

# Types of Business Ownership



# Three Basic Types of Business Ownership

**1. Sole proprietorship**



**2. Partnership**

**3. Corporation**



# What is a Sole Proprietorship?

- A business owned and operated by one person.
- The easiest and most popular type of business ownership.
- Approximately 76 percent of all businesses are sole proprietorships.



# **Advantages of Sole Proprietorships**

- Easy and inexpensive to create.

- Owner makes all business decisions and activities.

- Owner receives all profits.

- Least regulated type of business ownership.

- Business itself pays less taxes.



# Disadvantages of Sole Proprietorships

- Owner has unlimited liability for all debts and actions of the business. *Unlimited liability means the debts of the business may be paid from the personal assets of the owner.*
- Difficult to raise capital.
- Sole proprietorship is limited by his/her skills

# **What is a Partnership?**

**A type of business ownership in which two or more people share the assets, liabilities, and profits.**



# Types of Partnerships

- ***General partnership:*** A partnership in which all partners have unlimited personal liability and take full responsibility for the management of the business.
- ***Limited partnership:*** A partnership in which the partners' liability is limited to their investment.
- ***Joint venture:*** A partnership in which two companies join to complete a specific project. The partnership ends after a specified period of time.

# Advantages of Partnerships

- Shared decision making and management responsibilities.
- Easier to raise capital than in a sole proprietorship.
- Few government regulations.
- Business losses are shared by all partners.



# **Disadvantages of Partnerships**

- Partnerships may lead to disagreements.
- Some entrepreneurs are not willing to share responsibilities and profits.
- Secrecy may not be maintained.
- Power get distributed.
- Profit distributed.

# What is a Corporation?

A business that is chartered by a state and legally operates apart from its owners.



# Advantages of Corporations

- Can raise money by issuing shares of stock.
- Offers owners limited liability.  
*(Limited liability: Owners are liable only up to the amount of their investments)*
- People can easily enter or leave the business by buying or selling their shares of stock.

# Disadvantages of Corporations

- Legal assistance is needed to start a corporation.
- Start-up is costly.
- Corporations are subject to more government regulations than partnerships or sole proprietorships.
- A lot of paperwork is involved in running a corporation.
- Income is heavily taxed.

# THE COMPANIES ACT 1956

# Content

- Introduction
- Definition
- Characteristics of A Company
- Types of company



# Introduction

## WHAT IS COMPANY

- A company is an artificial person created by law.
- A company means a group of persons associated together for the attainment of a common end, social or economic.
  
- Section 3(1)(i) of the Companies Act, 1956 defines a company as: “a company formed and registered under this Act or an existing Company”.
- ‘Existing Company’ means a company formed and registered under any of the earlier Company Laws.

## Characteristics of a Company

- Separate legal entity
- Limited liability
- Perpetual succession
- Common seal
- Transferability of shares
- Separate property

# **SEPARATE LEGAL ENTITY-**

- A company is in law regarded as an entity separate from its members. It has an independent corporate existence.
- Any of its member can enter into contracts with it in the same manner as any other individual can and he cannot be held liable for the acts of the company even if he holds virtually the entire share capital.
- The company's money and property belongs to it and not to the shareholders (although the shareholders own the company)

## LIMITED LIABILITY-

- A company may be a company limited by shares or a company limited by guarantee. In a company limited by shares, the liability of members is limited to the unpaid value of the shares.

## PERPETUAL SUCCESSION-

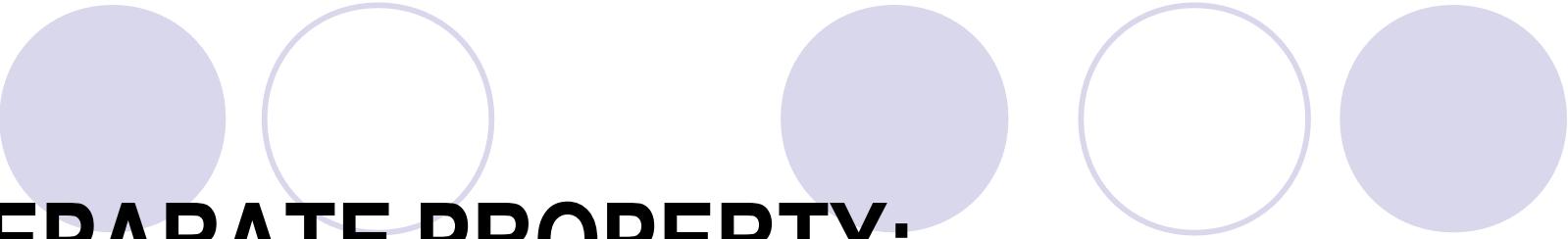
- Being an artificial person a company never dies, nor does its life depend on the life of its members. Members may come and go but the company can go on forever. It continues to exist even if all its members are dead. The existence of company can be terminated only by law.
- It means that a company's existence persists irrespective of the change in the composition of its membership.

# **COMMON SEAL-**

- Since a company has no physical existence, it must act through its agents and all such contracts entered into by its agents must be under a seal of the company. The common seal acts as the official signature of the company.

## **TRANSFERABILITY OF SHARES-**

- The capital of a company is divided into parts called shares. These shares are, subject to certain conditions, freely transferable, so that no shareholder is permanently wedded to the company. When the joint stock companies were established the great object was that the shares should be capable of being easily transferred.



# **SEPARATE PROPERTY:**

- As a company is a legal person distinct from its members, it is capable of owning, enjoying and disposing of property in its own name. Although its capital and assets are contributed by its shareholders, they are not the private and joint owners of its property. The company is the real person in which all its property is vested and by which it is controlled, managed and disposed of.

**THANK  
YOU**

THANK





# TYPES OF BUSINESS ORGANISATIONS

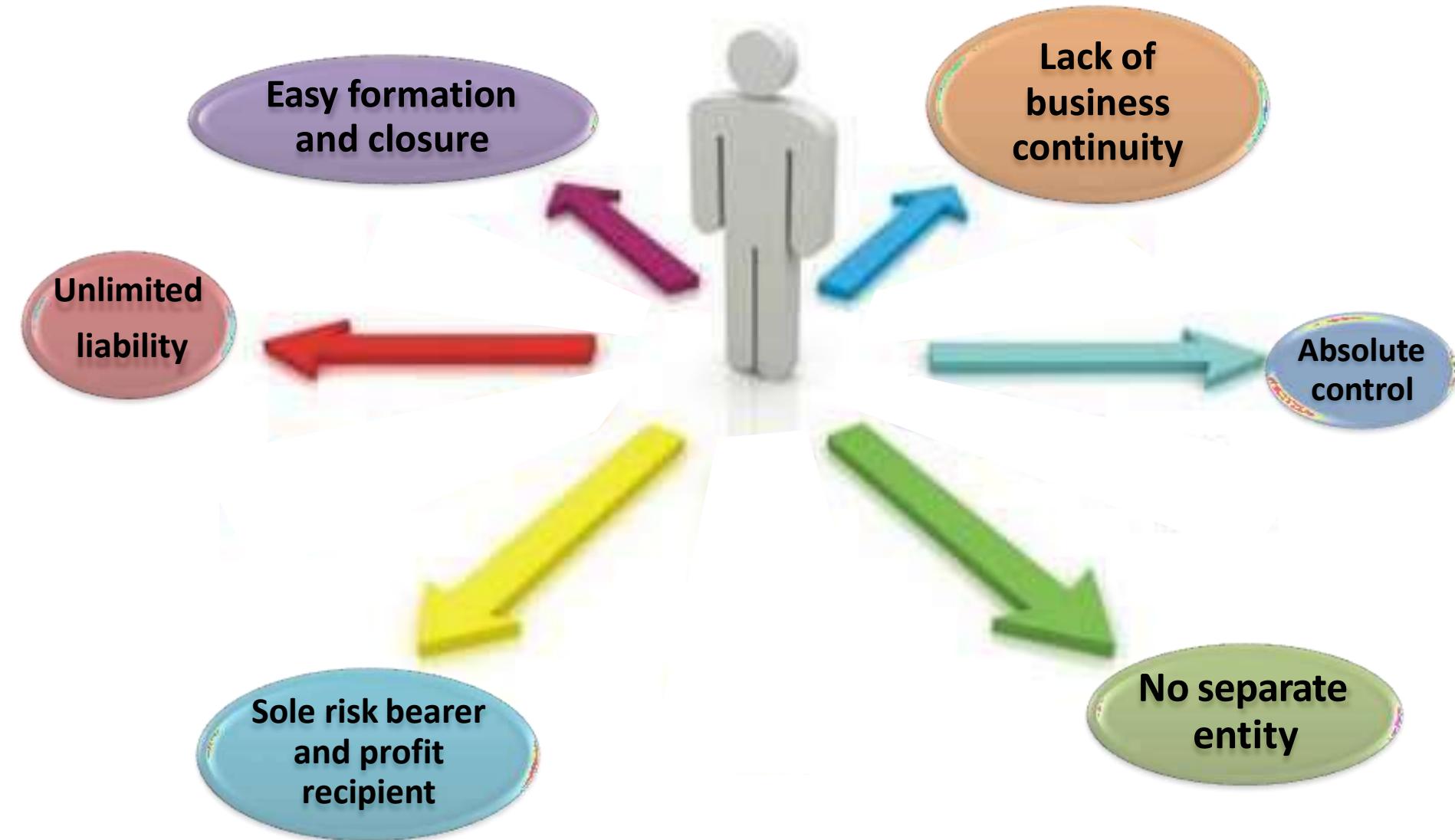
- ❖ SOLE PROPRIETORSHIP
- ❖ PARTNERSHIP

# SOLE PROPRIETORSHIP

Sole proprietorship refers to a form of business organization which is owned, managed and controlled by an individual who is the recipient of all profits and bearer of all risks.



# FEATURES



# MERITS

Sense of accomplishment



Quick decision making

Confidentiality of information

Direct incentive

Ease of formation and closure



# **LIMITATIONS**

**Unlimited  
liability**

**Limited life  
of a business  
concern**

**Limited  
Resources**

**Limited  
managerial  
skills**



# OPTIONS FOR A SOLE PROPRIETOR



# Example of a Sole Proprietor

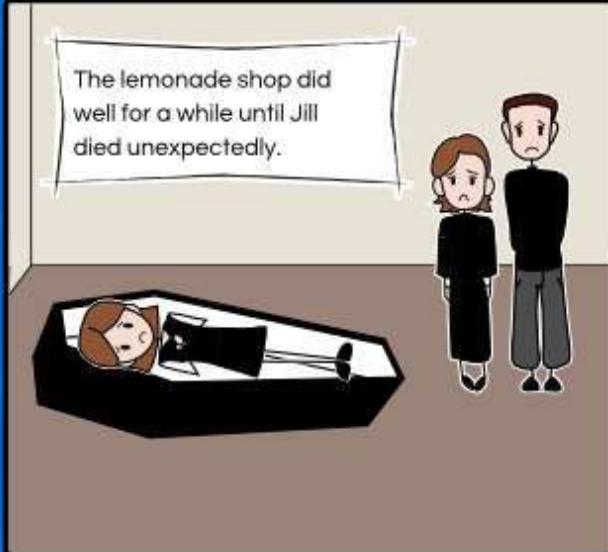
## Jill's Lemonade Shop

By: Nicole Kowalski



It was easy for Jill to set up her shop because it was only her idea.





This storyboard shows that Jill started a lemonade shop according to her wish and hired a few people. She received all the profits alone but when the shop caught fire, the whole responsibility of rebuilding it came upon her.

Rebuilding the shop was easy but the shop closed down with the unexpected death of Jill as there was no one else to take care of the shop.

# Partnership

According to The Indian Partnership Act, 1932, “Partnership is the relation between 2 or more persons who have agreed to share the profit of the business carried on by all or any one of them acting for all.”



# FEATURES

Joint decision making

Equal Risk bearing

Continuity is ensured

Mutual Agency

Maximum members in business-50  
minimum members in business-10

Minimum members required-2



# MERITS

Balanced  
decision  
making

More funds

Sharing of  
risks

Ease of  
formation  
and closure

Generation  
of ideas



# **LIMITATIONS**

**Lack of public  
confidentiality**

**Unlimited  
liability**

**Possibility  
of conflicts**

**Limited  
Resources**

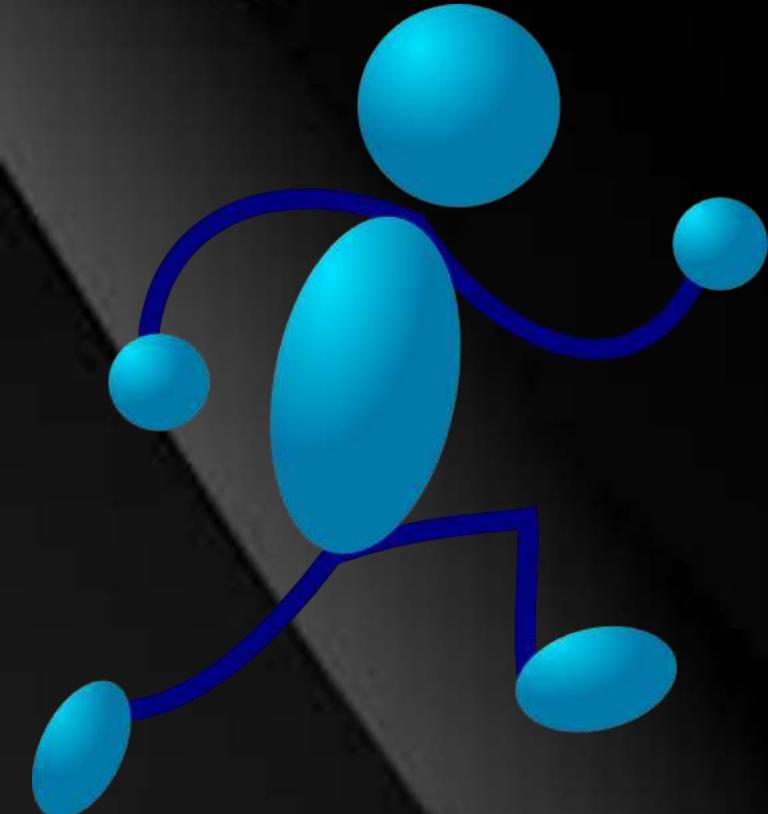
**Delay in  
decision making**



# TYPES OF PARTNERS



# 1. Active partner



Contributes capital

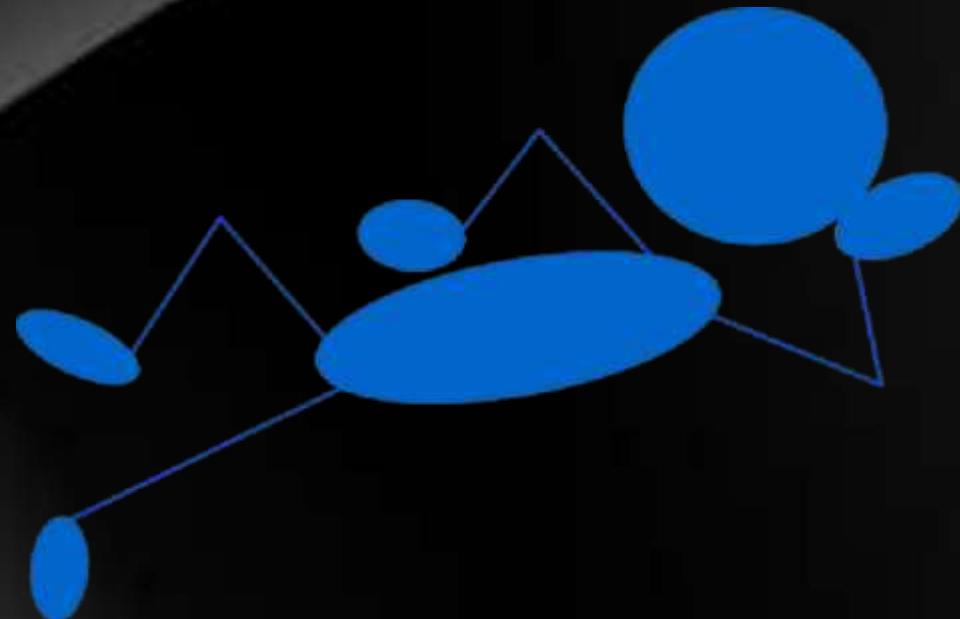
Participates in  
management of  
firm

Shares profits and  
losses

Unlimited liability

Takes part in  
carrying out  
business on others  
behalf

## 2. Sleeping or dormant partner



Contributes capital

Does not  
Participate in  
management of  
firm

Shares profits and  
losses

Unlimited liability

### 3. Nominal partner



Allows the use of  
his name by a firm

Does not  
Participate in  
management of  
firm

Does not Share  
profits and losses

Unlimited liability

Does not  
Contribute capital

# 4. Secret partner



Contributes capital

Participates in management of firm

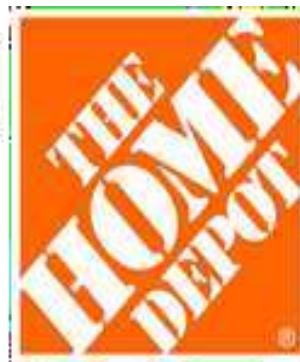
Shares profits and losses

Unlimited liability

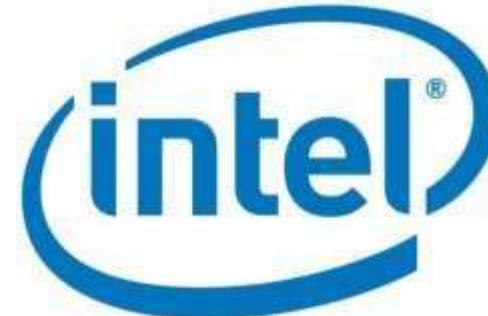
His association is not known to the general public

# EXISTING PARTNERSHIPS

**HONDA**



**SONY**



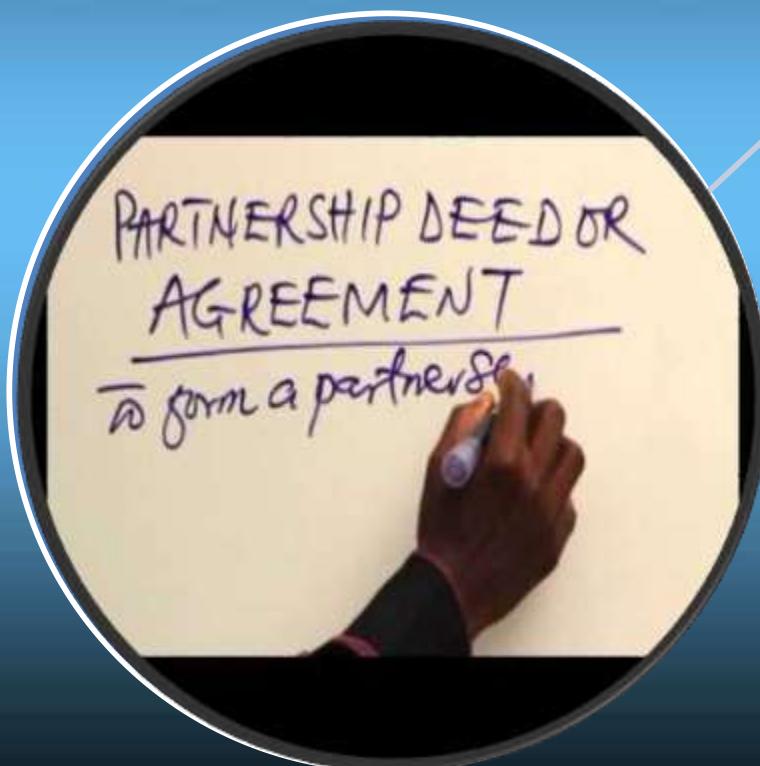
*Charlotte Russe.*





PARTNERSHIP DEED.

# *Partnership deed*



The written agreement which specifies the terms and conditions that govern the partnership is called a partnership deed.



# Contents of a partnership deed

Procedure  
for  
dissolution  
of firm

Methods  
of solving  
disputes

Distribution  
of profits  
and losses

Salaries and  
withdrawal  
of the  
partners

Terms  
governing  
admission,  
retirement  
and expulsion  
of a partner

Name  
of the  
firm

Duties and  
obligations  
of the  
partners

Preparation  
and  
auditing of  
accounts

Investment  
made by  
each  
partner

Duration  
of  
business

Nature  
and  
location of  
business

Interest on  
capital and  
drawings



# Partner Registration

Registration of a firm means the entering of firm's name, along with the relevant prescribed particulars, in the register of firm kept with the Registrar of Firms.



REGISTRATION

# In case a firm is not registered, it is deprived of many benefits:



A partner of an unregistered firm cannot file a suit against the firm or other partners.



The firm cannot file a case against the partners.

The firm cannot file a case against third parties.



**Thank you**





# Companies Act, 1956

# *CONTENTS*

- Introduction
- Types of Companies
- Memorandum of Association (MOA)
- Article of Association (AOA)
- Shareholder & Debenture Holders
- Winding up



## Basis of incorporation

Statutory companies

Registered companies

## Basis of liability

Companies limited by guarantee

Companies limited by shares

Companies with unlimited liability.

## Basis of no. of members

Private company

Public company

## *BASIS OF INCORPORATION*

- Statutory companies

These are the companies which are created by a special Act of the legislature e.g. RBI, SBI, LIC, etc. These are mostly concerned with public utilities as railways, gas and electricity companies and enterprises of national level importance.

- Registered companies

These are the companies which are formed and registered under the Companies Act,1956 .

## BASIS OF LIABILITY

### **Companies limited by shares**

- During the existence of the company or in the event of winding up, a member can be called up to pay the amount remaining unpaid on the shares subscribed by him.

### **Companies limited by guarantee**

- Each member promises to pay a fixed sum of money specified in the Memorandum in the event of liquidation of the company for payment of debts and liabilities of the company.
- The amount promised is called 'Guarantee'.

### **Unlimited Companies**

- Liability of the members is unlimited like an ordinary partnership firm.
- A company not having any limit on the liability of its members is called an 'unlimited company.'



<b>Point of Difference</b>	<b>Private Company</b>	<b>Public Company</b>
No. of members	2 - 200 members.	7 – no limit members.
No. of Directors	Min. 2 directors to fill quorum.	Min. 3 directors are needed.
Invitation to general public	Does not invite general public to subscribe to its shares, debentures and public deposits.	Does invite general public to subscribe to its shares, debentures, public deposits.
Transfer of Shares	Prior permission required for transfer of shares	Free transfer of shares is permitted.
Prospectus	Need not issue prospectus.	It is compulsory to issue a prospectus or a statement in lieu of prospectus.
Statutory meeting and report	No compulsion for holding Statutory meeting and filling of statutory report.	It needs to hold a statutory meeting and must file a statutory report.
Legal formalities	Exempted from various legal formalities.	Has to comply with many legal formalities.



- The Memorandum of Association is the principal document of a company. It is considered as the charter of the company.
- It contains the powers and objectives of the company. It also describes the scope of operations of the company.
- It can be altered only according to provisions made in the Companies Act regarding its alterations.
- Memorandum of Association provides information to outsiders such as creditors, suppliers etc. to know the limitations and scope of company's dealings. It is also known as Doctrine of Outdoor Management.

## *Contents of Memorandum of Association*

- **Name Clause:**

This clause contains the complete name of the company. The company can choose any name subject to the following restrictions:

- The name of the company must end with the word ‘**Limited**’ in case of public limited company and with the word ‘**Private Limited**’ in case of Private Limited Company.
- The name should not be similar or identical to the name of any other company.
- The name should not convey any connection or link of company with a government department.

- **Registered office Clause:**

- This clause contains the name of the state in which the registered office of the company is to be situated.
- It is necessary because company gets the registration from the state only.

- **Objects Clause:**

- It contains the main object of the company and other secondary objectives which the company may pursue.
- This clause defines the scope and limitations of the activities of the company.

- **Liability Clause:**

- This clause defines the liability of the members of the company.
- In case of companies limited by shares, the liability of the members is limited to the extent of unpaid amount of their share capital.
- In case of a company limited by guarantee the liability is limited to the amount of guarantee given by each member.

- Capital Clause:
  - This clause specifies the amount of share capital with which company is to be registered.
  - The capital with which a company is registered is called registered/authorised or nominal capital.
- Association Clause:
  - This clause contains the declaration by the directors stating that “We, the several persons whose names and addresses are submitted, are desirous of being formed into a company in accordance with MOA, and we undertake to take the qualification shares.
  - This declaration must be signed by all the directors of the company.



- AOA contains rules and regulations regarding the management of company's internal affairs.
- It defines the powers, duties and rights of managers, officers and board of directors.
- Generally, all the companies prepare their own Articles of Association.
- In case companies do not want to prepare their own articles of association then they can select any one article of association given in Table A of Companies Act.
- Companies Act contains 99 sets of AOA.
- The AOA must be signed by all the directors of the company. It must be duly attested by any two witnesses.

# *CONTENTS OF ARTICLES OF*

## *ASSOCIATION*

- ❖ The amount of share capital and different classes of shares.
- ❖ Rights of each type of shareholders.
- ❖ Procedure for making allotment of shares.
- ❖ Procedure for issuing share certificates.
- ❖ Procedure for transfer of shares.
- ❖ Procedure for forfeiture of shares.
- ❖ Procedure for conducting meetings.
- ❖ Procedure for declaration and payment of dividend.
- ❖ Duties, powers and remuneration of directors.
- ❖ Procedure regarding winding up of company.
- ❖ Procedure regarding keeping of books of accounts and their audit.
- ❖ Seal of-the company.

# ***COMPARISON BETWEEN MEMORANDUM AND ARTICLES OF ASSOCIATION***

## **Memorandum of Association**

- It contains conditions upon which the company is granted registration.
- It contains objects and powers of the company
- It can not be easily altered. The company has to follow strict procedure for the alteration.
- It regulates the relationship of the company with the outsiders, as the objects and powers of the company are made known to the outsiders

## **Article of Association**

- These are internal regulations of the company
- It provides the regulation by which those objects and powers are to be carried into effect.
- It can be easily altered as compared to memorandum of association.
- It regulates the internal management of the company, as the rules and regulations contained in it describe the internal procedure to be followed by the company

thank  
you!

# COMPANIES ACT, 1956

# PROSPECTUS

## General

## Interpretation

- Any Document,
- Any Notice,
- Any Circular,
- Any Advertisement,

Inviting the money to be raised from the public

# Meaning

- It is a device for the public Ltd company to collect the capital after its incorporation.
- When the public company or the promoters of the public company decide that the money should be raised from the public by the way of the invitation for offers to the subscription of the shares or debentures of the company, a document is drawn up which is known as prospectus.

# Objective Behind Issuing

## Prospectus

- The objective of issuing the prospectus is to let the public know of the establishment of the company, its objects, its prospects, to induce the investors to purchase its shares or debentures.

# Dating of

# Prospectus

- A prospectus issued by or on the behalf of the company shall be dated and that date shall be taken as the date of the publication of the prospectus.

# *Contents of the*

## *Prospectus*

- It contains the following details about the company:
  1. Name and Address of the Registered Office
  2. Name of the Stock Exchange where the application for the listing is made
  3. Details related to the Minimum Subscription
  4. Capital Structure of the Company
  5. Terms of the present issue.
  6. Particulars about the Issue.
  7. Company Management and the Project.
  8. Financial Information of the company.
  9. Statutory information as per the provisions of Section 56 of the Companies Act,1956

# Misstatements in Prospectus

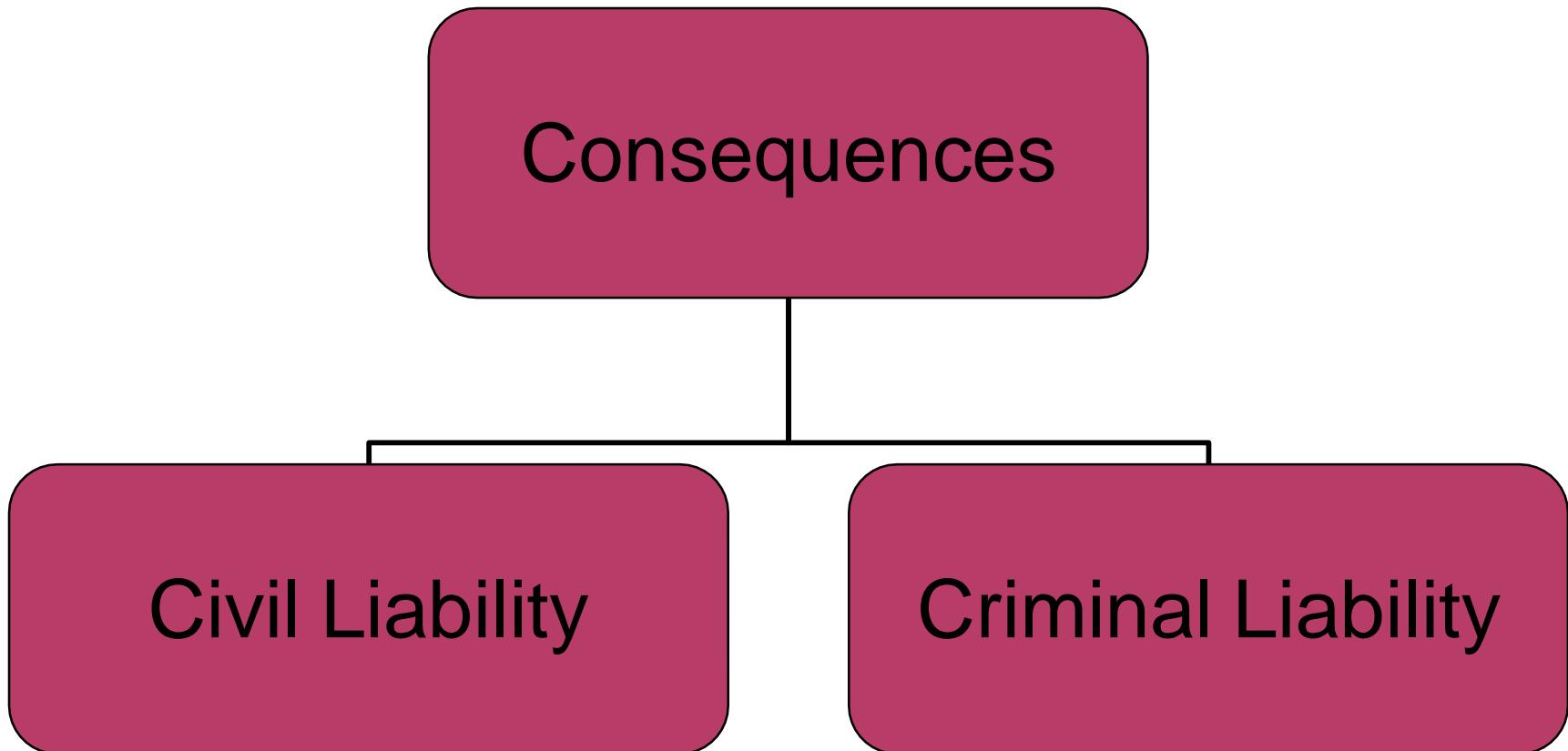
## Misstatements include:-

- Untrue statements;
- Statements which produce wrong impression;
- Statements which are misleading;
- Concealment of material facts; and
- Omission of facts

# Who are liable for Mis-statements in Prospectus?

- Every person who is:-
  - i. Director of the company at the time of issue of prospectus;
  - ii. Promoter of the company;
  - iii. Any other person who has authorized the issue of the prospectus.

# Consequences of Misstatements in Prospectus



# Types of Company Meetings

# *Kinds of Company*

## *Meeting*

- General Meetings
  - A. Statutory General Meeting
  - B. Annual General Meeting
  - C. Extra ordinary General Meeting
- Meetings of Creditors Debenture-holder's
- Class Meeting
- Meetings of Board of Directors

## Statutory General meeting

- A public limited company having share capital is required to hold a statutory meeting.
- Such a statutory meeting is held only once in the lifetime of the company.
- Such a meeting must be held within a period of not less than one month or within a period not more than six months from the date on which it is entitled to commence business i.e. it obtains certificate of commencement of business.

# Purpose of Statutory

## Meeting

To enable members to know all important matters pertaining to the formation of the company like:-

- which shares have been taken up
- what money has been received
- what contracts have been entered into
- what sums have been spent on preliminary expenses

# Statutory

## *Report*

- The Board of Directors must prepare and send to every member a report called the "Statutory Report" at least 21 days before the day on which the meeting is to be held.
- The report should be certified as correct by at least two directors, one of whom must be the managing director, where there is one, and must also be certified as correct by the auditors of the company with respect to the shares allotted by the company, the cash received in respect of such shares and the receipts and payments of the company.
- A certified copy of the report must be sent to the Registrar for registration immediately after copies have been sent to the members of the company.

# *Contents of Statutory Report*

- The total number of shares allotted, distinguishing those fully or partly paid-up, otherwise than in cash, the extent to which partly paid shares are paid-up.
- The total amount of cash received in respect of all shares allotted.
- An abstract of the receipts and payments made within 7 days of the date of report.
- An account of preliminary expenses.
- The names, addresses and occupations of directors, auditors, manager and secretary, if any, of the company and the changes which have taken place in the names, addresses and occupations of the above since the date of incorporation.

# *Contents of Statutory*

## *Report*

- Any commission or discount paid or to be paid on the issue or sale of shares or debentures.
- Particulars of any contracts to be submitted to the meeting for approval and modifications done or proposed.
- If the company has entered into any underwriting contracts, the extent, if any, to which they have not been carried out and the reasons for the failure.
- The arrears, if any, due on calls from every director and from the manager.
- The particulars of any commission or brokerage paid or to be paid, in connection with the issue or sale of shares or debentures to any director or to the manager.
- The auditors have to certify that all information regarding calls and allotment of shares are correct.

# Annual General Meeting

## (AGM)

- Must be held by every type of company, public or private once a year.
- Not more than 15 months must elapse between two AGMs. However, a company may hold its first annual general meeting within 18 months from the date of its incorporation.
- A notice of at least 21 days before the meeting must be given to members unless consent is accorded to a shorter notice by members, holding not less than 95% of voting rights in the company.
- The notice of the meeting must be accompanied by a copy of the annual accounts of the company, director's report on the position of the company for the year and auditor's report on the accounts.

# Annual General

## *Meeting*

- The notice must state that the meeting is an annual general meeting. The time, date and place of the meeting must be mentioned in the notice.
- The AGM must be held on a working day during business hours at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated.

# Purpose of Holding Annual General Meeting

- It is only at the annual general meeting of a company that the shareholders can exercise any control over the affairs of the company.
- They also get an opportunity to discuss the affairs and review the working of the company and can also take the necessary steps for the protection of their interests. They may, for example, refuse to re-elect a director whose actions and policy they disapprove.
- They can also take up any other business relating to the affairs of the company for discussion.
- Appointment of auditors is also made at the annual general meeting.
- Annual accounts are presented for the consideration of shareholders and dividends are declared in the annual general meeting.

# Business Transacted at

## AGM

- The following matters constitute ordinary business at an AGM:-
  - Consideration of annual accounts, director's report and the auditor's report
  - Declaration of dividend
  - Appointment of directors in the place of those retiring
  - Appointment of and the fixing of the remuneration of the statutory auditors.

# Extra ordinary General *meeting*

- Every general meeting (i.e. meeting of members of the company) other than the statutory meeting and the annual general meeting or any adjournment thereof, is an extraordinary general meeting.
- Such meeting is usually called by the Board of Directors for some urgent business which cannot wait to be decided till the next AGM.
- Every business transacted at such a meeting is special business.
- An explanatory statement of the special business must also accompany the notice calling the meeting.

# *Debentures Holder's*

## *Meeting*

- A company issuing debentures may provide for the holding of meetings of the debenture holders.
- At such meetings, generally any matters pertaining to the variation in terms of security or to alteration of their rights are discussed.
- All matters connected with the holding, conduct and proceedings of the meetings of the debenture holders are normally specified in the Debenture Trust Deed.
- The decisions at the meeting made by the prescribed majority are valid and lawful and binding upon the minority.

## Purpose of Holding

## *Debenture Holder's Meeting*

- These meetings are called from time to time where the interests of debenture holders are involved
  - at the time of reconstruction
  - reorganization
  - amalgamation
  - winding up of the company.

# Creditor's *Meeting*

- Sometimes, a company, either as a running concern or in the event of winding up, has to make certain arrangements with its creditors. Meetings of creditors may be called for this purpose.
- E.g. in case of winding up of a company, a meeting of creditors and of contributories is held to ascertain the total amount due by the company and also to appoint a liquidator to wind up the affairs of the company.

# Class

## *meetings*

- Class meetings are meetings which are held by holders of a particular class of shares, e.g., preference shareholders.
- Such meetings are normally called when it is proposed to vary the rights of that particular class of shares.
- At such meetings, these members discuss the pros and cons of the proposal and vote accordingly.
- Class meetings are held to pass resolution which will bind only the members of the class concerned, and only members of that class can attend and vote.

# Meeting of Board of

## Directors

- For efficient management of the affairs of the company, the directors are required to meet frequently to discuss and review important matters and to decide number of meetings.
- A Board meeting can be held on a public holiday or outside business hours for convenience.
- It need not be held at the registered office of the company. It may be held at any place convenient to the directors.
- **Period:** A Board meeting must be held at least once in every three months, and at least four such meetings must be held in a calendar year.

# Meeting of Board of Directors

- **Notice:** Notice of every meeting of the board of directors of company has to be sent to all the directors at their usual address in India. Failure to do so will render the resolutions passed at such meeting, null and void.
- **Quorum:** The quorum for a meeting of the board of directors of company shall be one-third of its total strength or two directors **whichever is higher**. If the meeting cannot be held for want of quorum it stands adjourned till the same day of the next week at the same time and place.
- Every meeting of the board must have a chairman to preside over it. The articles usually name the chairman who shall preside over the board meeting. If the articles do not name the chairman, the director may elect a chairman of the meeting.

# Requisites of a Valid

## Meeting

- To be convened by Board
- Notice
- Quorum
- Chairman of the meeting
- Minutes of the previous meeting must be properly kept

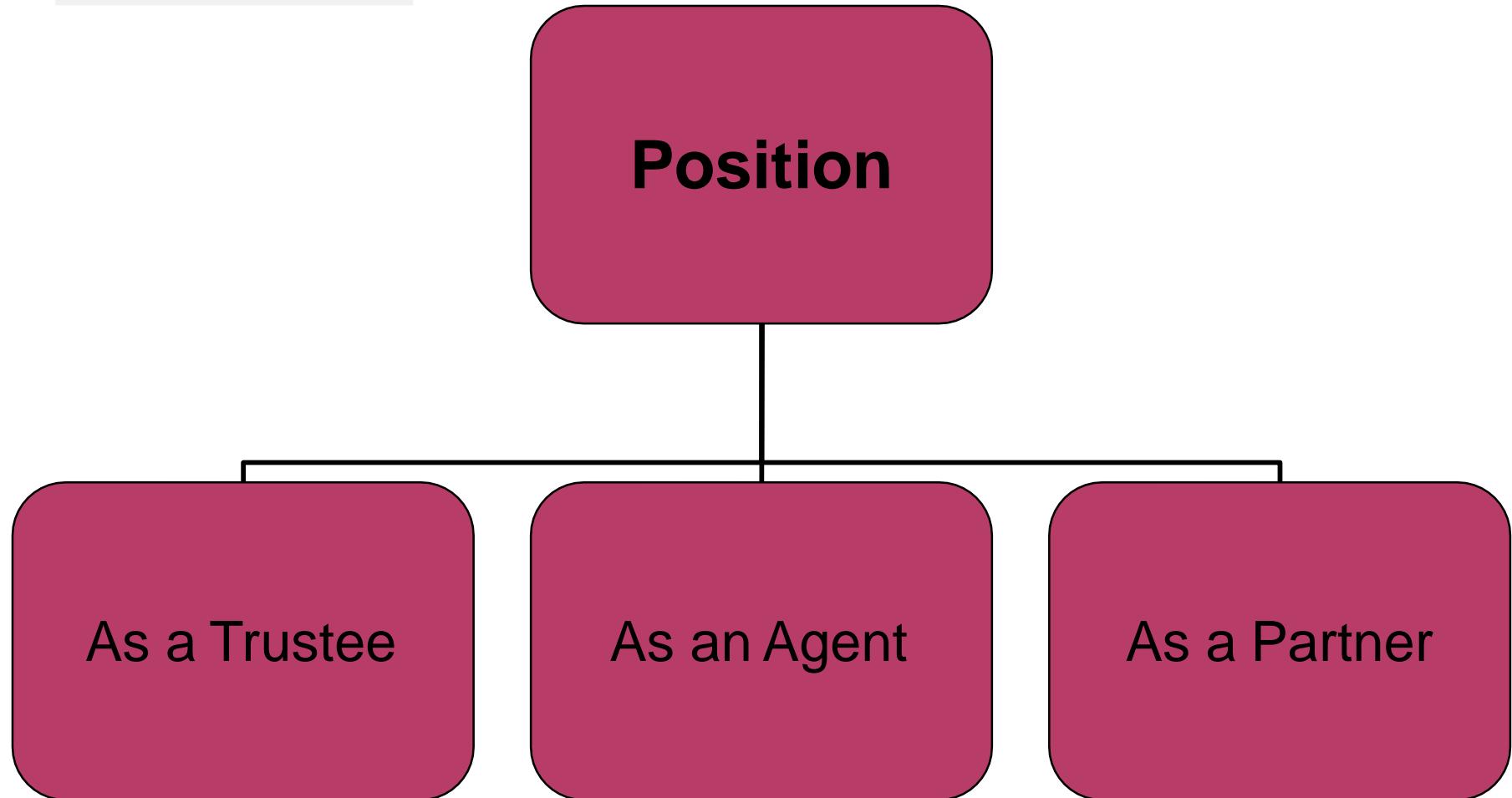
# **DIRECTORS**

# What Does Company Law

## *Speak?*

- **Section 2(13)** defines director as "director includes any person occupying the position of a director by whatever name called."
- Director is not servant of the company. He is rather an officer of the company.
- The articles of association of the company and provisions of the companies Act will govern the selection of the directors of the company.
- The management or the affairs of the company will be in the hands of the directors. The directors are collectively called the Board of Directors.
- The articles will determine the number of directors to be appointed to the Board of Directors of a company. As per the Act, minimum **three directors** will be there in a **public company** and **two directors** in a **private company**.

# Position of Director



ASA

*TRUSTEE*

- Directors are trustees of the company's money and property. They safeguard them and use them for and on behalf of the company.

# AS AN AGENT

- The position of director is like an agent. They have to function as per the provisions contain in the Articles of the company and the Company Law.
- Their actions are not their personal transactions, but they are the transactions done for and on behalf of the company. Therefore, they cannot be sued for the all intra vires acts( with in the powers) done by them on behalf of the company .

**ASA**

**PARTNER**

- Directors held shares. The members of the company also hold shares. The directors work as the representatives of the members. Thus, they are liked partners of the members of the company.

# Qualification to be a Director

- A director must be-
  - i. An individual,
  - ii. Competent to contract, and
  - iii. Hold a share qualification, if so required by the articles

# Disqualification for

- A person shall not be capable of being appointed as director of the company, if
  - I. He has been found to be of unsound mind
  - II. He is an undischarged insolvent.
  - III. He has applied to be adjudicated as an insolvent and his application is pending.
  - IV. He is convicted by a Court, of any offence involving moral turpitude and sentenced in respect thereof, to imprisonment for not less than six months and period of five years has not elapsed from the date of the expiry of the sentence.
  - V. He has not paid any call in respect of shares of the company held by him and six months have elapsed from the last date fixed for the payment of the call.

# Powers of *Directors*

- ISSUE DEBENTURES
- BORROW MONEY
- INVEST FUNDS
- MARKET LOANS

# Limitations of Directors

- Sell, lease, etc. the whole undertaking
- Remit or give time for the repayment of any debt by a director
- Invest or borrow money in contravention of the act.
- Charity of more than Rs. 50,000.

# Rights & Duties of *Directors*

## **RIGHTS:**

1. TO TAKE PART IN MEETINGS OF BOARD & IN THE AFFAIRS OF THE CO.
2. RIGHT OF REMUNERATION
3. COMPENSATION IN CASE OF PREMATURE TERMINATION OF SERVICES

## **DUTIES:**

1. DISTRIBUTE WORK ON BUSINESS LINES
2. ACT IN GOOD FAITH
3. EXERCISE REASONABLE CARE
4. MUST EXERCISE THAT SKILL WHICH IS REASONABLY EXPECTED OF HIM
5. ATTEND MEETING

- CIVIL:**
  1. FALSE STATEMENT IN A PROSPECTUS
  2. EXCEED AUTHORITY
  3. IN CASE OF ULTRA-VIRES ACTS
  4. WHERE HE IS NEGLIGENT AND CO. SUFFERS
  5. MAKES A SECRET PROFIT
  6. COMMITS ANY BREACH OF TRUST
- CRIMINAL: FALSIFICATION OF BOOKS & REPORTS  
FAILURE TO KEEP CERTAIN REGISTER**

***Shares***

# What is a Share?

A share is defined as, “a share in the share capital of the company and includes stock”

- ❖ Share capital of the company is collected by issue of shares.
- ❖ Share is one of the units into which total capital is divided.
- ❖ The person who owns the share is called shareholder.

# ***CLASSES OF SHARES***

## ❖ **Preference Shares**

1. It offers a fixed rate of dividend.
2. Right to get capital on winding up, before anything is paid to equity shareholders.

## ❖ **Equity or Ordinary Share**

1. These shares have voting rights.
2. It doesn't offer a fixed rate of return.
3. They are not entitled to get capital on winding up, before paying to preference shareholders.

# **TYPES OF PREFERENCE SHARES**

**1.**

## *Cumulative*

- Fixed rate of dividend is guaranteed.
- At the time of inadequate profit, they will not loss anything.
- Arrear will get in subsequent years.

## **2. Non-Cumulative Preference Shares**

- Fixed rate of dividend is guaranteed.
- At the time of inadequate profit, they will not get anything.

**3.**

## *Participating*

- Fixed rate of dividend is guaranteed.
- Entitled to share the surplus profit.

## **4. Non-Participating Preference Shares**

- Fixed rate of dividend is guaranteed.
- Does not share the surplus profit.

## **5. Redeemable Preference Shares**

- Shares which a company may repay after a fixed period of time or earlier.

## **6. Irredeemable Preference Shares**

- It do not carry the arrangement for redemption.
- Shares are repayable only at winding up.

## 7. *Convertible Preference Shares*

- It can be converted into Equity shares within a certain period.

## **8. Non-Convertible Preference Shares**

- It cannot be converted into Equity shares.

# EQUITY SHARES

*It is a share, which is*  
*not a preference share is*

- The whole of the profit of a company is entitled to these shareholders, after paying a fixed dividend to preference shareholders.
- They doesn't get a fixed rate of dividend.
- They will get back their capital only after paying preference share holders.

# *SWEAT EQUITY SHARES*

- It is issued to employees or directors of a company at discounted rate.
- Issued for consideration other than cash.

It must follow these conditions;

1. Authorised by special resolution in general meeting.
2. Number, price, consideration (if any) and classes should be specified in the resolution.
3. The company must complete one year.
4. Equity shares of those company must be listed in recognised stock exchange.

# **DIFFERENCE BETWEEN..**

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>○ Nominal value is lower.</li><li>○ Dividend varies according to profit.</li><li>○ No right for arrears of dividend.</li><li>○ No priority in dividend and repayment of capital.</li><li>○ Cannot be redeemed.</li><li>○ There is more risk.</li><li>○ Wider voting right.</li><li>○ Control over management.</li><li>○ Highly speculative.</li><li>○ Ready to take risk and to get greater dividend prefer this.</li></ul> | <ul style="list-style-type: none"><li>○ Nominal value is higher.</li><li>○ Rate dividend is fixed.</li><li>○ Cumulative preference shares get arrears.</li><li>○ Priority in dividend and repayment of capital.</li><li>○ Can be redeemed.</li><li>○ The risk is lower.</li><li>○ Limited voting right.</li><li>○ No control over management.</li><li>○ Less speculative.</li><li>○ Not ready to take risk and expect steady income prefer this.</li></ul> |
|---|--|

**Equity Shares**

**Preference Shares**

## *Winding Up of a Company*

- Last stage in company's life.
- It is the proceeding by which a company is dissolved.
- “ Winding up of a company is a process whereby its life is ended and its property administered for the benefit of its creditors and members.
- An administered, called liquidator, is appointed and he takes control of the company, collects its assets, pays its debt and finally distributes any surplus among the members in accordance with their rights.”

# MODES OF WINDING UP



**COMPULSORY WINDING UP**  
(Winding up by tribunal)

**VOLUNTARY WINDING UP**

**WINDING UP UNDER SUPERVISION OF COURT**

Members Voluntary winding up

Creditors voluntary winding up

# GROUND'S FOR COMPULSORY WINDING UP

- If the company has, by a Special Resolution, resolved that the company be wound up by the Tribunal.
- If the company fails to commence its business within one year of its incorporation, or suspends its business for a whole year.
- If the number of members is reduced below the statutory minimum i.e. below seven in case of a public company and two in the case of a private company.
- If the company is unable to pay its debts.
- If the tribunal is of the opinion that it is just and equitable that the company should be wound up.
- If the company has made a default in filing with the Registrar its balance sheet and profit and loss account or annual return for any five consecutive financial years
- If the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

# VOLUNTARY WINDING UP

## *(Section 484)*

- Acc. To section 484, When a company is wound up by the members or the creditors without the intervention of Tribunal, it is called as voluntary winding up.
- It may take place by:-
  - By passing an ordinary resolution in the general meeting if :
    - ▶ (i) the period fixed for the duration of the company by the articles has expired; or
    - ▶ (ii) some event on the happening of which company is to be dissolved, has happened.
  - By passing a special resolution to wind up voluntarily for any reason whatsoever.

# **MEMBERS & CREDITORS**

## **VOLUNTARY**

- **MEMBERS VOLUNTARILY WINDING UP**
- Directors of the company shall call for a Board of Directors Meeting, and make a declaration of winding up, accompanied by an Affidavit, stating that:
  - The company has no debts to pay, or
  - The company will repay its debts; if any, within 3 years from the commencement of winding up, as specified in declaration
- **CREDITORS VOLUNTARILY WINDING UP**
- Where the resolution for winding up has been passed, but the Board of Directors are not in a position to give a declaration on the liability of company, they may call a meeting of creditors, for the purpose of winding up.
- It is the duty of Board of Directors, to present a full statement of company's affairs, and list of creditors along with their dues, before the meeting of creditors.
- Whatever resolution, the company passes in creditor's meeting, shall be given to the Registrar within ten days of its passing.

# WINDING UP UNDER

## *SUPERVISION OF*

- Acc. To section 522, when a company is wound up voluntarily and the process of winding up is completed under the supervision of court, it called as winding up under supervision of court.
- The creditors /contributors/ liquidator request the court to supervise the process of winding up.
- Ground's for it are: -
  - If the liquidator is negligent in realizing the assets, or
  - The rules regarding winding up are not being duly observed or
  - The majority shareholders are working in fraudulent manner, against the interest of minority shareholders.

thank  
you!