitted to the Accounting and Corporate Regulatory Authority together with the documentation for incorporation and must state the following:

- (a) the name of the company;
- (b) if necessary, the objects of the company;
- (c) that the liability of the members is limited;



- (d) the names, addresses and occupations of the subscribers (see paragraph 5 below); and
- (e) that the subscribers “are desirous of being formed into a company in pursuance of the Memorandum” and that they agree to take up the number of shares set out opposite their respective names.

The Companies Act requires the Memorandum to be signed by the subscribers to the company. Hence, we will require the following information to prepare the foregoing:

- (a) if necessary, the objects of the company; and
- (b) the names, residential addresses, nationality, NRIC/Passport/FIN/UIN number and occupations of the subscribers to the Memorandum and Articles of Association.

3. Articles of Association

The articles are a company’s rules for its internal management. As to the force and effect of the articles, the following should be noted:

- (a) they are subordinate to the memorandum and cannot take away any right granted by the memorandum nor can they authorise anything to be done which is prohibited by the memorandum or the Companies Act;
- (b) if there is an inconsistency between the memorandum and the articles, the memorandum must prevail;
- (c) the articles (when registered) bind the company and the members as if they were a contract under seal (this contract sets out the member’s rights and liabilities vis-à-vis the company);
- (d) a company may sue a member and a member may sue a company to enforce or restrain breaches of the articles;
- (e) the articles (when registered) bind the company and each officer as if they were a contract under seal (an officer in this context means a director, the principal executive officer or a secretary of the company);
- (f) the articles cannot constitute a contract between the company and an outsider which that outsider can take advantage of; and
- (g) as the memorandum and articles of association of a company are public documents, everyone is regarded in law as having notice of them.

We have a standard draft prepared. If you wish to have articles specially drafted for you, we will charge for the additional time taken.

4. Capital

Shares of a company have no par value. A company may alter its share capital in several ways. It may consolidate and divide any of its share capital, convert all or any of its paid-up shares into stock, subdivide its shares or cancel the number of shares which at the date of



the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person.

The registration fee for incorporation of a company is S\$300.

The issued capital is the amount of capital that has actually been taken up by shareholders. These shareholders have agreed to give consideration either in cash or in kind for the shares issued to them. The issued capital may be either wholly or partly paid up by the shareholders.

5. **First Subscriber/s**

There must be a minimum of one share to be subscribed by a minimum of one subscriber who must sign the Memorandum and Articles of Association.

There are no restrictions imposed on the foreign ownership of companies, with the exception of certain types of companies. For ease of incorporation, the subscriber/s should be present in Singapore to sign the incorporation documents. We can provide a nominee subscriber for the purpose of incorporation and transfer the subscriber's shares to the intended owner after incorporation. No extra charge will be made provided that the transfer is completed within two weeks of incorporation.

6. **Directors**

The Companies Act provides that there must be a minimum of one director who must be resident in Singapore. A foreigner who holds an employment pass enabling him to work in Singapore will qualify as a resident director. Only a natural person of full age and capacity can be a director of a company.

Before the first director of a company may be named in any document filed or lodged with or submitted to the Registrar for the purposes of the incorporation of a company, his consent to act as director must be filed. The consent to act must be accompanied by a prescribed statement that he is not disqualified from acting as a director under the Companies Act.

Subject to the nominee's consent, we can provide a nominee resident director¹ at the charge of S\$6,000 a year. Prior to the appointment of the nominee director(s), we will require a deposit of S\$8,000 to be paid. This deposit is necessary for unpaid director's fees and for winding up the company if necessary. The deposit will be placed in the client's name in a fixed deposit account of our choice. All interest accruing in the fixed deposit account will be credited to the client. The deposit (less all outstanding fees) will be repaid to the client when another director replaces the nominee director.

7. **Registered Office**

Every company must, from the date of its incorporation and at all times thereafter, have a registered office to which all communications and notices may be addressed and which must be open and accessible to the public. The registered office may or may not be the place of business. It must be open to the public for at least five hours during ordinary business hours every day, except Saturdays, Sundays and public holidays.

¹ Our provision of a nominee director will be for the sole purpose of fulfilling the statutory residency requirement. The nominee director will not be responsible for approving any resolutions that are substantive in nature, or for approving the financial statements of the company.



Please note that the Companies Act requires the following registers to be kept at the registered office of the company:

- (a) Register of Directors, Managers, Secretaries and Auditors;
- (b) Register of Directors' Shareholdings;
- (c) Register of Charges; and
- (d) Register of Minutes of Proceedings of General Meetings and Meetings of Directors (these may be kept at the registered office or principal place of business).

The following registers can be kept at a place other than the registered office:

- (e) Register of Members and Index;
- (f) Register of Debenture Holders and copies of Trust Deeds;
- (g) Register of Applications and Allotments; and
- (h) Register of Transfers.

Given the aforesaid, if we are appointed to provide secretarial services (which will include the appointment of two Company Secretaries), it would be advisable to have our office address as the registered address of the company, in which event, all of the company's statutory registers can be kept with us. Otherwise, and given that the Companies Act requires a Company Secretary to be present at the registered office, an employee of the company must be appointed as a third Company Secretary.

8. Incorporation

The company will usually be registered by the lodgement of its Memorandum and Articles of Association, together with the relevant statutory documents, and by the payment of the registration fee. It will usually take one to two business days to complete the registration process.

Please note that the registration is not automatic notwithstanding that all the required documents have been lodged. The Registrar has the discretion to refuse to register a company or any document submitted for lodgement in any of the following circumstances:

- (a) where the name of the company is unacceptable under the Companies Act unless the Minister approves otherwise;
- (b) where the Registrar is of the view that any of the documents filed contains a matter contrary to law;
- (c) where the Registrar is satisfied that the company will be used in an unlawful manner or for the purposes prejudicial to public peace, welfare or good order of Singapore; and
- (d) where the Registrar is satisfied that registering the company will be contrary to the national security or interest of Singapore.



In the last two circumstances, a company aggrieved by the Registrar's decision may appeal to the Minister whose decision is final.

9. Company Secretary & Auditor

The directors must appoint an Auditor (who must be an approved public accountant) within 3 months from the date of incorporation of the company. However, with effect from 01 April 2004, a company will be exempt from appointing auditors if it is dormant or is an exempt private company with a turnover of less than \$5 million.

Further, the directors must appoint a Company Secretary within 6 months from the date of incorporation of the company.

10. Statutory Requirements after incorporation

- (a) Register of Members to be maintained.
- (b) Minutes of Board and Members' Meetings to be maintained.
- (c) Proper books of accounts to be maintained.
- (d) Filing of returns at the Registry of Companies of particulars and changes in particulars of directors, managers, auditor and secretary.
- (e) Filing of returns relating to the allotment of shares at the Registry of Companies.
- (f) Filing at the Registry of Companies of notification of any change or alteration in name, registered office, etc.
- (g) Unless exempted, filing at the Registry of Companies the audited Balance Sheet and Profit and Loss Account of the company for the relevant financial year and the Annual Return.
- (h) An annual general meeting must be held at least once every 15 months from the date of the last annual general meeting or within 6 months from the close of the financial year, whichever is earlier. The annual general meeting may be held outside Singapore. However a private company may, by a unanimous resolution of members, dispense with the holding of an Annual General Meeting.

11. Secretarial

If required, we can undertake the secretarial duties articulated in paragraph 10.

