



Question 6. Define Articles of Association. What are its contents?

Answer: The Articles of Association are the rules for the management of the internal affairs of a company. The articles define the duties, rights and power of the officer and director of the company.

Contents of the Articles of Association (It is not an exhaustive but illustrative list).

- The amount of share capital and different types of shares.
- Rights of each class of shareholder.
- Procedure for making allotment of shares.
- Procedure for issuing share certificates.
- Procedure for forfeiture and reissue of share.
- Procedure for conducting, voting and proxy.
- Procedure for appointment of director.
- Procedure for declaration of dividend.
- Procedure for alteration of share capital.
- Procedure regarding winding up of the company.

Question 7. Differentiate between:

- Memorandum of Association and Articles of Association.
- Private and Public Company

Answer: Differences between Memorandum of Association and Articles of Association

Memorandum of Association	Articles of Association
<b>1. Importance:</b> It has primary importance in the formation of company.	It has a secondary importance in the formation of company.
<b>2. Constitution:</b> It is a constitution of the company.	It contains rules which govern the administration of the company.
<b>3. Object:</b> It lays down the objects of the company.	It contains the procedure of achieving objects. The provision can be changed by the special resolution easily.
<b>4. Alternate:</b> It is not alterable but it can be amended by special resolution and sanction of the court or central government.	Articles of Association can be amended by a special resolution.
<b>5. Relation:</b> Its nature is like contract between the company and outsiders like bankers and creditors.	It maintains relation between the company and the persons inside the company.
<b>6. Regulation:</b> It contains rules which governs the administration of the company.	The Registration of Articles is optional for the company limited by shares. It may adopt all or any of regulations.
<b>7. Nature of Document:</b> It does not allow the company to act against the company ordinance.	It is a subsidiary document to Memorandum of Association.
<b>8. Limits:</b> This document determines the limits of the company business.	Business limits are not mentioned in it.

Differences between Public Company and Private Company

Private Company	Public Company
<b>1. Minimum and Maximum Members:</b> It has minimum 2 and maximum 50 members.	It has minimum 7 and maximum unlimited members.
<b>2. Invitation to Public:</b> It cannot invite general public to buy its shares and debentures.	It invites general public to buy its shares and debentures.
<b>3. Transfer of Shares:</b> There are certain restrictions on transfer of its shares.	Its share are freely transferable.
<b>4. Commencement of Business:</b> It can commence business after incorporation.	It can commence business after obtaining certificate of commencement of business.
<b>5. Name:</b> It has to write "Private Ltd" after its name.	It has to write only "Limited" after its name.
<b>6. Minimum Capital:</b> Minimum capital required is one lakh.	In it minimum capital required is five lakhs.

Question 8. Define promoter. What are the functions of a promoter?

Answer: Promoter is a person who conceives the idea of starting a business, examines the feasibility of idea, assemble various resources, prepare necessary documents and perform other activities needed to commence the business.

Functions of a promoter

1. Identification of business opportunity;
2. Feasibility studies: the following feasibility studies may be undertaken:
  - (a) technical feasibility
  - (b) financial feasibility
  - (c) economic feasibility
3. Name approval;
4. Fixing up signatories to the Memorandum of Association;
5. Appointment of professionals;
6. Preparation of necessary documents.

Question 9. Explain the contents of Memorandum of Association.

Answer: Contents of Memorandum of Association: The memorandum must contain the following clauses:

1. The Name Clause: It contains the name of company with which the company will be known.
2. Registered Office Clause: It contains the name of the state, in which the registered office of the company is proposed to be situated.
3. Objects Clause: It defines the purpose for which the company is formed. It is further divided into two sub-clauses: (1) the main objects (2) other objects.
4. Liability Clause: It states that the liability of members is limited to the amount unpaid on shares owned by them.
5. Capital Clause: It specifies the maximum capital, which the company will be authorized to raise through issue of shares.
6. Association Clause: In this clause, signatories to the memorandum, state their intention to be associated with the company and give their consent to purchase qualification shares.

### III. Long Answer Type Questions

Question 1. What do you mean by incorporation of a company?

What are the steps involved in corporation of a company?

Answer: Incorporation of the company: It means registration of the company under Companies Act, 1956. The second stage involves the following steps:

1. Filling of documents: An application to the registrar for incorporation must be accompanied with following documents:
  - Memorandum of Association;

- Articles of Association or statement in lieu of the prospectus (in case table A is adopted by public limited company);
  - Written consent of proposed directors;
  - Agreement (if any) with proposed managing director, manager, etc.;
  - Copy of registrar's letter approving the company's name;
  - Statutory declaration;
  - Notice of the exact address of the registered office.
2. Payment of fees: Along with the above documents, necessary fees is to be paid.
  3. Certificate of incorporation: The registrar issues a certificate of incorporation after being satisfied. Certificate is a conclusive evidence of regularity of incorporation of a company irrespective of any deficiency in its registration.

Question 2. Explain different types of partners.

Answer: Different types of partners are given below:

1. General/Active Partner: Such a partner takes active part in the management of the firm.
2. Sleeping or Dormant Partner: Although he does not take active part in the management of the firm, he invests money, shares profit and loss, has unlimited liability.
3. Secret Partner: He participates in business secretly without disclosing his association with the firm to general public. His liability is also unlimited.
4. Nominal Partner: Such a partner only gives his name and goodwill to the firm. He neither invests money nor takes profit. But his liability is unlimited.
5. Partner by Estoppel: He is the one who by his words or conduct gives impression to the outside world that he is a partner of the firm whereas actually he is not. His liability is unlimited towards the third party who has entered into dealing with firm on the basis of his pretension.
6. Partner by Holding out: He is the one who is falsely declared partner of the firm whereas actually he is not. And even after becoming aware of it, he does not deny it. His liability is unlimited towards the party who has dealt it with firm on the basis of this declaration.

Question 3. Explain meaning, features, merits and demerits of Sole Proprietorship.

Answer: Sole Proprietorship means a business owned, financed and controlled by a single person who is recipient of all profits and bearer of all risks. It is suitable in areas of personalized services like beauty parlour, hair cutting saloons and small scale activities like retail shops.

Features:

- Single Ownership: It is wholly owned by one individual.
- Control: Sole proprietor has full power of decision making.
- No Separate legal entity: Business and businessman are not separate entities in the eyes of law.
- Unlimited liability: The liability of owner is unlimited. In case the assets of business are not sufficient to meet its debts, the personal property of owner can be used for paying debts.
- No legal formalities: No legal formalities are required to start, manage and dissolve such business organization.
- Sole risk bearer and profit recipient: He bears the complete risk and there is nobody to share profit / loss with him.

Merits:

- Easy to start and close: It can be easily started and closed

without any legal formalities.

- Quick decision making: As sole owner is not required to consult or inform anybody about his decisions.
- Secrecy: He is not expected to share his business decisions and secrets with anybody.
- Direct incentive: Direct relationship between efforts and reward provide incentive to the sole trader to work hard.
- Personal touch: The sole trader can maintain personal contacts with his customers and employees.
- Social utility: It provides employment to persons with limited money who are not interested to work under others. It prevents concentration of wealth in a few hands.

Limitations:

- Limited financial resources: Funds are limited to the owner's personal savings and his borrowing capacity.
- Limited managerial ability: Sole trader can't be good in all aspects of business and he can't afford to employ experts also.
- Unlimited liability: Unlimited liability of sole trader compels him to avoid risky and bold business decisions.
- Uncertain life: Death, insolvency, lunacy or illness of a proprietor affects the business and can lead to its closure.
- Limited scope for expansion: Due to limited capital and managerial skills, it cannot expand to a large scale.

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