18 PRIVATE AND PUBLIC COMPANIES

Objectives
At the end of this chapter, students should be able to:

- Define private and public companies;
- Distinguish between private and public companies;
- State the features of each type.

18.1 Introduction
There are appropriately half a million private liability companies in this country. Many of them are old family businesses, previously sole traders and partnerships that have grown and expanded. They have taken the advantage of limited liability not only to safeguard their private property but also to pressure continuity in the event of the death or retirement of the owners or senior partners.

18.2 Private Liability Company
Section 28 of the Company Act 2004 defines private liability company as one which the article:
1. Restricts the transfer of its shares.
2. Limits the numbers from two to fifty.
3. Prohibits any invitation to the public to subscribe to its shares.
4. The name of the private company must end with "Limited" e.g Newswatch Nigeria Limited.
5. Unless the memorandum or article expresses for it, a private limited company may turn itself into a public company by passing a special resolution and filing with the registrar of companies the prescribed statutory declaration.

18.3 Features of a Private Liability Company
(i) The minimum number of members may be two instead of seven.
(ii) It is not obliged to file a statement in lieu of a prospectus.
(iii) The restriction put upon the commencement of business, name the obtaining of the minimum subscription, waiting for the certificate entitling it to commence, etc. do not apply.
(iv) The restrictions placed on the allotment of shares and on the appointments of directors do not apply.
(v) It is not obliged to hold a statutory meeting or forward to the members, or file with the registrar of companies the statutory report.

18.4 Public Company
A public company is defined by the Company Act of 2004 as one with the following attributes:
1. Allows the public to subscribe for its shares.
2. Must have a minimum of seven persons but no maximum number is prescribed.
3. Allows the shares to be transferred.
4. Must end with "Plc. (public liability company) e.g. First Bank Plc, Union Bank Plc.

18.5 Features of Limited Liability Company
The following features are common to Limited Liability Company:
1. Legal Entity: Limited Liability Company has a distinct personality from that of the members of the company in which can be sue or be sued in its own name.
2. Perpetual Succession: The death of its shareholders will not affect the existence of the company, it enjoys continuous existence.

3. Limited Liability: The liability of shareholders is limited to the amount contributed or agreed to contribute to the company. The private properties of the shareholders will not be touched in the event of liquidation.
4. Ownership and Control: Ownership is separated from management. The shareholders are regarded as the owners of the company but the management is in the hand of board of directors.
5. Formation: A limited liability company must follow some special formalities before registration. They secure incorporation by filing the article and memorandum of association with the registrar of the companies.
6. Preparation of Annual Accounts: A limited liability company is required by statute to keep certain prescribed books of account. The accounts must be audited annually.
7. Specific Line of Business: A limited liability is authorised by law to carry on business specified in the object clause.

18.6 Difference between Private and Public Limited Liability Company

Private Limited Liability Company	Public Limited Liability Company
1. Formation: The minimum number of people to form a private company is two and maximum of fifty.	1. The minimum number of people to form public company is seven and the maximum is infinity.
2. Appeal to public: The private is not Allowed by law to subscribe its shares.	2. The public is allowed to Subscribe its Shares.
3. Transferability of Shares: Shares are not transferable in a private limited company without the consent of members.	3. A public company invites the public to subscribe to its shares and it is easily transfered.
4. Publicity: It does not publicise its annual accounts but must lodge a copy with the registrar of companies.	4. They are bound to publish their annual accounts and to register a copy with the registrar of companies e.g. annual report.
5. Size: Private companies are small or medium size and have limited Capitals	5. Public companies are usually large in size and have large capital.
6. Ownership and Control: It is owned and controlled by those who contribute the capital.	6. It is owned by shareholders and controlled by the board of directors selected by them.
7. Stock exchange market. Their share cannot be bought or sold in the stock exchange market.	7. Their shares can be bought and sold in the stock exchange market.

18.7 Summary
In this chapter, students have learnt that:
1. A private company is exempted from several obligations and restrictions imposed on a public.
2. A Public company allows the public to subscribe for its shares.
3. The private limited company and public limited liability company are different terms of mode of information, method of transfer of shares, publicising of account size, etc.

18.8 Revision Questions

1. What is a public company?
2. State five (5) features of a private limited company.
3. Distinguish between private and public limited liability company, with vivid explanation.