

Procedure generally for re-registration

1285. (1) Subject to section 1286 and Chapter 3, a company may be re-registered as another type of company only if—

(a) a special resolution of the company, complying with subsection (2), that it should be so re-registered is passed, and

(b) an application for the purpose, in the prescribed form and signed by a director or secretary of the company, is delivered to the Registrar together with the documents specified in subsection (4).

(2) The special resolution shall—

(a) alter the company's constitution so that it states that the company is to be a company of the type that the company wishes to be re-registered as,

(b) make such other alterations in the company's constitution as are necessary to bring it in substance and in form into conformity with the requirements of this Act with respect to the constitution of the resultant company type, and

(c) make such other alterations in the company's constitution as are requisite in the circumstances.

(3) Without prejudice to the generality of subsection (2), where the resultant company type is a private company limited by shares, the alteration required by that subsection shall include the replacement of the memorandum and articles of the re-registering company by a constitution in conformity with section 19 and Schedule 1 (but nothing in this section authorises the alteration of the rights and obligations of members of the re-registering company, or of other persons, as set out in its memorandum and articles and, accordingly, where necessary, the foregoing replacement constitution shall include such supplemental regulations as will secure those rights and obligations).

(4) The documents referred to in subsection (1) are—

(a) a copy of the special resolution that the company should re-register as another type of company,

(b) a copy of the constitution of the company as altered by the resolution,

(c) a statement in the prescribed form (in this Part referred to as a “statement of compliance”) by a director or secretary of the company that the requirements of this Part as to re-registration as another type of company have been complied with by the company, including the passing of the special resolution for re-registration.

(5) The Registrar may accept the statement of compliance as sufficient evidence that the special resolution has been duly passed and the other conditions of this Part for re-registration have been satisfied

and that the company is entitled to be re-registered as the type of company concerned.

(6) If, on an application for re-registration of a company as another type of company under subsection (1), the Registrar is satisfied that a company is entitled to be so re-registered, the Registrar shall—

(a) retain the application and the other documents delivered to him or her under this Part, and

(b) issue to the company a certificate of incorporation in respect of it, being a certificate of incorporation that—

(i) is altered to meet the circumstances of the case, and

(ii) states that it is issued on re-registration of the company and the date on which it is issued.

(7) Upon the issue to a company of a certificate of incorporation on re-registration under subsection (6)—

(a) the company shall, by virtue of the issue of that certificate, become a company of the type described in the certificate, and

(b) any alterations in the constitution set out in the special resolution shall take effect accordingly.

(8) A certificate of incorporation issued on re-registration to a company under subsection (6) shall be conclusive evidence—

(a) that the requirements of this Part as to re-registration and of matters precedent and incidental thereto have been complied with, and

(b) that the company is the type of company which is set out in the certificate,

and, accordingly, the law applicable to the resultant company type shall, on and from the issue of the certificate, apply to the company.

(9) The re-registration of a company as another type of company pursuant to this Part shall not affect any rights or obligations of the company or render defective any legal proceedings by or against the company, and any legal proceedings which might have been continued or commenced against it in its former status may be continued or commenced against it in its new status.

(10) For the avoidance of doubt, references in Part 6, and in particular section 349 (which exempts a company from having to annex financial statements to its first annual return), to the incorporation of a company are references to its original incorporation.