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**Final Term Exam**

## **IQRA NATIONAL UNIVERSITY**

### **Corporate law final term paper**

**Attempt all the questions total marks 50 all the questions carry equal marks:**

Q1: Throw light on any two of the following

**a. Common seal**

**Solution**

- Every company must have a seal of its own called common seal.
- Directors must provide for its safe custody.
- It shall be affixed to share certificate and any other instrument, only on the authority of the resolution of directors.

**Explanation of Common Seal**

A **common seal** (sometimes referred to as the **corporate seal** or **company seal**) is an official seal used by a **company**. Common seals were predominantly used by companies in common law jurisdictions, although in modern times, most countries have done away with the use of seals.

In the UK, a company may have a company seal under the provisions of Companies Act 2006 section 45. It may have further seals for other territories and for issuing securities. These seals have the additional legend of the territory or the word SECURITIES. A company may wish still to seal documents as a means of protection against forgery.

Traditionally, the seal was of some legal significance because the affixing of the seal signified that the document was the act and deed of the company, whereas when a document was merely signed by a director, then that was deemed to be an act carried out on behalf of the company by its agents, which was subject to applicable restrictions and limitations under the ordinary **law of agency**.

Corporate seals are generally only used for two purposes by corporations today:

- Documents which need to be executed as deeds (as opposed to simple contracts), may be executed under the company's common seal
- Certain corporate documents, for example share certificates are often issued under the company seal (and some countries required that share certificates be issued under the common seal). For example, in India a share certificate is given under the common seal of the company and each usage of common seal is documented in the statutory registry of the company.

Physically, seals used to be used to make an impression on melted wax on the relevant document, although modern seals will usually only leave an indentation or impression on the paper (although sometimes a red wafer is used to imitate old red wax seals, and to make the sealing show up better on photocopies).

**b. Auditors**

**Solution**

**Auditors** are financial professionals who review business records for accuracy and honesty. They are primarily employed by businesses or independent organizations to perform internal and external audits.

In another words we can defined of an **Auditor** that Auditor is a person or a firm appointed by a company to execute an audit. To act as an auditor, a person should be certified by the regulatory authority of accounting and auditing or possess certain specified qualifications. Generally, to act as an external auditor of the company, a person should have a certificate of practice from the regulatory authority.

- Auditors are independent persons who examine the accounts of the company and report on the same time.
- They express their opinion on the accounts and also supposed to detect fraud, manipulations of accounts aimed at concealment of true financial position of company.
- The main duty of an **auditor** is to determine whether financial statements follow GAAP.
- The SEC requires all public companies to conduct regular reviews by external auditors, in compliance with official auditing procedures.
- There are several different types of auditors, including those hired to work in-house for companies and those who work for an outside audit firm.

Q2: What is company and its types?

### **Solutions**

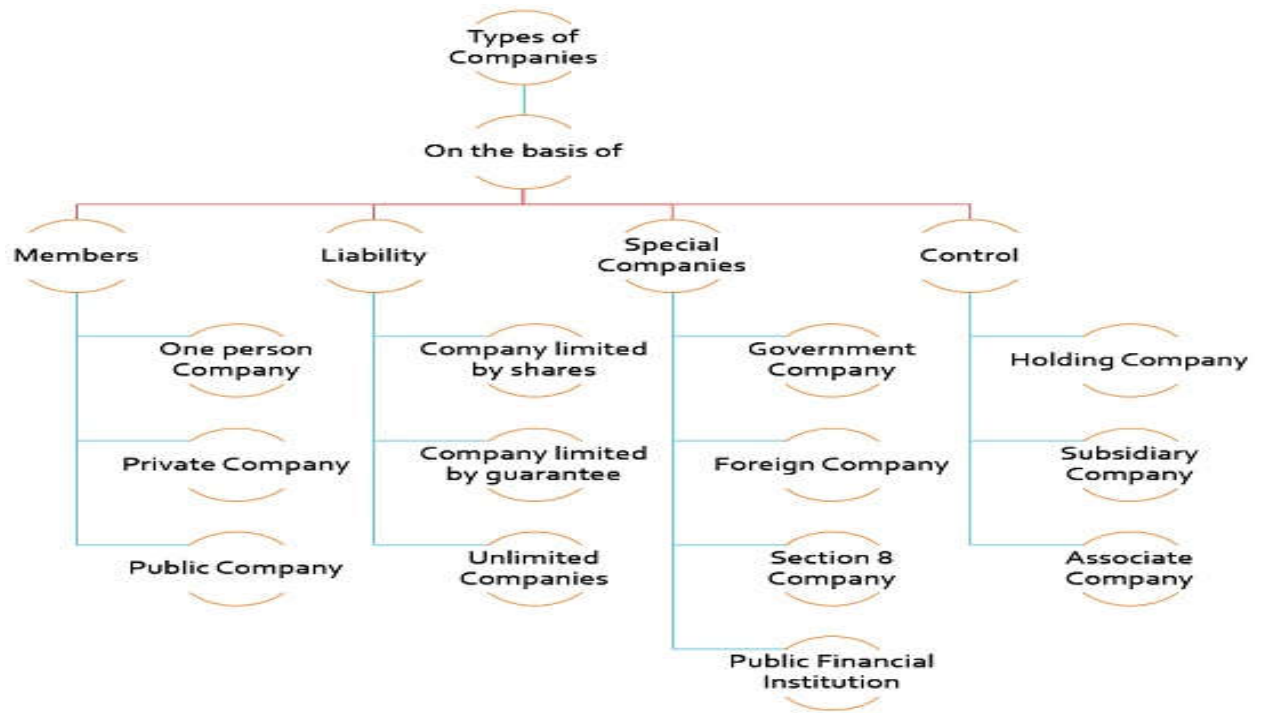
#### **What is a company?**

A **company** is a body corporate or an incorporated business organization registered under the **companies act**. It can be a limited or an unlimited **company**, private or a public **company**, **company** limited by guarantee or a **company** having a share capital, or a community interest **company**.

#### **Types of Companies**

Companies can be classified into different types based on their mode of incorporation, the liability of the members, and number of the members. The most common types of companies are:

- Royal Chartered Companies
- Statutory Companies
- Registered or Incorporated Companies
- Companies Limited By Shares
- Companies Limited By Guarantee
- Unlimited Companies
- Public Company (or Public Limited Company)
- Private Company (or Private Limited Company)
- One Person Company



Q3: Procedure of amendment in memorandum of association?

### **Solution**

#### **Procedure for amendment in memorandum of association**

The **Memorandum of Association** or **MOA** of a company defines the constitution and the scope of powers of the company. In simple words, the MOA is the foundation on which the company is built. In this article, we will look at the laws and regulations that govern the MOA. Also, we will understand the contents of the Memorandum of Association of a company.

The **Procedure for amendment in memorandum of association** of a company is an important corporate document in certain jurisdictions. It is often simply referred to as the memorandum. In the UK, it has to be filed with the Registrar of Companies during the process of incorporating a company. It is the document that regulates the company's external affairs, and complements the articles of association which cover the company's internal constitution. It contains the fundamental conditions under which the company is allowed to operate. Until recently it had to include the "objects clause" which let the shareholders, creditors and those dealing with the company know what is its permitted range of operation, although this was usually drafted very broadly. It also shows the company's initial capital. It is one of the documents required to incorporate a company in Pakistan, India, the United Kingdom, Ireland, Canada, Nigeria, Nepal, Bangladesh, Afghanistan, Sri Lanka, and Tanzania and is also used in many of the common law jurisdictions of the Commonwealth.

According to Section 4 of the Companies Act, 2013, companies must draw the MOA in the form given in Tables A-E in Schedule I of the Act. Here are the details of the forms:

- **Table A:** Form for the memorandum of association of a company limited by shares.
- **Table B:** Form for the memorandum of association of a company limited by [guarantee](#) and not having a share capital.
- **Table C:** Form for the memorandum of association of a company limited by guarantee and having a share capital.
- **Table D:** Form for the memorandum of association of an unlimited company.

- **Table E:** Form for the memorandum of association of an unlimited company and having share capital.

### **Content of the MOA**

The following information is mandatory in an MOA:

1. For a public limited company, the name of the company must have the word 'Limited' as the last word
2. For the private limited company, the name of the company must have the words 'Private Limited' as the last words.

This is not applicable to companies formed under Section 8 of the Act who must include one of the following words, as applicable:

- Foundation
- Forum
- Association
- Federation
- Chambers
- Confederation
- Council
- Electoral Trust, etc.

Q4: What is requirement of memorandum of association under section (19) & what are conditions to be fulfilled for the registration of MOA?

### **Solution**

#### **Requirement of memorandum of association under section (19)**

#### **Requirements of MOA**

- **Under section (19)**
- Signature of each subscriber must be attested by witness
- Every subscriber must add his address, description and occupation
- Witness should write his address, description and occupation
- Memorandum must be stamped

Explanation of Requirements of MOA

#### **Explanation**

**Memorandum of association under Section 19** of Companies Act mandates that anyone aiming to incorporate (create) a company has to frame the constitution and submit the constitution to the Registrar (ACRA). Following this, the constitution of the company starts working.

Another way of creating your company's constitution is to choose the official Model Constitution (in Companies Act) as it is. That is, without any amendments.

If you're planning to submit the Model Constitution, you will not have to register the constitution during incorporation process for the company.

When you choose the official Model Constitution, you need just to express the type of Model Constitution you choose when registering. The options are private company limited by shares, or a company limited by guarantee.

### **Conditions to be fulfilled for the registration of MOA**

- Under section 30,31,32 & 33
- Memorandum should be filed with registrar for registration
- The registrar should register MOA only if the following conditions are fulfilled.
- Company is being formed for lawful purposes
- Non of the object stated is inappropriate or deceptive.
- All legal requirements regarding registration are duly complied with.
- After the registration of MOA the registrar shall enter the name of the company in the register of companies and issue certificate of incorporation.

### **Explanation**

Every company requiring registration in Pakistan whether as Private Limited company, Public Limited company or any other form of company must prepare memorandum of association.

Memorandum of association of any company is basically the constitution of the company or a kind of foundation upon which the structure of the company is based.

The important thing to know is that a company once registered can only undertake those businesses that are mentioned in the memorandum of association of the company so all those businesses that the company proposes to take shall be mentioned in the memorandum of association.

The contents of memorandum of association of any company shall be in compliance with the companies' ordinance, 1984. The memorandum of association should have following contents:

- The name of the company that required registration and also whether it is a company limited by shares, limited by guarantee or any other form of business.
- The place also specifying the province where the registered office of the company is going to be.
- The basic objective of the registration of the company or in other words the reason why the company is to be registered and the business it is going to undertake.
- In case the company is going to be registered as Private Limited company or any other form of company the fact shall also be mentioned that the company is limited company and that the liability of the members of the company is going to be limited up to the amount of unpaid capital in case of Private Limited company.
- The amount of share capital shall also be mentioned in the memorandum of association with which the company proposes to get registered.
- The distribution of the share capital into share of definite amount is also mentioned in the memorandum of association.
- Every subscriber or shareholder mentioned in the memorandum of association of the company shall take at least on share it is not possible to take half share.
- The number of shares each member of the company proposes to take shall write opposite to his name that how many shares have been taken by him.
- Company Registration in Pakistan Conditions for alteration in Memorandum of Association for company registered in Pakistan:

- Companies registered in Pakistan are allowed to make alteration in their memorandum of association for the following reasons:
- A company registered in Pakistan can make changes in its memorandum to carry on business more economically or more efficiently.
- Registered companies in Pakistan can make alteration in its memorandum of association to attain its purpose by new or improved means.

Changes are also allowed in the memorandum if the company registered in Pakistan is proposing to enlarge the area of its operations.

A company can also make changes in the memorandum of association to carry on any other business which can be conveniently be carried with the existing business of the company.

Similarly modification can also be made in the memorandum of association of the company to restrict or abandon any business mentioned in the memorandum of association.

Changes are also made by companies in their memorandum of association to sell or dispose of whole or part of their business.

Sometimes changes are also made in the memorandum of association of the company registered in Pakistan to amalgamate its business with any other company.

Q5: Definition of a company by Justice James & Features of a company?

### **What is a Company?**

1. According to Justice James, “A company is an association of persons united for a common object.”
2. According to Lord Lindley, “By a ‘company’ is meant an association of many persons who contribute money or money’s worth to a common stock and employ it for some common purpose. The common stock so contributed is denoted in money and is the capital of the company. The persons who contribute it or to whom it belongs are members. The proportion of capital to which each partner is entitled is his share.”
3. According to Kimball and Kimball, “A corporation is by nature an artificial person created or authorized by the legal stature for some specific purpose.”
4. According to Prof. Haney, “A company is an artificial person created by law having a separate entity with a perpetual succession and a common seal.”
5. According to James Stephenson, “A company is an association of any persons who contribute money or money’s worth to a common stock and employs it in some trade or business, and who share the profit and loss (as the case may be) arising there from.”

### **Features of a company**

- Characteristic feature of a company
- The various definition quoted reflect the following characteristic features that a company has :
- Artificial person created by law
- A company under the existing corporate law is an artificial legal person

- Having an entity and personality and entity distinct from the members of share holders constituting it.
- A company is a legal person because in law it is capable of having legal rights and obligation just like a natural person.
- Like any other human being it can acquire and own property, transfer property, enter into contracts and sue and be sued in its own name.
- Independent legal entity
- Since a company is an entity separate from its members hence all assets and liabilities in business are its own.
- No members can claim any ownership rights in it during its existence or windingup.
- Perpetual succession
- Means that a company possesses permanent life which is not affected by debt, insolvency, insanity and withdrawal of any of its members.