

## 1.1 Introduction to Company Law

Company Law deals with the **formation, management, regulation, and winding up of companies**. In India, it is mainly governed by the **Companies Act, 2013**.

It lays down rules relating to shareholders, directors, meetings, accounts, audit, and corporate governance.

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## 1.2 Meaning of a Company

According to **Section 2(20) of the Companies Act, 2013**,

*A company means a company incorporated under this Act or under any previous company law.*

In simple words, a company is:

- A **legal entity**
  - Formed by a group of persons
  - Registered under law
  - Having **separate legal existence**
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## 1.3 Characteristics of a Company

1. **Separate Legal Entity** – Company is distinct from its members
  2. **Perpetual Succession** – Continues despite death/insolvency of members
  3. **Limited Liability** – Liability of members is limited
  4. **Common Seal** – Official signature of the company (optional now)
  5. **Transferability of Shares** – Shares can be transferred
  6. **Artificial Legal Person** – Exists only in the eyes of law
  7. **Capacity to Sue and Be Sued**
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## 1.4 Types of Companies

### (A) On the basis of incorporation

1. Chartered Company
2. Statutory Company
3. Registered Company

### (B) On the basis of liability

1. Company Limited by Shares
2. Company Limited by Guarantee
3. Unlimited Company

**(C) On the basis of number of members**

1. Private Company
2. Public Company
3. One Person Company (OPC)

**(D) Other types**

- Government Company
- Foreign Company
- Holding & Subsidiary Company
- Section 8 Company (Non-profit)

## 1.5 Differences between Public and Private Company

Basis	Public Company	Private Company
Minimum members	7	2
Maximum members	Unlimited	200
Transfer of shares	Freely transferable	Restricted
Invitation to public	Allowed	Not allowed
Minimum directors	3	2
Use of word	“Limited”	“Private Limited”

## 1.6 Meaning and Appointment of Directors

**Meaning:**

A **Director** is a person appointed to manage the affairs of the company. Directors collectively form the **Board of Directors**.

**Appointment of Directors:**

Directors can be appointed:

1. By **Shareholders** (General Meeting)
2. By **Board of Directors**

3. By **Central Government**
4. As **First Directors** (mentioned in Articles)

Minimum Directors:

- Private Company – 2
  - Public Company – 3
  - OPC – 1
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## 1.7 Legal Position of Directors

Directors have a **dual position**:

1. **Agents** – Act on behalf of the company
2. **Trustees** – Hold company's property in trust
3. **Employees** – If appointed under service contract
4. **Officers** – For legal compliance

They are **not owners** of the company but manage it on behalf of shareholders.

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## 1.8 Powers and Duties of Directors

**Powers of Directors:**

1. Issue shares
2. Borrow money
3. Invest company funds
4. Approve financial statements
5. Appoint employees

(Some powers require shareholders' approval)

**Duties of Directors:**

1. Act in **good faith**
2. Act in the **best interest of the company**
3. Exercise **due care and skill**
4. Avoid **conflict of interest**
5. Not to make **undue gain**

## UNIT II – Promotion and Incorporation of Companies

### 2.1 Stages of Formation of a Company

The formation of a company involves the following stages:

1. **Promotion** – Idea generation and preliminary work
2. **Incorporation (Registration)** – Legal birth of the company
3. **Capital Subscription** – Raising capital (for public companies)
4. **Commencement of Business** – Starting business operations

□ *Private companies can start business immediately after incorporation.*

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### 2.2 Function and Legal Position of a Promoter

#### Meaning of Promoter:

A **promoter** is a person who conceives the idea of the company and takes necessary steps to form it.

#### Functions of a Promoter:

1. To discover business opportunity
2. To prepare documents (MOA, AOA)
3. To arrange capital
4. To appoint professionals
5. To complete incorporation formalities

#### Legal Position:

- Promoter is **not an agent** of the company
  - Acts in a **fiduciary (trust) position**
  - Personally liable for pre-incorporation contracts
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### 2.3 Rights and Duties of a Promoter

#### Rights:

1. Right to remuneration
2. Right to recover preliminary expenses

3. Right to indemnity

**Duties:**

1. Duty to disclose secret profits
  2. Duty to act honestly
  3. Duty to avoid conflict of interest
  4. Duty of full disclosure
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## 2.4 Incorporation or Registration of a Company

Incorporation means **legal registration of a company with the Registrar of Companies (ROC)**.

**Procedure:**

1. Filing of MOA and AOA
2. Declaration by professionals
3. Address of registered office
4. Payment of fees
5. Issue of **Certificate of Incorporation**

Certificate of Incorporation is **conclusive evidence** of existence.

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## UNIT III – Memorandum and Articles of Association

### 3.1 Meaning and Objective of Memorandum of Association (MOA)

MOA is the **charter of the company** defining its scope and limits.

**Objectives:**

1. To define company's area of operation
  2. To protect shareholders and creditors
  3. To inform outsiders
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## 3.2 Contents / Clauses of Memorandum of Association

1. **Name Clause**
  2. **Registered Office Clause**
  3. **Object Clause**
  4. **Liability Clause**
  5. **Capital Clause**
  6. **Subscription Clause**
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## 3.3 Alteration of Memorandum of Association

Alteration can be done:

- By **special resolution**
- With approval of authorities (ROC, CG, Tribunal)

Different clauses have **different procedures** for alteration.

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## 3.4 Meaning, Nature and Importance of Articles of Association (AOA)

### Meaning:

AOA contains **rules and regulations** for internal management.

### Nature:

- Subordinate to MOA
- Binding on company and members

### Importance:

1. Governs internal administration
  2. Defines powers of directors
  3. Regulates meetings and voting
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## 3.5 Contents of Articles of Association

1. Issue and transfer of shares
  2. Rights of shareholders
  3. Appointment of directors
  4. Meetings and resolutions
  5. Dividends and reserves
  6. Winding up
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## 3.6 Doctrine of Ultra Vires

Any act done **beyond the powers of MOA** is called *Ultra Vires*.

### Effects:

- Such acts are **void**
  - Cannot be ratified even by shareholders
  - Protects shareholders and creditors
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## UNIT IV – Prospectus

### 4.1 Meaning, Nature and Legal Requirement of Prospectus

#### Meaning:

A prospectus is an **invitation to the public to subscribe to shares or debentures**.

#### Nature:

- Legal document
- Must contain true and correct information

#### Legal Requirements:

- Must be registered with ROC
  - Must comply with Companies Act provisions
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### 4.2 Form and Contents of Prospectus

## **Contents:**

1. Company details
  2. Capital structure
  3. Directors and promoters
  4. Objects of the issue
  5. Financial information
  6. Auditor's report
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## **4.3 Statement in Lieu of Prospectus**

It is a document filed by a **public company not issuing prospectus**.

### **Purpose:**

- To provide information to ROC
  - Required before allotment of shares
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## **UNIT V – Meetings and Resolutions**

### **5.1 Meaning, Features and Kinds of Company Meetings**

#### **Meaning:**

A company meeting is a **gathering of members to discuss and decide matters**.

#### **Features:**

- Proper notice
- Quorum required
- Chairman presides

#### **Kinds:**

1. Shareholders' Meetings
  2. Board Meetings
  3. Creditors' Meetings
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## 5.2 Legal Provisions Regarding Annual General Meeting (AGM)

- Must be held **once every year**
  - Maximum gap: **15 months**
  - First AGM: within **9 months**
  - Notice period: **21 days**
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## 5.3 Minutes of Meetings

Minutes are **official written records** of meeting proceedings.

### Importance:

- Legal evidence
  - Helps future reference
  - Maintains transparency
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## 5.4 Meaning and Kinds of Resolutions

### Meaning:

A resolution is a **formal decision passed at a meeting**.

### Kinds:

1. Ordinary Resolution
  2. Special Resolution
  3. Board Resolution
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## 5.5 Difference between Ordinary and Special Resolution

Basis	Ordinary Resolution	Special Resolution
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Majority	Simple majority	75% majority
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**Basis   Ordinary Resolution   Special Resolution**

Notice   Ordinary notice   Special notice

Use   Routine matters   Important matters