

COMPANY TYPES & REGISTERS

Re-registration: Changing Your Company's Type

How a company changes between private and public, or between limited and unlimited, under Part 7 of the Companies Act 2006.

When a company changes type

A company can change its legal type without winding up and starting again. This is called re-registration and is governed by sections 89 to 111 of the Companies Act 2006. The company keeps its legal identity, its contracts and its company number. It receives a new certificate of incorporation, and its name changes to match its new status.

The main routes are:

- a private company becoming a public company (ss.90 to 96);
- a public company becoming a private company (ss.97 to 101);
- a private limited company becoming unlimited (ss.102 to 104);
- an unlimited company becoming limited (ss.105 to 108);
- a public company becoming private and unlimited (ss.109 to 111).

Private to public

A private company that wants to raise capital from the public, or to meet an investor's expectations, can re-register as a public company. The company must pass a special resolution and then meet two financial tests:

- **Share capital.** The allotted share capital must be at least the authorised minimum of £50,000, with each share paid up to at least a quarter of its nominal value plus the whole of any premium.
- **Net assets.** A recent balance sheet, not more than seven months old, must show net assets at least equal to the called-up share capital and undistributable reserves, supported by an unqualified auditor's report and the auditor's written statement.

A public company must have at least two directors and a secretary, so the officers may also change. Its articles and name (ending in "plc") change at the same time. The application is on form **RR01**, with a statement of compliance and the supporting documents.

Public to private

A public company can re-register as private by special resolution. Holders of at least 5% in nominal value of the issued share capital, or a group of 50 or more members, can apply to the court within 28 days to cancel the resolution (s.98), so the timetable has to allow for that. The application is on form **RR02**, and the name changes to end in "ltd".

Key points

- Re-registration changes the company's type, not its identity.
- The resolution, and sometimes every member's agreement, is needed first.
- Private to public has capital and net asset tests, and needs an auditor's statement.
- Public to private can be challenged in court by a minority within 28 days.
- The company's name and articles change, so contracts, bank accounts, websites and stationery need updating.
- Check whether a previous re-registration prevents the route you want.

Limited to unlimited, and back

A private limited company can become unlimited, usually to avoid filing public accounts (subject to the rules on accounts) or to give flexibility on capital. All members must assent to the application (s.102), and the company must not already have re-registered from unlimited to limited (s.102(2)). The application is on form **RR05**. Members, and in some cases past members, then carry unlimited liability for the company's debts, so advisers should make sure each member understands that.

The reverse is possible. An unlimited company becomes limited by special resolution, adopting new articles, and files form **RR06** (ss.105 to 108). It cannot do this if it was itself previously re-registered from limited to unlimited. A public company can become private and unlimited under ss.109 to 111, on form **RR07**.

Court-led routes

Where a court has reduced a public company's capital below the authorised minimum, or approved cancelling shares, the company may re-register as private on forms **RR08** or **RR09**. Notices of an application to the court to cancel a resolution are given on forms **RR03** and **RR04**.

Practical points and pitfalls

- **Time limits.** A balance sheet more than seven months old will not support a private to public application.
- **Allotments in between.** Shares allotted for non-cash consideration after the balance sheet date may need a valuation report.
- **Registers.** Update the register of members, the directors' and secretary's details at Companies House, and the company's name wherever it appears.
- **Third parties.** Banks, lenders, landlords, insurers and HMRC will need notice of the new name and status.
- **Timetable.** Companies House normally completes straightforward applications quickly, but a faster service is available for a fee. Allow extra time for any court challenge period.
- **Effective date.** The change takes effect when Companies House issues the new certificate of incorporation. Until then the company must carry on in its old form, and documents should not use the new name.
- **Advice.** Moving to unlimited status or public status has tax, governance and regulatory effects beyond this guide.

Checklist before you file

- Is the special resolution passed, and are the articles amended?
- For unlimited status, has every member assented?
- Has the new name been approved and checked?
- For plc status: £50,000 minimum capital, a quarter paid up, a company secretary, two directors, a recent balance sheet and the auditor's statement.
- For public to private: has the 28-day challenge period passed?
- Is a previous re-registration a bar?
- Who will notify the bank, HMRC and other parties?

How MTM can help

0161 835 2080
client@mtmlp.co.uk

We prepare and file re-registrations as part of a wider restructuring: the resolutions, new articles, application form, statement of compliance and updated registers. For practices, we can do this under your branding and keep your client informed through you. Valuation, audit and tax points are for the client's accountants.