

**Subject: Business Economics**

**Course: B.A., 2<sup>nd</sup> Semester, Undergraduate.**

**Paper No: 203**

**Paper Title: Legal Aspects of Business.**

**Unit No.: 1 (One)**

**Title: Companies Act, 1956.**

**Lecture No: 1 (One)**

**Title: Companies Act, 1956 (Part - 1)**

FAQs

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**Q1. What do you mean by Company? Explain its characteristics.**

**Ans:**

According to sec. 3(1) (i) of the Company Act, 1956: A company is defined as, 'a company formed and registered under this act or an existing company.' An existing company means 'a company formed and registered under any of the previous company laws.'

The definition given by the Companies' Act does not define the company clearly as to its features. Chief Justice Marshall of U.S.A. has defined the term company, as 'a company is a person, artificial, invisible, intangible and existing only in the contemplation of the law. Being a mere creature of law, it possess only those properties which the charter of its creation confers upon it either expressly or as incidental to its very existence.'

Characteristics of the company

The following are the characteristics of the company:

1. Incorporated Association: Under the Companies Act, a company must be registered or incorporated. The minimum numbers of persons required for incorporation are seven in case of public company and two in case of private company.
2. Artificial person: It is an artificial legal person enjoying same rights and owing same obligations as a nature person.



3. Separate Legal Entity: A company is a separate and distinct from the persons who constitute it.

4. Limited Liability: the liability of its members is limited to the unpaid value of the shares held by them or guarantee given by them.

5. Separate Property: Company is entitled to own and hold property as distinct from its members.

6. Transferability of Shares: Shares of the company are freely transferable which makes the life of the company independent of the lives of its members.

7. Perpetual Existence: A company being an artificial judicial person, it is not affected by the death, insolvency or retirement of the members. Members may come and members may go but the company can go on forever.

8. Common seal: Common seal is the official signature of the company because a company cannot sign like a natural person.

9. Company may sue and be sued in its own name: One of the consequences of separate legal entity is that a company may sue and be sued in its own name.

**Q2. Write a note on Corporate Veil.**

**Ans:** company is a legal person and is distinct from its members. This principle is regarded as a curtain or a veil between the company and its members protecting the latter from the liabilities of the former. This veil is the corporate veil and is impassable as an iron curtain.

**Q3. What is the procedure for registration/ incorporation of a company? Procedure for registration/Incorporation of a company.**

**Ans:** company comes into existence when the number of persons come together with a view to exploit some business opportunity.

According to section 12, for a private company any two persons or more and for a public company any seven persons or more may incorporate a company, by subscribing their names to the Memorandum of Association and complying with other requirements, in respect of registration.

The memorandum for registration of a company should be presented to the registrar of the state in which the business office of the company is to be situated.



**Q4. Write a note on Commencement of business by a company. Commencement of business by a company**

**Ans:** A private company can begin its business immediately after getting the certificate of incorporation. Whereas, a public company cannot start its business after incorporation unless it has obtained this certificate. The company may comply with the provision of section 149 of the Companies Act. The method for obtaining the certificate varies with the fact whether the company has issued a prospectus or not.

**Q5. What are the various documents required to be filed with registrar for incorporation of a company?**

**Ans:** Documents to be filed with the registrar:-

1. Application for availability of name
2. Memorandum of Association
3. Articles of Association
4. Copy of proposed agreement
5. Statement of nominal capital
6. Address of the registered office
7. List of directors and their consent
8. Undertaking to take up qualification shares
9. Statutory declaration

**Q6. What are the Restrictive conditions on the basis of which a company may be incorporated as a private company?**

**Ans:** Restrictive conditions on the basis of which a company may be incorporated as a private company:

The conditions of restriction with which a private company is incorporated under the Companies Act, 1956 are as follows:-

1. Every private company should have paid up capital of Rs. 1 Lakh or such higher as may be prescribed.
2. The right to transfer share is restricted
3. The number of members is limited to 50 excluding the past and present employees who are the members of the company.
4. Prohibition on inviting public to subscribe to any shares or debentures of the company.



5. Prohibition on invitation or acceptance of deposit from person other than its members, directors or their relatives [section 3 (i) (iii) of Companies Act, 1956].

**Q7. Classify company on the basis of its incorporation.**

**Ans:**

On the basis of incorporation, companies can be classified as:

- (i) Chartered companies
- (ii) Statutory companies
- (iii) Registered companies

**Q8. Classify company on the basis of liability.**

**Ans:** On the basis of liability the company can be classified into:

- (i) Companies limited by shares
- (ii) Companies limited by guarantee
- (iii) Unlimited companies.

**Q9. Classify company on the basis of its members.**

**Ans:**

(i) Private company:

A private company means a company which by its Articles of Association:

- (i) Restricts the right to transfer its shares
- (ii) Limits the number of its members to fifty (excluding members who are or were in the employment of the company) and
- (iii) Prohibits any invitation to the public to subscribe for any shares or debentures of the company.
- (iv) Where two or more persons hold one or more shares in a company jointly, they are treated as a single member. There should be at least two persons to form a private company and the maximum number of members in a private company cannot exceed 50. A private limited company is required to add the words "Private Ltd" at the end of its name.

(ii) Public company:

A public company means a company which is not a private company. There must be at least seven persons to form a public company. It is of the essence of a public company that its articles do not contain provisions restricting the number of its members or excluding generally the transfer of its shares to the public or prohibiting any invitation to the public to subscribe for its shares or debentures. Only the shares of a public company are capable of being dealt in on a stock exchange.



**Q10. Classify company on the basis of domicile.**

**Ans:**

(i) Foreign company:

It means a company incorporated outside India and having a place of business in India.

According to Section 591 a foreign company is one incorporated outside India:

(a) Which established a place of business within India after the commencement of this Act or (b) Which had a place of business within India before the commencement of this Act and continues to have the same at the commencement of this Act.

(ii) Indian Companies:

A company formed and registered in India is known as an Indian Company.